

§ 9903. Contracting for personal services

“(a) OUTSIDE THE UNITED STATES.—The Secretary may contract with individuals for services to be performed outside the United States as determined by the Secretary to be necessary and appropriate for supporting the activities and programs of the Department of Defense outside the United States.

“(b) NO FEDERAL EMPLOYEES.—Individuals employed by contract under subsection (a) shall not, by virtue of such employment, be considered employees of the United States Government for the purposes of—

“(1) any law administered by the Office of Personnel Management; or

“(2) under the National Security Personnel System established under this chapter.

“(c) APPLICABILITY OF LAW.—Any contract entered into under subsection (a) shall not be subject to any statutory provision prohibiting or restricting the use of personal service contracts.

§ 9904. Attracting highly qualified experts

“(a) IN GENERAL.—The Secretary may carry out a program using the authority provided in subsection (b) in order to attract highly qualified experts in needed occupations, as determined by the Secretary.

“(b) AUTHORITY.—Under the program, the Secretary may—

“(1) appoint personnel from outside the civil service and uniformed services (as such terms are defined in section 2101 of this title) to positions in the Department of Defense without regard to any provision of this title governing the appointment of employees to positions in the Department of Defense;

“(2) prescribe the rates of basic pay for positions to which employees are appointed under paragraph (1) at rates not in excess of the maximum rate of basic pay authorized for senior-level positions under section 5376 of this title, as increased by locality-based comparability payments under section 5304 of this title, notwithstanding any provision of this title governing the rates of pay or classification of employees in the executive branch; and

“(3) pay any employee appointed under paragraph (1) payments in addition to basic pay within the limits applicable to the employee under subsection (d).

“(c) LIMITATION ON TERM OF APPOINTMENT.—(1) Except as provided in paragraph (2), the service of an employee under an appointment made pursuant to this section may not exceed 5 years.

“(2) The Secretary may, in the case of a particular employee, extend the period to which service is limited under paragraph (1) by up to 1 additional year if the Secretary determines that such action is necessary to promote the Department of Defense's national security missions.

“(d) LIMITATIONS ON ADDITIONAL PAYMENTS.—(1) The total amount of the additional payments paid to an employee under this section for any 12-month period may not exceed the lesser of the following amounts:

“(A) \$50,000 in fiscal year 2004, which may be adjusted annually thereafter by the Secretary, with a percentage increase equal to one-half of 1 percentage point less than the percentage by which the Employment Cost Index, published quarterly by the Bureau of Labor Statistics, for the base quarter of the year before the preceding calendar year exceeds the Employment Cost Index for the base quarter of the second year before the preceding calendar year.

“(B) The amount equal to 50 percent of the employee's annual rate of basic pay.

For purposes of this paragraph, the term ‘base quarter’ has the meaning given such term by section 5302(3).

“(2) An employee appointed under this section is not eligible for any bonus, monetary

award, or other monetary incentive for service except for payments authorized under this section.

“(3) Notwithstanding any other provision of this subsection or of section 5307, no additional payments may be paid to an employee under this section in any calendar year if, or to the extent that, the employee's total annual compensation will exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 5.

“(e) LIMITATION ON NUMBER OF HIGHLY QUALIFIED EXPERTS.—The number of highly qualified experts appointed and retained by the Secretary under subsection (b)(1) shall not exceed 300 at any time.

“(f) SAVINGS PROVISIONS.—In the event that the Secretary terminates this program, in the case of an employee who, on the day before the termination of the program, is serving in a position pursuant to an appointment under this section—

“(1) the termination of the program does not terminate the employee's employment in that position before the expiration of the lesser of—

“(A) the period for which the employee was appointed; or

“(B) the period to which the employee's service is limited under subsection (c), including any extension made under this section before the termination of the program; and

“(2) the rate of basic pay prescribed for the position under this section may not be reduced as long as the employee continues to serve in the position without a break in service.

