

VETO OF ACT PROVIDING SPECIAL RETIREMENT
BENEFITS TO CERTAIN NON-INDIAN EMPLOYEES
OF THE BUREAU OF INDIAN AFFAIRS AND THE
INDIAN HEALTH SERVICE

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

VETOING

H.R. 5465, AN ACT TO PROVIDE ADDITIONAL RETIREMENT BENEFITS FOR CERTAIN EMPLOYEES OF THE BUREAU OF INDIAN AFFAIRS AND THE INDIAN HEALTH SERVICE WHO ARE NOT ENTITLED TO INDIAN PREFERENCE, TO PROVIDE GREATER OPPORTUNITY FOR ADVANCEMENT AND EMPLOYMENT OF INDIANS, AND FOR OTHER PURPOSES



SEPTEMBER 27, 1976.—Message and accompanying act referred to the Committee on Post Office and Civil Service and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

To the House of Representatives:

I am returning, without my approval, H.R. 5465, a bill which would provide special retirement benefits to certain non-Indian employees of the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS) who are adversely affected by Indian preference requirements.

I strongly support the objective of having Indians administer the Federal programs directly affecting them. I am familiar with and understand the concern of non-Indian employees of these agencies about their long-term career prospects because of Indian preference. But H.R. 5465 is the wrong way to deal with this problem.

This bill is designed to increase employment opportunities for Indians by providing special compensation to non-Indian employees in BIA and IHS who retire early. It seeks to accomplish this purpose by authorizing payment of extraordinary retirement benefits under certain conditions to non-Indian employees of these agencies who retire before 1986—benefits more liberal than those available to any other group of Federal employees under the civil service retirement system. I believe that this approach will result in inequities and added costs that far exceed the problem it is attempting to solve—a problem which is already being addressed through administrative actions by the agencies involved.

H.R. 5465 would provide windfall retirement benefits to a relatively small number of the non-Indian employees of these agencies. The Indian employees and other non-Indian employees in these same agencies would not receive these benefits. The eligible employees are not in danger of losing their jobs. Because they may face a limited outlook for promotion, the bill would pay these employees costly annuities even though they had completed substantially less than a full career. Payments could be made at age 50 after only 20 years of Federal service, of which as little as 11 years need be Indian-agency service. Their annuities would be equivalent to the benefits it would take the average Federal employee until age 60 and 27 years of service to earn.

This would seriously distort and misuse the retirement system to solve a problem of personnel management for which there are far more appropriate administrative solutions. The Departments of the Interior and Health, Education, and Welfare have established special placement programs to help non-Indian employees who desire other jobs. I am asking the Chairman of the Civil Service Commission to make certain that those placement efforts are rigorously pursued with all agencies of the Federal Government.

Further, these Departments assure me that many non-Indian employees continue to have ample opportunity for full careers with Indian agencies if they so desire. Accordingly, H.R. 5465 represents an excessive, although well-motivated, reaction to the situation. Indian preference does pose a problem in these agencies, but it can and should be redressed without resort to costly retirement benefits.

I am not prepared, therefore, to accept the discriminatory and costly approach of H.R. 5465.

GERALD R. FORD.

The WHITE HOUSE, *September 24, 1976.*

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

To provide additional retirement benefits for certain employees of the Bureau of Indian Affairs and the Indian Health Service who are not entitled to Indian preference, to provide greater opportunity for advancement and employment of Indians, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8336 of title 5, United States Code, is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and inserting immediately after subsection (f) the following new subsection:

“(g) An employee is entitled to an annuity if he—

“(1) is separated from the service before December 31, 1985, after completing 25 years of service or after becoming 50 years of age and completing 20 years of service,

“(2) was employed in the Bureau of Indian Affairs or the Indian Health Service continuously from June 17, 1974, to the date of his separation,

“(3) is not entitled to an annuity under subsection (a), (b), (c), or (e) of this section or under section 8337 of this title,

“(4) is not entitled to a preference under section 12 of the Act of June 18, 1934 (48 Stat. 986) or any other provision of law granting a preference to Indians in promotions or other personnel actions, and

“(5) demonstrates to the satisfaction of the Commission that he has been passed over on at least two occasions for promotion, transfer, or reassignment to a position representing career advancement because of section 12 of the Act of June 18, 1934 (48 Stat. 986) or any other provision of law granting a preference to Indians in promotions or other personnel actions.”.

SEC. 2. (a) Section 8339(d) of title 5, United States Code, is amended by striking out "8336(c)" and inserting in lieu thereof "8336(c) or (g)".

(b) Section 8339(h) of title 5, United States Code, is amended by striking out "section 8336(g)" and inserting in lieu thereof "8336(h)".

SEC. 3. The amendments made by this Act shall take effect on October 1, 1976, or on the date of the enactment of this Act, whichever date is later, and shall only apply with respect to employees separated from the service after June 17, 1974.

CARL ALBERT,
Speaker of the House of Representatives.

PATRICK J. LEAHY,
Acting President of the Senate Pro Tempore.

I certify that this act originated in the House of Representatives.

EDMUND L. HENSWAW, JR.,
Clerk.
By W. RAYMOND COLLEY