

**AMENDMENT TO**  
**RULES COMMITTEE PRINT 116-17**  
**OFFERED BY MR. SMITH OF NEW JERSEY**

At the end of the bill (before the short title) insert the following:

1 **DIVISION \_\_\_\_\_—PROTECT OUR**  
2 **WORKERS**

3 **SECTION 1. SHORT TITLE.**

4 This division may be cited as the “Protect Our Work-  
5 ers Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) The Davis-Bacon Act of 1931 (40 U.S.C.  
9 3141 et seq.) requires that contractors and sub-  
10 contractors on certain government projects pay con-  
11 struction workers locally prevailing wages as deter-  
12 mined by the Department of Labor.

13 (2) Locally prevailing wages vary by job classi-  
14 fication and consist of a basic hourly rate of pay and  
15 benefits.

16 (3) Generally, the Davis-Bacon Act applies to  
17 projects that meet three criteria—

1 (A) there is a contract for construction in  
2 excess of \$2,000;

3 (B) the United States or the District of  
4 Columbia is a party to the contract; and

5 (C) the contract is for construction, alter-  
6 ation, or repair.

7 (4) Under the Davis-Bacon Act, the Govern-  
8 ment may terminate a contract if locally prevailing  
9 wages have not been paid to employees working on  
10 the project.

11 (5) For close to 90 years, this law has helped  
12 ensure quality craftsmanship on Federal projects,  
13 protected the standard of living of skilled and  
14 trained blue-collar construction workers, improved  
15 workplace safety by discouraging low-road contrac-  
16 tors from bidding, and stimulated the economy.

17 (6) The Wage and Hour Division of the De-  
18 partment of Labor administers the Davis-Bacon Act  
19 by, among other things, determining prevailing wage  
20 rates and prescribing regulations and standards to  
21 be observed by contracting agencies.

22 (7) Contracting agencies, such as the Corps of  
23 Engineers, however, have the primary day-to-day re-  
24 sponsibility for enforcement of the Davis-Bacon Act  
25 and its labor standards requirements. See, e.g., sub-

1 parts 22.406 and 22.407 of the Federal Acquisition  
2 Regulation.

3 (8) Some irresponsible contractors and sub-  
4 contractors often avoid their prevailing wage obliga-  
5 tions by, among other things, engaging in craft and  
6 independent contractor misclassification.

7 (9) Craft misclassification refers to the practice  
8 in which contractors misclassify high-skilled workers  
9 as general laborers or other classifications in order  
10 to avoid paying the higher prevailing wage rate ap-  
11 plicable to the high-skilled work actually performed.

12 (10) Independent contractor misclassification  
13 refers to the practice in which contractors  
14 misclassify employees as independent contractors to  
15 avoid paying prevailing wages, reduce labor costs,  
16 and avoid State and Federal taxes.

17 (11) This practice denies workers access to fed-  
18 erally prescribed prevailing wages for the work done  
19 and related benefits. Communities also suffer be-  
20 cause misclassification results in lower tax revenues  
21 for Federal, State, and local governments.

22 (12) In 2000, the Department of Labor com-  
23 missioned a study to determine the extent of  
24 misclassification, and found that up to 30 percent of

1        audited firms had employees misclassified as inde-  
2        pendent contractors.

3            (13) In light of the intended Federal invest-  
4        ment for military construction projects for fiscal  
5        year 2020, it is appropriate to investigate the com-  
6        pliance of the Corps of Engineers with the require-  
7        ments of the Davis-Bacon Act.

8        **SEC. 3. GAO STUDY.**

9            (a) STUDY REQUIRED.—The Comptroller General of  
10       the United States shall conduct a study on the contracting  
11       practices of the Corps of Engineers, with a specific focus  
12       on how the Corps of Engineers complies with and enforces  
13       the requirement to pay prevailing wages on federally fi-  
14       nanced construction jobs, as required by subchapter IV  
15       of chapter 31 of title 40, United States Code (commonly  
16       referred to as the Davis-Bacon Act). The study shall con-  
17       sider the following:

18            (1) Any programs or protocols the Corps of En-  
19       gineers has in place for the purpose of carrying out  
20       its Davis-Bacon Act enforcement obligations as set  
21       forth in the Federal Acquisition Regulation.

22            (2) Any programs or protocols the Corps of En-  
23       gineers has in place for the purpose of identifying  
24       and        addressing        independent        contractor

1 misclassification on projects subject to the Davis-  
2 Bacon Act.

3 (3) The frequency with which the Corps of En-  
4 gineers conducts site visits on each covered project  
5 to monitor Davis-Bacon Act compliance.

6 (4) The frequency with which the Corps of En-  
7 gineers monitors certified payroll reports submitted  
8 by contractors and subcontractors on each covered  
9 project.

10 (5) Whether the Corps of Engineers accepts  
11 and investigates complaints of Davis-Bacon Act vio-  
12 lations submitted by third parties, such as contrac-  
13 tors and workers' rights organizations.

14 (6) Whether the Corps of Engineers maintains  
15 a database listing all contractors and subcontractors  
16 who have, in one way or another, violated the Davis-  
17 Bacon Act and whether the Corps consults this  
18 database as part of its contract award process.

19 (7) The frequency, over the last five years, with  
20 which the Corps of Engineers penalized, disqualified,  
21 terminated, or moved for debarment of a contractor  
22 for Davis-Bacon violations.

23 (8) How the Corps of Engineers verifies that  
24 the contractors it hires for its projects are properly  
25 licensed.

1 (b) REPORT TO CONGRESS.—Not later than 1 year  
2 after the date of enactment of this Act, the Comptroller  
3 General of the United States shall submit to the Com-  
4 mittee on Education and Labor, the Committee on Armed  
5 Services, and the Committee on Transportation and Infra-  
6 structure of the House of Representatives and the Com-  
7 mittee on Health, Education, Labor, and Pensions, the  
8 Committee on Armed Services, and the Committee on  
9 Commerce, Science, and Transportation of the Senate a  
10 report that summarizes the results of the study required  
11 under subsection (a), together with any recommendations  
12 for legislative or regulatory action that would improve the  
13 efforts of enforcing the requirement to pay prevailing  
14 wages on federally financed construction jobs.