§ 9905. Special pay and benefits for certain employees outside the United States

“The Secretary may provide to certain civilian employees of the Department of Defense assigned to activities outside the United States as determined by the Secretary to be in support of Department of Defense activities abroad hazardous to life or health or so specialized because of security requirements as to be clearly distinguishable from normal Government employment—

“(1) allowances and benefits—

“(A) comparable to those provided by the Secretary of State to members of the Foreign Service under chapter 9 of title I of the Foreign Service Act of 1980 (Public Law 96-465, 22 U.S.C. 4081 et seq.) or any other provision of law; or

“(B) comparable to those provided by the Director of Central Intelligence to personnel of the Central Intelligence Agency; and

“(2) special retirement accrual benefits and disability in the same manner provided for by the Central Intelligence Agency Retirement Act (50 U.S.C. 2001 et seq.) and in section 18 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403r).”

(2) The table of chapters for part III of such title is amended by adding at the end of subpart I the following new item:

“99. Department of Defense National Security Personnel System 9901”.

(b) IMPACT ON DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL.—(1) Any exercise of authority under chapter 99 of such title (as added by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

(2) No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

(c) EXTERNAL THIRD-PARTY REVIEW OF LABOR-MANAGEMENT DISPUTES.—Chapter 71 of title 5, United States Code is amended—

(1) in section 7105(a), by adding at the end the following:

“(3)(A) In carrying out subparagraphs (C), (D), (E), (F), and (H) of paragraph (2), in matters that involve agencies and employees of the Department of Defense, the Authority shall take final action within 180 days after the filing of a charge, unless—

“(i) there is express approval of the parties to extend the 180-day period; or

“(ii) the Authority extends the 180-day period under subparagraph (B).

“(B) In cases raising significant issues that involve agencies and employees of the Department of Defense, the Authority may extend the time limit under subparagraph (A), and the time limits under sections 7105(e)(1), 7105(f) and 7118(a)(9) of this title, if the Authority gives notice to the public of the opportunity for interested persons to file *amici curiae* briefs.”;

(2) in section 7105(e), by adding at the end the following:

“(3) If a representation inquiry or election involves employees of the Department of Defense, the regional director shall, absent express approval from the parties, complete the tasks delegated to the regional authority under paragraph (1) within 180 days after the delegation.”;

(3) in section 7105(f)—

(A) by inserting “(1)” after “(f)”;

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by adding at the end the following:

“(2) In any dispute that involves agencies and employees within the Department of Defense, if review is granted, the Authority action to affirm, modify, or reverse any action shall, absent express approval from the parties, be completed within 120 days after the grant of review.”;

(4) in section 7118(a), by adding at the end the following:

“(9)(A) Any individual conducting a hearing described in paragraph (7) or (8), involving an unfair labor practice allegation within the Department of Defense, shall complete the hearing and make any determinations within 180 days after the filing of a charge under paragraph (1). The Authority's review of any such determinations shall, absent express approval from the parties, be completed within 180 days after the filing of any exceptions.

“(B) The 180-day periods under subparagraph (A) shall apply, unless there is express approval of the parties to extend a period.”; and

(5) in section 7119(c)(5)(C), by adding at the end the following: “The Panel shall, absent express approval from the parties, take final action within 180 days after being presented with an impasse between agencies and employees within the Department of Defense.”.

SEC. 3. MILITARY LEAVE FOR MOBILIZED FEDERAL CIVILIAN EMPLOYEES.

(a) IN GENERAL.—Subsection (b) of section 6323 of title 5, United States Code, is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and at the end of clause (ii), as so redesignated, by inserting “or”; and

(B) by inserting “(A)” after “(2)”; and

(2) by inserting the following before the text beginning with “is entitled”:

“(B) performs full-time military service as a result of a call or order to active duty in support of a contingency operation as defined in section 101(a)(13) of title 10.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to military service performed on or after the date of the enactment of this Act.

By Mr. BOND:

S. 1167. A bill to resolve the boundary conflicts in Barry and Stone Counties in the State of Missouri; to the Committee on Energy and Natural Resources.

