HOUSE OF REPRESENTATIVES—*Tuesday, November 9, 1993*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Enlighten us, O God, so we grow in the knowledge of values and their power in our lives. In our present age with new expertise and proficiency, we tend to forget those values that give meaning to all our relations and are the foundation of respect and reverence of one person to another. We pray, O God, that we will cultivate a greater understanding of integrity and honor, of character and reverence, and that we will treat each other with the values that are Your gifts to us. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. McNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. McNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 256, nays 154, not voting 23, as follows:

[Roll No. 550]

YEAS—256

Abercrombie	Bishop	Collins (MI)
Ackerman	Bonior	Combest
Andrews (ME)	Borski	Condit
Andrews (NJ)	Boucher	Conyers
Andrews (TX)	Brewster	Cooper
Applegate	Brooks	Coppersmith
Archer	Browder	Costello
Bacchus (FL)	Brown (FL)	Coyne
Baesler	Brown (OH)	Cramer
Barca	Bryant	Danner
Barcia	Byrne	Darden
Barlow	Cantwell	de la Garza
Barrett (WI)	Cardin	Deal
Bateman	Carr	DeFazio
Becerra	Clayton	DeLauro
Bellenson	Clement	Dellums
Berman	Clinger	Derrick
Bevill	Coleman	Dicks
Bilbray	Collins (IL)	Dingell
Dixon	Klink	Rahall
Dooley	Kopetski	Reed
Durbin	Kreidler	Reynolds
Edwards (CA)	LaFalce	Richardson
Edwards (TX)	Lambert	Roemer
English (AZ)	Lancaster	Rostenkowski
English (OK)	*Lantos*	Rowland
Eshoo	LaRocco	Roybal-Allard
Evans	Laughlin	Rush
Farr	Leach	Sabo
Fazio	Lehman	Sanders
Fields (LA)	Levin	Sangmeister
Filner	Lewis (GA)	Santorum
Fingerhut	Lipinski	Sarpalius
Fish	Lloyd	Sawyer
Flake	Long	Schenk
Foglietta	Lowey	Schumer
Ford (MI)	Maloney	Scott
Ford (TN)	Mann	Serrano
Frank (MA)	Manton	Sharp
Frost	Margolies-Mezvinsky	Shepherd
Furse	Markey	Sisisky
Gejdenson	Martinez	Skaggs
Gephardt	Matsui	Skelton
Geren	Mazzoli	Slaughter
Gibbons	McCloskey	Smith (IA)
Gillmor	McDermott	Smith (NJ)
Gilman	McHale	Spratt
Glickman	McInnis	Stark
Gonzalez	McKinney	Stenholm
Gordon	McNulty	Stokes
Green	Meehan	Strickland
Greenwood	Meek	Studds
Gutierrez	Menendez	Stupak
Hall (OH)	Mfume	Swett
Hall (TX)	Miller (CA)	Swift
Hamburg	Mineta	Synar
Hamilton	*Minge*	Tanner
Harman	Mink	Tauzin
Hastings	Mollohan	Tejeda
Hefner	Montgomery	Thompson
Hilliard	Moran	Thornton
Hinchey	Murtha	Thurman
Hoagland	Myers	Torres
Hochbrueckner	Nadler	Torricelli
Holden	Natcher	Towns
Houghton	Neal (MA)	Traficant
Hoyer	Neal (NC)	Tucker
Hughes	Oberstar	Unsoeld
Hutto	Obey	*Valentine*
Inglis	Owens	Velazquez
Inslee	Pallone	Vento
Jefferson	Parker	Visclosky
Johnson (CT)	Pastor	Volkmer
Johnson (GA)	Payne (NJ)	Washington
Johnson (SD)	Payne (VA)	Waters
Johnson, E. B.	Pelosi	Watt
Johnston	Penny	*Waxman*
Kanjorski	Peterson (FL)	Wheat
Kaptur	Peterson (MN)	Williams
Kasich	Pickett	Wilson
Kennedy	Pickle	Wise
Kennelly	Pombo	Woolsey
Kildee	Pomeroy	Wyden
Kingston	Poshard	Wynn
Kleczka	Price (NC)	Yates
Klein		

