

INTRODUCTION OF THE INDEPENDENT CONTRACTOR DETERMINATION ACT OF 2001

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2001

Mr. MANZULLO. Mr. Speaker, as Chairman of the Small Business Committee, I rise today to introduce a bill, the Independent Contractor Determination Act of 2001, to clarify and simplify the determination of whether an individual worker is an employee or an independent contractor. The current definition of independent contractors is so complex that many small businesses face inconsistent Internal Revenue Service (IRS) worker reclassifications and potentially crippling back taxes, penalties and fines. Today's tax law hinders our dynamic economy, which includes millions of independent contractors now used by roughly 60 percent of all businesses and many diverse industries.

The Independent Contractor Determination Act of 2001 would provide a new safe harbor to help small business owners use independent contractors with more confidence, and to minimize IRS reclassifications of their legitimate business relationships. New objective criteria would protect both employees and independent contractors. These criteria include economic and workplace independence, a written contract, and the ability to realize a profit or loss. In addition, to protect employees further, the bill includes an effective anti-abuse provision that would limit the ability of corporations to treat former employees as independent contractors.

As important as this bill is to protecting all workers by providing an objective test for the determination of worker classification, the bill also limits the ability of the IRS to reclassify workers retroactively. Most small businesses operating as or hiring independent contractors do so in good faith and, therefore, face unfairly imposed back taxes, penalties and fines. Consequently, the bill allows only prospective IRS reclassifications of good faith independent contractor determinations, and shifts the burden of proof to the IRS.

Mr. Speaker, I am pleased to offer this bill as an identical, companion bill to one introduced earlier this week by Senator KIT BOND, Chairman of the Senate Committee on Small Business, and recommend its passage in this Congress.

RECOGNIZING VETERANS OF OHIO'S 8TH DISTRICT

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2001

Mr. BOEHNER. Mr. Speaker, I rise today to recognize 20 veterans of the United States Armed Forces who will be honored at a special ceremony on, May 11, at Lakota East High School in my congressional district. These men and women have made sacrifices that most of us cannot fathom. They left their homes, their schools, their families, and their friends to travel to far-away lands for a single purpose: the defense of freedom.

On May 11, these exceptional men and women will be receiving honorary diplomas at this very special ceremony. They are:

John L. Burden, Sr., who served in the Army from 1942 through 1945 and was stationed in Europe.

Henderson Caudill, who served in the Navy from 1942 to 1965 and was stationed in both Europe and the Pacific.

Everett Cole, who served in the Army and the Air Force from 1944 through 1946 and was stationed in the United States and the Philippines.

Lorenzo Denson, Sr., who served in the Army from 1943 to 1945 and was stationed in the United States and Europe.

LaMar G. Doutaz, who served in the Navy from 1943 to 1945 and was stationed aboard the U.S.S. Doherty.

Harry Thomas Falck, who served in the Army from 1945 to 1946, when he was stationed in Europe, and from 1950 to 1953, when he fought in the Korean War and was held as a Prisoner of War.

Sam Fishman, who served in the Army from 1943 through 1946 and was stationed in the Philippines.

Uell Flagg, who served in the Army from 1943 to 1945, when he was stationed in Europe, and from 1951 to 1955, when he fought in the Korean War with the Air Force.

Louis E. Fox, who served in the Navy from 1943 to 1946 and was stationed aboard the U.S.S. Sage.

Wesley P. Gaunce, who served in the Marine Corps from 1942 to 1945 and was stationed in the Pacific.

Ralph Grothjan, who served in the Army from 1950 to 1952 and fought in the Korean War.

Robert H. Hale, who served in the Army from 1951 to 1953 and was stationed in Germany and Korea.

Charles E. Hall, who served in the Army from 1952 through 1957 and was stationed in Korea.

Andrea F. Hangbers, who served in the Army from 1979 through 1982 and was stationed at Fort Bragg, North Carolina.

Carl C. Hess, who served in the Air Force from 1958 to 1959 and was stationed in Korea.

James McGonigle, who served in the Marine Corps from 1967 through 1970 and was involved in the Vietnam War.

Wilson W. Smith, who served in the Army from 1944 through 1946 and was stationed in Europe.

David Thomas, who served in the Navy from 1943 to 1946 and was stationed in the Pacific.

Also receiving honorary diplomas will be James Johnson and John Wilson, but they will be unable to attend the special ceremony.

What these veterans have achieved in their lives is truly among the greatest feats in American history. Whether fighting against Nazi Germany, Imperialist Japan, or the communist forces in Korea and Vietnam, these brave men and women are to be commended for their strength, their commitment, and their patriotism. We owe them a debt of gratitude that can never be repaid. It is our responsibility to remember their courage, not just in ceremonies like the one being held on May 11, but everyday. They are Americans who have made it possible for us to enjoy the freedoms that we so often take for granted. For that, and for the special recognition by Lakota East High School, I congratulate and thank them.