Mr. BOND. Mr. President, I rise today to introduce legislation to resolve the unfortunate boundary line disputes in Southwest Missouri that have resulted from conflicting Federal Government land surveys performed by the U.S. Army Corps of Engineers and the United States Forest Service, USFS, respectively. The land involving these disputed property lines is located in the vicinity of the Cassville District of the Mark Twain National Forest in Barry and Stone Counties adjacent to Table Rock Lake.

During the 1970's, the U.S. Army Corps of Engineers, through various private land surveyors, surveyed this area around Table Rock Lake. In its surveys, the Corps found that most of the original "corner monuments" or boundary lines laid out by the U.S. General Land Office, GLO, in its original land surveys performed in the 1840's were either lost, stolen or had eroded over the years. Because of this, Corps surveyors used existing de-facto land markers in the vicinity of the original GLO monuments as the basis for its new survey. Prior to the Corps surveys, these defacto monuments were recognized by local surveyors as legitimate boundary markers and were used in survey after survey over the decades.

For almost 30 years, private landowners in Barry and Stone Counties bought and sold their land based on the surveys performed by the Corps in the 1970's. However, several years ago, the USFS performed new land surveys using surveying technology that had only recently become available. As a result of these new surveys, the USFS now claims that the boundary lines in its surveys conflict with the boundary lines established in the previous corps surveys. In addition to this, the USFS has announced that the Corps surveys are incorrect and that property lines all over this area are in the wrong place.

Because of these new revelations, many private property owners in the vicinity of the Mark Twain National Forest, who bought and paid for their land in good faith based on a previous Federal Government survey, are now being told that they have encroached on USFS land.

USFS has begun telling these private landowners that their land now belongs to the Federal Government, and that they will have to reimburse the USFS for the Federal land that the landowners now occupy. Naturally, these actions have produced chaos, confusion and anger among landowners in these two counties.

Needless to say, it is inherently unfair and absolutely devoid of any common sense to expect private landowners to compensate the Federal Government for land that they have al-

ready purchased simply because the government has changed its collective mind about where Federal property begins and ends.

Over the past 18 months, I have repeatedly asked the USFS and the Army Corps of Engineers to work together to find a solution that would resolve this problem. Unfortunately, after 18 months of debate and disagreement, the Corps of Engineers and the USFS have been unable to agree on a resolution of this problem. In the meantime, the lives of many of these Missouri residents continue to be disrupted.

Therefore, I have concluded that Federal legislation represents the only feasible solution to this boundary problem. This legislation authorizes the Secretary of the Agriculture to convey, without consideration, title to land in which there is a boundary conflict, with adjoining federal land, to private landowners, who can demonstrate a claim of ownership because they relied on a subsequent land survey approved by the Federal Government.

AMENDMENTS SUBMITTED & PROPOSED

SA 840. Mr. DOMENICI (for himself and Mr. BINGAMAN) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 841. Mr. DOMENICI (for Mr. GREGG (for himself, Mr. KENNEDY, Mr. ALEXANDER, Mr. DODD, Ms. COLLINS, and Mr. REED)) proposed an amendment to amendment SA 840 proposed by Mr. DOMENICI (for himself and Mr. BINGAMAN) to the bill S. 14, supra.

SA 842. Mr. MCCONNELL (for Mr. HATCH) proposed an amendment to the resolution S. Res. 136, recognizing the 140th anniversary of the founding of the Brotherhood of Locomotive Engineers, and congratulating members and officers of the Brotherhood of Locomotive Engineers for the union's many achievements.

TEXT OF AMENDMENTS

SA 840. Mr. DOMENICI (for himself and Mr. BINGAMAN) proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes, as follows:

At the appropriate place in the bill, insert the following new title:

TITLE XII—STATE ENERGY PROGRAMS

SEC. 1201. LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.

(a) HOME ENERGY GRANTS.—Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking "each of the fiscal years 2002 through 2004" and inserting "fiscal years 2002 and 2003, and \$3,400,000,000 for each of fiscal years 2004 through 2006."