NAYS—154

Allard	Boehner	Cunningham
Armey	Bonilla	DeLay
Bachus (AL)	Bunning	Diaz-Balart
Baker (CA)	Burton	Dickey
Baker (LA)	Buyer	Doolittle
Ballenger	Calvert	Dornan
Barrett (NE)	Camp	Dreier
Bartlett	Canady	Duncan
Barton	Castle	Dunn
Bentley	Clay	Emerson
Bereuter	Coble	Everett
Billrakis	Collins (GA)	Ewing
Billey	Cox	Fawell
Blute	Crane	Fields (TX)
Boehlert	Crapo	Fowler
Franks (CT)	Lightfoot	Roukema
Franks (NJ)	Linder	Royce
Gallegly	Livingston	Saxton
Gallo	Machtley	Schaefer
Gekas	Manzullo	Schiff
Gilchrest	McCandless	Schroeder
Gingrich	McCollum	Sensenbrenner
Goodlatte	McCrery	Shaw
Goodling	McDade	Shays
Goss	McHugh	Shuster
Grams	McKeon	Skeen
Grandy	McMillan	Smith (MI)
Gunderson	Meyers	Smith (OR)
Hancock	Mica	Smith (TX)
Hansen	Michel	Snowe
Hastert	Miller (FL)	Solomon
Hefley	Molinari	Spence
Herger	Moorhead	Stearns
Hobson	Morella	Stump
Hoekstra	Murphy	Talent
Hoke	Nussle	Taylor (MS)
Horn	Oxley	Taylor (NC)
Hunter	Packard	Thomas (CA)
Hutchinson	Paxon	Thomas (WY)
Hyde	Porter	Torkildsen
Inhofe	Portman	Upton
Istook	Pryce (OH)	Vucanovich
Jacobs	Quillen	Walker
Kim	Quinn	Walsh
King	Ramstad	Weldon
Klug	Ravenel	Wolf
Knollenberg	Regula	Young (AK)
Kolbe	Ridge	Young (FL)
Kyl	Roberts	Zeliff
Lazio	Rogers	Zimmer
Levy	Rohrabacher	
Lewis (CA)	Ros-Lehtinen	

NOT VOTING—23

Blackwell	Huffington	Petri
Brown (CA)	Johnson, Sam	Rangel
Callahan	Lewis (FL)	Rose
Chapman	McCurdy	Roth
Clyburn	Moakley	Slattery
Deutsch	Oliver	Sundquist
Engel	Ortiz	Whitten
Hayes	Orton	

□ 1123

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MONTGOMERY). We will now be led in the Pledge of Allegiance by the gentleman from Illinois [Mr. PORTER].

Mr. PORTER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced

that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 995. An act to amend title 38, United States Code, to improve reemployment rights and benefits of veterans and other benefits of employment of certain members of the uniformed services, and for other purposes.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 129. Joint resolution to authorize the placement of a memorial cairn in Arlington National Cemetery, Arlington, Virginia, to honor the 270 victims of the terrorist bombing of Pan Am Flight 103.

DUMP THIS NAFTA NOW

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, one thing is clear about the events of the past few days:

If NAFTA passes, Henry Kissinger will not be put out of work.

Fortune 500 executives will not lose their stock options.

And Lee Iacocca will not lose his job.

But 500,000 Americans will.

And the worst part is, we are being asked to raise our taxes in order to send our jobs to Mexico.

Mr. Speaker, I say "no." We have got to say "no" to this NAFTA.

This NAFTA does nothing to raise the Mexican minimum wage above 58 cents an hour.

It just locks into place a system that exploits its own people and send our jobs south.

We need an agreement that will create jobs in this country.

That will allow Mexican workers to buy our products.

That will raise Mexico's standards up to our level, instead of lowering ours to theirs.

An agreement that will bring us together instead of tearing us apart.

But this NAFTA will not do that. It will just raise taxes in order to send our jobs to Mexico.

And that is why we have to dump this NAFTA now.