HIGH-LEVEL NUCLEAR WASTE STORAGE AT YUCCA MOUNTAIN, NV

HON. SHELLEY BERKLEY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2001

Ms. BERKLEY. Mr. Speaker, I include my testimony concerning nuclear waste storage at your Mountain for the Record.

I would like to thank the Chairman for allowing me the opportunity to comment on the proposed FY02 Appropriations for Energy Department, Nuclear Waste Management and Disposal relating to the Department of Energy's (DOE) proposal to store high-level nuclear waste at Yucca Mountain in Nevada. This issue is critical to me because my district is located 90 miles southeast of Yucca Mountain, and it is my constituents who would be the most affected by the Yucca Mountain Plan.

More than a decade has gone by since the 1987 amendments to the Nuclear Waste Policy Act designated Yucca Mountain as the only site to be studied, and the scientific evidence against the Mountain continues to grow. Yucca Mountain is located in an earthquake and volcanic eruption zone. As recently as last month there was so much moisture at the proposed site that electrical test equipment was shorted out. It is widely known that ground water will corrode the waste storage containers, and release the deadly toxins into the environment.

Scientific evidence against the proposed Yucca Mountain site is plentiful, but just like the 1987 "Screw Nevada" bill, each time legitimate arguments are raised, standards for Yucca Mountain are changed. Regarding the current situation with groundwater and personal radiation dose standards, the goalposts have again been moved. The Environmental Protection Agency (EPA) set a groundwater standard of no greater than 4 millirems, and a personal radiation dose standard of 15 millirems per year at 18 kilometers, for the first 10,000 years of waste disposal. Despite the fact that the personal dose radiation standards are significantly weaker than similar sites around the country, the Nuclear Regulatory Commission (NRC) has still asked the EPA to rewrite these standards to allow an even higher dose of radiation. The NRC knows full well that without reduced standards, Yucca Mountain can never be found suitable. So again, the rules must change.

On three separate occasions the State of Nevada has demonstrated, using DOE's own data, that the site should be disqualified under both the EPA standard and DOE's own internal site screening regulation. And each time, the DOE or Congress has changed regulations to ensure that Yucca Mountain would not be disqualified, regardless of the health and safety consequences to Nevadans.

In fact, the DOE has found the geology at Yucca Mountain so poorly serves the need of a repository, that over 95% of the waste isolation capability would have to be provided by metal waste containers, and other so-called engineered barriers around the waste. When this project started, the idea was to find a site capable of containing the radiation entirely through its natural geologic features. That standard has since been lowered from 100% to 5%.

Aside from the earthquakes and the potential for volcanic eruption, an aquifer flows beneath the mountain, with water moving so rapidly that even with all engineered barriers, radiation will unavoidably escape the repository and contaminate our water table. This fact is underscored by a U.S. Geological Survey report entitled "Flooding in the Amargosa River Drainage Basin, February 23–24, 1998, Southern Nevada and Eastern California, including the Nevada Test Site." This document, which I would like to include with my statement, details two floods, one in 1995, and one in 1998, that, would have had severe repercussions on the proposed repository. Most notable is the conclusion that, "Both the 1995 and 1998 floods indicate . . . that the Amargosa River, with contributing streamflow from one or more among Beatty, Fortymile, and Topopah Washes, has the potential to transport dissolved and particulate material well beyond the boundary on NTS and the Yucca Mountain area during periods of moderate to severe streamflow." Yet once again, in clear English, scientific evidence condemns the Yucca plan.

In addition to the mounting scientific evidence against Yucca Mountain, there are also ongoing General Accounting Office investigations into mismanagement by senior staff, and a review of the Inspector General's report on bias at the DOE.

The first issue was brought to my attention by an anonymous letter I received at my office from an individual who appears to be highly knowledgeable about the Yucca Mountain Nuclear Waste Site Characterization Project. The letter reflects a high level of expertise and first hand knowledge. It is alarming to say the least. Among the allegations are the lack of oversight in relation to the continually escalating lifetime costs for storing nuclear waste at the mountain, unnecessary travel abroad by senior level managers, lack of experience and technical background of those in charge of the project, and an adversarial relationship between managers of the project—and this very body—the Nuclear Waste Technical Review Board. The General Accounting Office is still in the process of investigating these very serious charges.

As for the second issue, as you are likely aware by now, the Inspector General has found that there were several statements in the draft Overview and a note which was attached to one version of the Overview, that "could be viewed as suggesting a premature conclusion regarding the suitability of Yucca Mountain." Of particular concern to me is the section of the I.G.'s report that states, "Based on Correspondence received by the Office of the Inspector General, it is fair to observe that, at least in some quarters, public confidence in the Department's (DOE) evaluation of Yucca Mountain has eroded." The IG also noted disincentives at DOE for Yucca Mountain employees to question assumptions, or to, in any way, "rock the boat."

