

105TH CONGRESS  
1ST SESSION

# H. R. 1537

To amend subchapter III of chapter 13 of title 31, United States Code (popularly known as the Anti-Deficiency Act), to allow the United States to enter into contracts or obligations during a lapse in appropriations if the President determines that a sufficient appropriation is likely to be made for that purpose before the end of the fiscal year, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

MAY 6, 1997

Mrs. MEEK of Florida introduced the following bill; which was referred to the Committee on Government Reform and Oversight

---

## A BILL

To amend subchapter III of chapter 13 of title 31, United States Code (popularly known as the Anti-Deficiency Act), to allow the United States to enter into contracts or obligations during a lapse in appropriations if the President determines that a sufficient appropriation is likely to be made for that purpose before the end of the fiscal year, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Keep the Government  
3 Open Act of 1997”.

4 **SEC. 2. FINDINGS.**

5       Congress finds that:

6           (1) According to the General Accounting Office,  
7       between fiscal year 1962 and fiscal year 1981 there  
8       were 32 times when there was a lapse in appropria-  
9       tions for part of the Federal Government because  
10      there had not been enacted either an appropriations  
11      law or a continuing resolution. During these lapses  
12      in appropriations Federal employees continued to  
13      work, and the Federal Government continued to ob-  
14      ligate funds. Congress then ratified the obligations  
15      incurred during the lapse in appropriations.

16          (2) In January 1981, Attorney General Civiletti  
17      expressed the opinion that the Anti-Deficiency Act  
18      prohibits the operation of the Federal Government  
19      during a period of lapsed appropriations except for  
20      those emergency situations involving the safety of  
21      human life or the protection of property.

22          (3) In 1990, Congress amended the Anti-Defi-  
23      ciency Act to limit the definition of emergencies so  
24      as to exclude “ongoing, regular functions of govern-  
25      ment the suspension of which would not imminently

1 threaten the safety of human life or the protection  
2 of property.”.

3 (4) Between 1982 and 1994 the longest lapse  
4 in appropriations was 3 days.

5 (5) Between December 16, 1995, and January  
6 5, 1996, there was a lapse in appropriations for part  
7 of the Federal Government because of a disagree-  
8 ment between the President and the Congress. Dur-  
9 ing this 3-week period, 476,000 Federal employees  
10 came to work but were not paid, and 285,000 Fed-  
11 eral employees were ordered not to come to work.  
12 On January 5, Congress passed a continuing resolu-  
13 tion which paid these 761,000 employees for the pe-  
14 riod December 16 through January 5, and the  
15 President signed this resolution.

16 (6) Paying these 285,000 Federal employees for  
17 not working for 3 weeks wasted about  
18 \$1,000,000,000 of the taxpayers’ money.

19 (7) Not paying Federal employees during a  
20 lapse in appropriations imposes serious financial  
21 hardships on many of these employees.

22 (8) Not paying Federal employees during a  
23 lapse in appropriations imposes serious hardships on  
24 private firms that normally sell to Federal employ-  
25 ees.

1           (9) Prohibiting the obligation of Federal funds  
2           during a lapse of appropriations imposes serious  
3           hardships on State and local governments and pri-  
4           vate firms that normally receive Federal funds.

5           (10) Prohibiting Federal employees from work-  
6           ing imposes serious hardships on citizens who need  
7           the services provided by these employees.

8   **SEC. 3. AMENDMENT OF THE ANTI-DEFICIENCY ACT.**

9           (a) AUTHORITY TO ENTER INTO CONTRACTS OR OB-  
10          LIGATIONS.—Section 1341(a)(1)(B) of title 31, United  
11          States Code, is amended by adding before the period at  
12          the end the following: “or unless the President determines  
13          that an appropriation is likely to be made for that purpose  
14          before the end of the fiscal year in an amount exceeding  
15          the contract or obligation”.

16          (b) WORK AND PAYMENT OF EMPLOYEES.—(1) Sec-  
17          tion 1342 of title 31, United States Code, is amended by  
18          adding at the end the following new sentence: “However,  
19          an officer or employee of the United States Government  
20          may continue to supply personal services before an appro-  
21          priation or continuing resolution is enacted and shall be  
22          paid for such services even if no appropriation is enacted  
23          if the President determines that an appropriation is likely  
24          to be made for that purpose before the end of the fiscal

1 year in an amount exceeding the cost to the Government  
2 of such services.”.

3       (2)(A) For any day during a fiscal year on which  
4 funds are not available to pay the salary of any official  
5 or employee of the United States for which funds were  
6 available on the last day of the fiscal year preceding such  
7 fiscal year, there are appropriated such sums as may be  
8 necessary to maintain such salary at the level of such sal-  
9 ary on the last day of the fiscal year preceding the fiscal  
10 year during which funds are not available for such pur-  
11 pose.

12       (B) Funds appropriated by this paragraph shall not  
13 be available for any day during a fiscal year which occurs  
14 after the date of the enactment during such fiscal year  
15 of an Act or joint resolution which includes appropriations  
16 generally for the department or agency which has the re-  
17 sponsibility for paying such salary and which makes no  
18 appropriation for such salary.

19       (C) Appropriations and funds made available under  
20 this paragraph shall cover all objections or expenditures  
21 incurred to pay the salary of any official or employee of  
22 the United States during the period for which funds for  
23 such salary are made available under this paragraph.

24       (D) Any expenditure made under the appropriation  
25 contained in this paragraph shall be charged to the appro-

1 priation, fund, or authorization which includes funds for  
2 such expenditure whenever a bill or joint resolution in  
3 which such appropriation, fund, or authorization is pro-  
4 vided for is enacted into law.

5 (E) For purposes of this paragraph, the term “sal-  
6 ary” includes any benefits paid to or for an official or em-  
7 ployee of the United States because of such employment  
8 of the official or employee (including medical and dental  
9 benefits, life and health insurance premiums, and pension  
10 contributions) and any pay and allowances of members of  
11 the Armed Forces.

○