NAFTA AND THE ENVIRONMENT

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, NAFTA is the greenest trade agreement ever negotiated and sets a strong precedent for the protection of the environment in all future trade agreements. It preserves the preeminence of our Federal, State, and local environmental laws and our right to turn away any imports that do not meet strict U.S. standards. It also addresses specific issues of American concern, such as border area pollution and other Mexican environmental problems. The Mexican Government, which is preparing to comply with these stringent requirements, has already committed $460 million for border cleanup. For these reasons and others, nearly every major environmental organization in America supports NAFTA. The few that do not suffer from the same lack of understanding and vision as America's labor unions.

Mr. SPEAKER, NAFTA will provide the mechanism for us, as a nation, to retain the right to modify our environmental laws, to protect and maintain our sovereignty, and to ensure the improvement of all three countries' environmental standards.

MORE REASONS TO OPPOSE NAFTA

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, I thought I had more than enough reasons to oppose NAFTA.

However, the Banking Committee, on which I serve, has heard several weeks of testimony concerning abuses within the Mexican political, regulatory, judicial, and financial services sectors.

We heard testimony from Mrs. Lucia Duncan, who described several accounts of the Mexican courts allowing seizure, without cause, of property owned by Americans.

IBM's political agent in Mexico, Kaveh Moussavi, has been named Public Enemy No. 1 by the Salinas government for filing formal fraud complaints with the Mexican Government.

When Mr. Moussavi contacted a Mexican attorney to obtain judicial redress in that nation, the attorney said, and I quote, "Your naivete is touching; this is not the United Kingdom nor the United States."

Mr. Moussavi decided to go public with his case. He was threatened over the telephone that if he testified before the United States Congress about the corruption in the Mexican Government, that when he returned to Britain, he would have one less child.

Mr. Alex Arguenta, a developer from Tucson, AZ, is living proof that large, centralized banks in Mexico defraud their clients and steal their savings.

Mr. Arguenta testified that gangster tactics were used against him after he obtained a $2 million loan from a Mexican bank.

After being held incommunicado for 2 days, he was imprisoned for 1½ years. He was released only after he signed a promissory note which changed the terms of his loan, and, subsequently deprived him of $20 million.

These examples, along with the lack of banking regulations and evidence of the large volume of drug money being laundered by Mexican banks give me more and more reasons to oppose NAFTA.

FREE TRADE NOT THAT COMPLICATED

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, the North American Free-Trade Agreement, [NAFTA], has been pushed through so unnecessarily fast that the process has become unnecessarily complicated. If free trade is what we want, all we need is a one-page bill which would eliminate all tariffs between the two countries so we can continue doing business with Mexico and keep Canada in the mix.

□ 1130

Instead, we have a 1,400-page document and an 8-pound enabling bill setting up empires for international trade lawyers and lobbysts over American interests. Our costs are shut out and the powers of the 50 States eroded under the existing proposed NAFTA agreement.

In some cases the tariffs are actually raised and our Government procurement, affecting even school boards and townships, also is included in NAFTA.

Our best and brightest professionals are targeted for competition on their home territories, and all United States contractors and builders will face competition from Mexico on all Federal, State, and local bids.

Let us stop this masquerade agreement which affects the sovereignty of the United States. If free trade is what everyone is concerned about, then why not a simple one-page bill that wipes out the tariffs to allow trade to flow freely?

YES TO AMERICAN WORKERS, NO TO NAFTA

(Mrs. THURMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. THURMAN. Mr. Speaker, in 8 days, this House will finally vote on the North American Free-Trade Agreement.

In 8 days, Members of this House will have to decide whether to accelerate two disturbing trends in this country—the export of jobs and the gap between rich and poor—or stand up for the most vulnerable wage earners of our society. I say vote "no" on NAFTA. America cannot afford this treaty.

NAFTA will cost thousands of jobs and tens of billions of dollars to implement, but the proponents of this treaty seem to want to pave over both of these facts as if they were small bumps

in the new highway planned between Mexico and Texas. They say we will retrain workers who lose jobs—but for what? And when. People whose livelihoods are threatened deserve honest answers.

Mr. Speaker, the answer is that in the rush to invest in Mexico, thousands of our workers will be left high and dry, without an effective means to another job. They may be statistically expendable to Wall Street investors, but to me they are families whose future prospects deserve much more than just passing consideration. On November 17, say "yes" to American workers and "no" to NAFTA.