(b) STATE ALLOTMENTS.—Section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)) is amended—

- (1) by inserting after (e) "(1)";
- (2) striking "or any other program;" and
- (3) adding at the end the following:

"(2) Notwithstanding any other provisions of this subsection, the Governor of a State may apply to the Secretary for certification of an emergency in that State and an allotment of amounts appropriated pursuant to section 2602(e).

"(3) The Secretary shall, in consultation with the Department of Energy and States, adopt by rule procedures for the equitable consideration of such applications. Such procedures shall require—

"(A) consideration of each of the elements of the definition of "emergency" in section 2603;

"(B) consideration of differences between geographic regions including: sources of energy supply for low-income households, relative price trends for sources of home energy supply, and relevant weather-related factors including drought; and

"(C) that the Secretary shall grant such applications within 30 days unless the Secretary certifies in writing that none of the emergency conditions defined in section 2603 have been demonstrated."

(c) REPORT ON METHODOLOGY.—

(1) Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to Congress a report that makes recommendations regarding the methodology for allocating funds to States to carry out the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

(2) In preparing the report, the Secretary of Health and Human Services shall—

(A) use the latest, best available statistical data and model to develop the recommendations for the methodology; and

(B) recommend a methodology that—

(i) consists of a mechanism that uses estimates of expenditures for energy consumption (measured in British thermal units) for low-income households in each State, for each source of heating or cooling in residential dwellings; and

(ii) employs the latest available annually updated heating and cooling degree day and fuel price information available (for coal, electricity, fuel oil, petroleum gas, and natural gas) at the State level.

(3) In preparing the report, the Secretary of Health and Human Services shall consult with appropriate officials in each of the 50 States and the District of Columbia.

(4) There are authorized to be appropriated to carry out this subsection such sums as may be necessary for each of fiscal years 2004 through 2006.

(d) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall transmit to Congress a report on the programmatic impacts of using the National Academy of Science's poverty measure with different equivalence scale, known as DES, to determine low-income households.

SEC. 1202. WEATHERIZATION ASSISTANCE PROGRAM.

(a) ELIGIBILITY.—Section 412 of the Energy Conservation and Production Act (42 U.S.C. 6862) is amended—

(1) in paragraph (7)(A), by striking "125"

and inserting "150", and

(2) in paragraph (7)(C), by striking "125"

and inserting "150".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking the period at the end and inserting ", \$325,000,000 for fiscal year 2004, \$400,000,000 for fiscal year 2005, and \$500,000,000 for fiscal year 2006."

SEC. 1203. STATE ENERGY PLANS.

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by inserting at the end the following new subsection:

"(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review, and, if necessary, review the energy conservation plan of such State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region,

and identify opportunities and actions carried out in pursuit of common energy conservation goals.”.

(b) STATE ENERGY EFFICIENCY GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

“STATE ENERGY EFFICIENCY GOALS

“SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of enactment of this title shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2010 as compared to calendar year 1990, and may contain interim goals.”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking the period at the end and inserting “, \$100,000,000 for each of fiscal years 2004 and 2005 and \$125,000,000 for fiscal year 2006.”.

SA 841. Mr. DOMENICI (for Mr. GREGG (for himself, Mr. KENNEDY, Mr. ALEXANDER, Mr. DODD, Ms. COLLINS, and Mr. REED)) proposed an amendment to amendment SA 840 proposed by Mr. DOMENICI (for himself and Mr. BINGAMAN) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

Strike section 1201 (relating to the Low-Income Home Energy Assistance Program) and insert the following:

SEC. 1201. SENSE OF THE SENATE REGARDING THE REAUTHORIZATION OF THE LOW-INCOME HOME ENERGY ASSISTANCE ACT OF 1981.