The Inspector General's report serves to underscore what Nevadans have been saying since the origins of the "Screw Nevada" bill. Politics plays the leading role in determining the fate of the Yucca Mountain project.

It is pointless to discuss how we can restore the public confidence into this doomed project. The American public has seen behind the curtain, and we cannot erase from our memory that we have seen a tainted process, driven by politics, with questionable scientific merit.

The further we investigate Yucca Mountain, the more money we spend, the more obvious it becomes that Yucca Mountain is not the answer.

Scientific evidence and ongoing investigations continue to shed doubt on the feasibility of a Yucca Mountain Repository. Now is not the time to increase this budget, while the GAO continues to investigate, and science continues to condemn this plan. I again request that federal agencies change their course, and stop trying to fit a square peg in a round hole. Instead of trying to change the rules to keep the proposed plan alive, they should immediately begin the decommissioning of the Yucca Mountain Project.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 9, 2001

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent from this chamber when roll call votes number 87, 90, 91, 100 and 101 were cast. I want the record to show that had I been present in this chamber at the time these votes were cast, I would have voted "no" on roll call vote number 87, "yes" on roll call vote 90, "yes" on roll call vote 91, "no" on roll call vote 100 and "yes" on roll call vote 101.

HONORING THE CITY OF MONTROSE, COLORADO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 10, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to congratulate the City of Montrose, Colorado on receiving the 'Small Community of the Year' award from the Economic Developers' Council of Colorado. Montrose was given this honor for its economic activity through out the year.

Every year the EDC honors a small community that has distinguished itself in economic or community development. "The Montrose Economic Development Council has shown itself to be one of the most effective, viable and responsible economic development programs in Colorado," said Don Dunshee, president of the state council, in a Daily Sentinel article. Clearly, the Montrose EDC has been the driving force behind Montrose's prosperity.

In 2000, MEDC facilitated four deals that by 2005 will have contributed more than \$12 million in annual payroll to Montrose. It retained three local companies and recruited a New Jersey manufacturer, generating 117 additional jobs. Also in 2000 the MEDC launched its new five-year prosperity plan, which predicts a \$188.4 billion return to the area's economy on an investment of \$2 million. "It's that can do attitude that we possess, I think, that this award reflects," said Steve Jenkins, executive director of the MEDC.

In 2001, the MEDC is implementing its "Cornerstone Initiative" to shepherd economic growth into the future. "What we want to do is create the right type of jobs without the impact

to the community. That ensures the community is prosperous in the long term," said Jenkins.

Mr. Speaker, for years the Montrose Economic Development Council has helped small, local businesses achieve their American Dream, and with that, the City of Montrose is experiencing a period of economic growth that benefits everyone. For that, they deserve our thanks and praise.

HONORING DAN PENRY ON HIS RETIREMENT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 10, 2001

Mr. McINNIS. Mr. Speaker, I would like to take this moment to recognize an individual who throughout the course of his career—and indeed his life—has served the citizens of the United States with great distinction, Mr. Dan Penry. After over 25 years of service as a Federal Probation and Parole officer, Dan is set to begin a much-deserved retirement at the end of this May. As family, friends and colleagues gather to celebrate his accomplished tenure with the federal courts, I too would like to pay tribute to Dan and thank him for his service. Clearly, his hard work is deserving of thanks and praise of Congress.

Born in Detroit, Michigan to Marian and Fred Penry, Dan moved to Fairhope, Alabama at a young age, a place he would call home throughout his formative years. Growing up in Alabama with five brothers—Leonard, Fred, Pete, Jim and Tom—Dan was a wonderfully gifted young athlete, a talent shared by all of his brothers. He would go on to a noteworthy athletic career at Fairhope High School, lettering in four sports as a schoolboy—football, basketball, baseball and track. To this day, Dan and his brothers are remembered for their athletic prowess during their high school days.

After graduating from high school, Dan experienced first hand the defining experience of his generation—the Vietnam War. Drafted into the United States Army, he served America in Vietnam as a Military Police Officer stationed in, among other places, the City of Saigon. Dan broke away from the war effort in September of 1966 on a brief furlough to marry Linda Smart, his beautiful wife of the last 34 plus years. After marrying in Hawaii, Dan returned immediately to Vietnam, finishing out his tour just as he had started it—with honor and distinction.

After returning Stateside, Dan immediately enrolled in college, earning his undergraduate degree from Metro State College in Denver and Master's from the University of Northern Colorado in a matter of only a few years. Thereafter, he went to work for the Texas Commission of the Blind, eventually moving to the United States Courts as a federal parole officer where he's worked ever since.

Mr. Speaker, for the last 25 years Dan Penry has served his community, state and nation well as a United States Probation Officer. While asserting a genuine toughness with his parolees, Dan has also shown a compassionate side, earning the respect and, in many cases, the friendship of those who have committed themselves to true rehabilitation. Dan has been a tireless worker throughout his tenure, covering a field area that looks an awful