ON WITHDRAWING OUR TROOPS FROM SOMALIA

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, today the House will vote on whether to withdraw our troops from Somalia on January 31 or March 31.

The American people have spoken loud and clear and have said we Americans have completed our mission in Somalia and we have given enough money and we have lost enough American lives, yet there are those in this Congress, despite the fact that even the Somalia people want us out of Somalia, who are so insensitive to the wishes of the American people, the very people who put their trust and confidence in them, that they insist that we stay and donate millions more and put more American soldiers lives in jeopardy.

I ask this Congress to abide by the wishes of the American people and not cave in to the special foreign policy interests.

Let us do what is right for America. Let us vote for our American soldiers and our taxpayers for a change.

BRADY BILL IS STEP IN RIGHT DIRECTION IN FIGHT AGAINST CRIME

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, lest we forget in the cascade of comments about NAFTA, this week we will have an opportunity, here in the House, to take a very sizable step forward in fighting crime. We will have an opportunity to adopt the Brady bill, which as we know is the 5-day waiting period before the handgun can be purchased.

I would urge my colleagues to look very sympathetically at this, because it is a good solid first step in fighting crime, not the last step. We need to get criminals off the streets, build more jails, be more resolute in our sentencing; but certainly one step in the direction to reduce violence in our communities would be to take some guns out of the wrong hands.

There could be two amendments offered to the Brady bill, one a sunset amendment and the other an amendment that would preempt State laws once the electronic instant identification goes on line both of which I hope the House defeats.

With those amendments defeated and with the Brady bill passed, we can then go home for Thanksgiving knowing we have done something to truly fight crime.

GULF WAR VETS' FAMILIES DESERVE FULL DISCLOSURE

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, it has been 3 weeks since I asked for hearings on what the Defense Department knows about the use of any chemical and biological weapons during the Persian Gulf war. I have been joined by several of my colleagues from both sides of the aisle in also calling for Secretary of Defense Aspin to immediately and fully disclose what the Pentagon knows on this issue. We have not heard a response.

Today at noon, the Veterans Affairs Committee will hear from the spouses and family members of gulf war veterans who are suffering from gulf war Syndrome. One of my constituents, Hester Adcock of Ocala, will speak as a mother who watched her son die from Gulf Syndrome. Meanwhile, Secretary of Defense Aspin continues to sit on information that may be relevant to the medical treatment of our gulf war veterans.

Once again, Mr. Speaker, I am calling on Secretary Aspin and the Department of Defense for full and immediate disclosure of the facts regarding any chemical weapons used during the war. Our gulf war veterans, their families, and their surviving relatives deserve nothing less.

HEALTH CARE GOBBLEDYGOOK

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, a minister friend of mine in Tennessee told me recently about a trip he and a church group had made to Russia. He said that while there, his group had toured a hospital.

He said to me, "Congressman, I wouldn't take my dog to that hospital."

Mr. Speaker, the truth is that in this Nation today, our animals get better medical treatment than do the people in many other countries around the world.

In our current health care debate, we need to make sure that we do not mess up the best health care system in the world.

The leaders and wealthy people from other countries come here when they get seriously ill. They do not trust their own Government-run health care systems.

I am not defending the status quo. We need many changes, but the Clinton plan is 1,369 pages of bureaucratic gobbledygook.

Every reform that takes us in the direction of more Government involvement or control over our medical system is doomed to fail. Greater Government control will lead inevitably to a lower quality of care at a much greater cost.

In addition, as one Democratic Member said recently, the Clinton plan will add big bucks to the deficit and greatly increase costs to the consumer.

IN SUPPORT OF WITHDRAWING TROOPS FROM SOMALIA BY MARCH 31

(Ms. HARMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, later today I will support the Foreign Affairs Committee resolution calling on the President to withdraw United States combat forces from Somalia by March 31, 1994, and oppose the Gilman amendment to advance that deadline to January 31.

As a member of the Armed Services Committee, I think we have much to learn about shaping effective peacekeeping policies without overloading our own shrinking forces. President Clinton took an important step in that direction when he shifted the emphasis of our mission away from fighting Aideed and set the deadline of March 31, 1994, for withdrawing U.S. combat forces.