(a) FINDINGS.—The Senate finds that—

(1) the Low-Income Home Energy Assistance Program (referred to in this section as “LIHEAP”) is the primary Federal program available to help low-income households, individuals with disabilities, and senior citizens meet their home energy bills and maintain their health and well-being;

(2) home energy costs are unaffordable for many low-income households, individuals with disabilities, and senior citizens living on fixed incomes;

(3) those households often carry a higher energy burden than most United States households, spending up to 20 percent of their household income on home energy bills;

(4) States provided more than 4,000,000 households with LIHEAP assistance in 2002;

(5) LIHEAP is currently able to serve only 15 percent of the 30,000,000 households who are income-eligible for assistance under LIHEAP; and

(6) the Committee on Health, Education, Labor, and Pensions has jurisdiction over the Low-Income Home Energy Assistance Act of 1981, which provides authority for LIHEAP, and is working towards reauthorizing the Act prior to its expiration in 2004.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that, when the Committee on Health, Education, Labor, and Pensions reauthorizes the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.), the committee should consider increasing the authorization of appropriations under section 2602(b) of that Act (42 U.S.C. 8621(b)) to \$3,400,000,000, in order to better serve the needs of low-income and other eligible households.

SA 842. Mr. McCONNELL (for Mr. HATCH) proposed an amendment to the resolution S. Res. 136, recognizing the 140th anniversary of the founding of

the Brotherhood of Locomotive Engineers, and congratulating members and officers of the Brotherhood of Locomotive Engineers for the union’s many achievements; as follows:

Strike all after the resolving clause and insert the following: “That the Senate—

“(1) recognizes that unions have made tremendous contributions to the structural development and building of the United States, and to the well-being of tens of thousands of workers;

“(2) congratulates unions for their many achievements and the strength of their members; and

“(3) expects that unions will continue their dedicated work and will have an even greater impact in the 21st century and beyond, and will enhance the standard of living and working environment for rail workers and other laborers in generations to come.”.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Tuesday, June 3, 2003 at 10 a.m. in room 485 of the Russell Senate Office Building to conduct an oversight hearing on the Status of Tribal Fish and Wildlife Management Programs.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources:

June 3, 2003 at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC. The purpose of the hearing is to receive testimony on the following bills: S. 268, authorizes the Pyramid of Remembrance Foundation to establish a memorial in the District of Columbia and its environs to honor members of the Armed Forces of the United States who have lost their lives during peacekeeping operations, humanitarian efforts, training, terrorist attacks, or covert operations; S. 296, to require the Secretary of Defense to report to Congress regarding the requirements applicable to the inscription of veterans’ names on the memorial wall of the Vietnam Veterans Memorial; S. 470, to extend the authority for the construction of a memorial to Martin Luther King, Jr.; and S. 1076, to authorize construction of an education center at or near the Vietnam Veterans Memorial.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD-364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact: Tom Lillie at (202) 224-5161 or Pete Lucero at (202) 224-6293.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, June 4, 2003 at 10 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on Proposals to Amend the Indian Reservation Roads Program—S. 281, the Indian Tribal Surface Transportation Improvement Act of 2003, and S. 725, the Tribal Transportation Program Improvement Act of 2003.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, June 4, 2003 at 2 p.m. in room 485 of the Russell Senate Office Building to conduct an oversight hearing on Impacts on Tribal Fish and Wildlife Management Programs in the Pacific Northwest.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

June 10, 2003 at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC. The purpose of the hearing is to receive testimony on the following bills: S. 499, to authorize the American Battle Monuments Commission to establish in the State of Louisiana a memorial to honor the Buffalo Soldiers; S. 546, to provide for the protection of paleontological resources on Federal lands, and for other purposes; S. 643, to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, and for other purposes; S. 677, to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, and for other purposes; S. 1060 and H.R. 1577, to designate the visitors’ center at Organ Pipe Cactus National Monument, Arizona, as the “Kris Eggle Visitors’ Center”; H.R. 255, to authorize the Secretary of the Interior to grant an easement to facilitate access to the Lewis and Clark Interpretive Center in Nebraska City, Nebraska; and H.R. 1012, to establish the Carter G. Woodson Home National Historic Site in the District of Columbia, and for other purposes.

Because of the limited time available for the hearings, witnesses may testify