I support this resolution because it underlines Congress' role while giving the President the time he seeks to finish this mission. As Chairman HAMILTON has said, "We owe it to those who have already given their lives to complete our mission in Somalia."

I also agree with Chairmen HAMILTON, DELLUMS, and MURTHA that it is time for a broad review of the War Powers Resolution, which is the basis for this resolution. Participating in peacekeeping operations is a different kind of decision from responding to a direct attack on U.S. territory, citizens, or allies. Congress and the executive branch both have important parts to play in those debates, and the result will be a better informed and more supportive public.

OPPOSE HIGHER EXCISE TAX ON CIGARETTES

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I rise in opposition to President Clinton's proposal to raise the Federal excise tax on tobacco by 75 cents. This tax threatens to destroy thousands of businesses and jobs in our country.

While increasing taxes on tobacco products might be a popular idea among many members of our Government, it will deliver a terrible and significant blow to thousands of small businesses throughout America. One industry that has much to lose is the convenience store operators.

The giant letter I have with me today is addressed to President Clinton and has been signed by hundreds of members of the National Association of Convenience Stores, a trade association representing 63,000 convenience stores throughout the United States. The convenience store industry is comprised of both small and large companies that provide thousands of jobs for people.

These operators have expressed deep concerns over the prospect of higher tobacco taxes. Raising the tobacco excise tax would be devastating to this industry, where 27 percent of all merchandise sales are in tobacco products. New tobacco taxes would force convenience stores to eliminate 6,000 jobs, or at least $60 million in payroll. Another 31,000 tobacco-related jobs could be lost in North Carolina.

I urge the President and this Congress to reconsider the proposal to raise the tobacco excise tax that will cost thousands of Americans their jobs and will put many small companies out of business.

THE FREE TRADE TRAIN IS LEAVING THE STATION

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, a moment ago, when we were reciting the Pledge of Allegiance, there was a line in there that made me think about NAFTA, and that line said, "and to the Republic for which it stands," and it seems to me that all of the Members of this Chamber, we are going to be called upon in a few days to state publicly what we stand for, and I believe we should say that we stand for free trade, we stand for a good working relationship with our neighbors north and south, we stand for honoring an agreement that two American Presidents have negotiated.

Now some say that we are going to have another chance somewhere over the horizon in the distant future to have another statement of what we stand for. Well, this train, this free trade train, is leaving the station once, and that is in a few days, and, if it is derailed, it will be derailed into a swamp, into a bayou of protectionism, and it is not going to come back for our political generation.

And why not? The reason is that we cannot slap our neighbors to the south. They are not a punching bag. We cannot knock them down and expect them to come right back to negotiate again something we have already negotiated.

Mr. Speaker, tonight we are going to have a chance to decide who we stand for between two gentleman, two Americans, and I want to tell my colleagues that I am going to stand for that gentleman who is the Vice President, who stands for free trade, who stands for the principle of taking care of workers by expanding markets in Mexico.

"NAFTA"—THE WRONG ACRONYM TO BLAME FOR JOB MIGRATION

(Mr. BARRETT of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT of Nebraska. Mr. Speaker, I rise today to shatter the biggest myth of the North American Free-Trade Agreement.

Opponents of NAFTA have wrongfully frightened the American people by claiming NAFTA will cause American jobs and businesses to migrate to Mexico. The fact is, there is absolutely nothing stopping these jobs from going there right now, from going to Mexico.

This, Mr. Speaker, is sending jobs to Mexico. This book that I hold up contains the hundreds of forms it takes a small business in my State and my colleagues' States as well to comply with Government regulations. NAFTA is the wrong acronym to blame for job migration. The real culprits are OSHA, EPA, ICC, IRS, and a myriad of other agencies which burden American business.

Mr. Speaker, Mexico is going to experience an economic explosion, with or without NAFTA. We can either pass the agreement and reap the rewards of this explosion, or bury our heads in the sand and miss the opportunity of a lifetime. I urge my colleagues to pass NAFTA.

THE AIDS STAMP

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, I rise today to praise a forthcoming AIDS stamp to be issued by the Post Office this December commemorating World AIDS Awareness Day. The most basic step in combating any disease is public awareness, and an AIDS stamp will go a long way in promoting widespread awareness of this dreaded disease.

It is my hope, Mr. Speaker, that this stamp signifies our Government's commitment to fighting AIDS with every resource available; that it symbolizes America's willingness to fund biomedical research into AIDS prevention and cure; that it stands for our promise to take care of those living with the disease; and that there will be a frank, comprehensive AIDS education program established to reach people of all ages, economic status, ethnicities, and sexual orientation.

Mr. Speaker, let this gesture be meaningful. Now is the time to stamp out AIDS.

FORMER SURGEON GENERAL KOOP SKEPTICAL OF CLINTON HEALTH PLAN

(Mr. BACHUS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BACHUS of Alabama. Mr. Speaker, back in September, the White House announced that former Surgeon General C. Everett Koop would serve as one of its health care advisers. President and Mrs. Clinton had hoped that Dr. Koop would work with physicians, who are understandably skeptical of the Clinton Health Plan, and help convince them the Clinton plan is right for America.

But, evidently, Dr. Koop has doubts of his own. Koop was recently quoted as saying, "We Americans can have the best health care in the world, total access to care for everyone, or affordable care. But it is impossible to provide more than two of the three."

Mr. Speaker, Bill and Hillary Clinton would have us believe that their Government-based plan will provide better quality, universal coverage, and all at a lower cost. But the American people are smarter than that. To the contrary, even the Clinton's own adviser, former Surgeon General Koop, knows that if the Clintons have their way, we will, instead, jeopardize the best quality health care in the world.

□ 1150

ECONOMIC INDICATORS DEBUNK PRO-NAFTA ARGUMENTS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, supporters of NAFTA have argued that the increasing trade surplus we have with Mexico proves that NAFTA will benefit the United States. Opponents have argued that, because the Mexican Government has kept wages artificially low, Mexico is a weak market where workers can't afford American goods, but where cheap labor will siphon off American jobs.

Today we learn that the ground is caving away beneath the pro-NAFTA argument, and that the fears of those who oppose this NAFTA are being confirmed. New figures show that our trade surplus with Mexico in the first 8 months of this year has been cut in half compared to the same time last year. The Mexican demand for United States goods is shrinking, and the robust market pro-NAFTA people predicted is questionable at best.

At the same time, productivity of Mexican workers is up more than 9 percent for the first quarter of this year, but their real hourly wages have risen only about 1 percent. So the Mexican policy of depressing wages continues.

Mr. Speaker, these disturbing trends provide more evidence that much more must be done to achieve a NAFTA that is beneficial to all sides, and that a vote against this NAFTA is the right vote.

MICHEL PLAN ON HEALTH CARE SEEN AS BEST FOR SMALL BUSINESS

(Mr. KINGSTON asked and was given permission to address the House for 1 minute.)

Mr. KINGSTON. Mr. Speaker, along with the Clinton health plan, there are a lot of other ones. Representatives COOPER and GRANDY have a plan. Senators CHAFEE, WELLSTONE, and GRAMM have plans. But the plan I like is the plan offered by Congressman BOB MICHEL. It has a number of advantages.

No. 1, it is small business-friendly. Unlike the Clinton plan which requires small business to give their employees health care and pay for 80 percent of it, the Michel plan simply says you have to offer it. It is a lot more favorable to small business and preserving jobs.

The Michel plan also allows small businesses to form voluntary purchasing groups. Unlike the mandated government alliance monopolies, this would be a voluntary economy of scale.

The Michel plan also lets you keep your current coverage. Studies show that most Americans are happy with their current health care, but under the Clinton plan they would have to surrender it and go to this government monopoly called the alliance. This would also give the choice of doctors, something which the Clinton plan does not give.

I think it is important, Mr. Speaker, that we look at all plans, but I think the Michel plan, when we compare them objectively, is best for the American people and for small business.

THIS IS THE WRONG NAFTA

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, in just over 1 week, the House of Representatives will consider the North American Free-Trade Agreement [NAFTA]. Despite the claims made by proponents of NAFTA, it is my belief that this particular trade agreement is a bad deal for the United States of America and should be rejected by Congress for several reasons. Appeals to general abstract economic theories in discussing NAFTA do not give us confidence in the face of certain economic realities facing the governments of the United States, Mexico, and Canada.

At the heart of NAFTA is the opening up of investment restrictions which in the past have restrained U.S. corporations from pouring massive amounts of capital into factories south of the border. Under the maquiladora program which has provided reduced restrictions on investment and trade barriers, hundreds of U.S. companies have sought cheaper Mexican labor and lax environmental regulations. If the North American Free-Trade Agreement were to pass Congress, I believe this trend would intensify.

Despite arguments made by supporters of NAFTA who maintain that the agreement will create large numbers of jobs relating to the huge trade surplus currently enjoyed by the United States over Mexico, reality says otherwise. Much of this so-called surplus with Mexico comes from the overvalued Mexican peso making United States imports artificially cheaper for Mexican consumers. According to Jeff Faux of the Economic Policy Institute, we can expect the devaluation of the peso soon after the next Mexican election to be held in 1994. Moreover, if the Mexicans continue to run a current account deficit, the devaluation of the peso will be a necessity.

When we analyze our exports with Mexico, we can discern that the recent surplus with Mexico is primarily made of increases in the export of capital, machinery, equipment, and intermediate goods. These products are being used in tooling-up the production of Mexican consumer goods targeted mostly at the United States market. This enormous export of capital from the United States to Mexico will eventually lead to a tipping of the balance of trade in favor of Mexico.

The reason Mexico will be able to profit from an accelerated infusion of capital is because their costs of production are lower. The predetermined policy of holding down Mexican wages and lax environmental measures pursued by the Mexican Government is central to my concern. With the people having no real power to engage in collective bargaining, wages are maintained at deplorable low levels. In the 1970's, the ratio between the United States and Mexican wages was 3 to 1 and today, it is 7 to 1.

Earlier this year, I participated with other congressional women in a congressional fact-finding mission to Mexico. We found individuals who had worked for U.S. corporations for years making $1.70 performing skilled tasks in electronic and television manufacturing. At the heart of this trend are the actions of an authoritarian government and its attempt to attract foreign capital. This reality refutes the assertion that Mexican workers are paid good wages performing only low skilled jobs.

Another general economic argument offered by proponents of NAFTA is that many of "* * * these jobs would be lost with or without NAFTA." Suggestions are made that these jobs would go to countries in Asian or other countries where there is cheap labor and a productive work force. The argument continues: "* * * real jobs created by NAFTA would be high-tech jobs." The reality is that persons living in rural communities or inner cities, working in apparel or textile, auto parts or TV assembly, will see their jobs disappear. They will experience the economic reality of unemployment in an uncertain economic market. It will be of little comfort or confidence to promise worker retraining for a higher skilled job not identified or nonexistent. We have already seen real jobs lost due to job migration to Mexico, NAFTA will reinforce this trend.

In addition to lower wage and worker safety costs, the lax enforcement of Mexico domestic environmental laws would further lower Mexican production costs. This certainly would be used as an incentive to relocate United States corporations to Mexico, again resulting in labor dislocation here in the United States by impacting United States corporate competitiveness.

Both proponents and opponents recognize the need for funding sources to finance environmental improvements in the border area. The Council of Americas on July 1993 estimated this cost at $6.6 billion. A regional development bank has been proposed to fund needed infrastructure; toxic waste cleanup would be financed in part by financial institutions selling private stocks. This may have a limited appeal given the nature of toxic waste cleanup without the infusion of large sums of money from the Federal Government and from States situated along the border. The need for additional financing of NAFTA is also required because of the loss in tariff revenues in over $2½ billion. With all of these factors included, the cost of NAFTA will be passed to the U.S. taxpayer.

Although the North American Free-Trade Agreement has been labeled as good domestic and foreign policy, I believe that we can do better. Any trade agreement must substantively contain a basic respect for the lives of the people it will affect. I do not believe that NAFTA will profit workers in neither the United States or Mexico. Here in the United States, little attention has

been given to the problems NAFTA will create relating to worker dislocation. Our Nation is currently faced with a jobless recovery and cutbacks in defense, and I believe NAFTA will serve to exacerbate economic difficulties. Moreover, the Mexican Government has done little or nothing to ensure that the Mexican workers will profit from increased productivity.

In my own First Congressional District of North Carolina, I fear substantial job loss in the vulnerable low-skilled sector of our economy without proper preparation for new skilled employment opportunities. Throughout the 1980's, thousands of jobs were lost in the apparel and textile industry to overseas competition where real wages were only a fraction of American wages. Thousands of hard-working people could be the victims of this ill-conceived international trade agreement.

Another troubling concern relates to the nature of who will lose if NAFTA were implemented. I believe that NAFTA would adversely affect a large portion of hard-working women who are currently employed in manufacturing. Many of these women are heads of their households and working in vulnerable manufacturing jobs. According to the Congressional Research Service report, there are six "NAFTA-vulnerable" manufacturing sectors where women hold a disproportionately large share of jobs. The devaluation of women's work inside and outside the home is a crucial factor toward this trend of lower wages. NAFTA could negatively affect many families across our Nation and in rural North Carolina.

I believe that we must put a human face on the highly abstract issue of free trade. We must remember the thousands of workers in this country who will see their jobs disappear because of cheaper wages to be attained by U.S. corporations. What will the North American Free-Trade Agreement provide for the families of this Nation who are to be adversely affected by its enactment? I believe we must reject the NAFTA because it represents a bad deal for our Nation. Instead, we must focus on those trade policies which enhance our capability to compete. This NAFTA undercuts American competitiveness by applying the wrong rules to the game of international trade.

Ultimately, I am hopeful that the North American hemisphere will prosper from increased trade. However, I believe we must work toward a hemisphere which comprehensively respects the principles of democracy, pluralism, human rights, and competitive market forces.

STATE LEGISLATURES SHOW THE WAY WITH MORE SUNSHINE LAWS

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, many State legislatures have sunshine laws which require any meeting between three or more lawmakers to be open to the public. This is one of the best ways of guaranteeing lawmakers are accountable. Only mushrooms and earthworms thrive in the dark, and we all know what feeds both of those. The dark is no place for a sound legislative proposal, especially the Congressional reform proposal. Congress could benefit by adopting the successful tools used by our State houses. We should begin by opening our meetings.

To their credit, progressive committees have already adopted sunshine provisions in their rules. Congress as a whole should follow their lead and demonstrate a general commitment to responsible Government. It is particularly important to open all committee meetings. Most of the detail work in Congress happens at this level. By the time a bill reaches the floor it usually features significant content changes. As with State laws, we can retain closed meetings for the three situations which absolutely require secrecy. These include discussions of national security, personnel inquiries, and ongoing criminal investigations. The rest of our work should be available to the people who elected us to serve here.

Mr. Speaker, there is a general perception that politics is dishonest work. Some of that feeling could be dispelled if our meetings invited people in to see what actually happens and better understand how Congress operates. For years, major corporations have recognized this practice is good for public relations. A little sunshine would do Congress some good.

CZECH REPORT SAID TO IDENTIFY GULF WAR CHEMICAL AND BIOLOGICAL AGENTS

(Mr. BROWDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWDER. Mr. Speaker, 2 months ago I went to Prague and dug up confirming details of chemical agent detections in the 1991 Gulf war, but the United States Government has withheld an official, unclassified Czech report on the controversy from me and the public.

I want that Czech report. Considering 2 years of virtual denial by the Defense Department that chemical or biological agents were present in the Gulf war, the withholding of this document and cancelled meetings with Members of Congress fall into a disturbing pattern.

This is beginning to look like a classic case of stonewalling, and in my book it is obstructing justice for American veterans with mystery illnesses from that war.

COST-SAVING PROPOSALS REJECTED BY JUDICIARY COMMITTEE

(Mr. FISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, last week actions were taken by the House Judiciary Committee that can only be described as ill-advised and ironic

On November 4, the committee met to consider legislation (H.R. 3400), introduced by Majority Leader GEPHARDT, to implement certain aspects of Vice President GORE'S National Performance Review. At that time, the Democrat majority of the committee rejected two significant cost-saving proposals contained in the bill.

A major provision the Democrat majority on the Judiciary Committee voted 21–14 to remove from this Clinton administration bill would greatly enhance Federal debt collection efforts. It would have ensured that the United States would receive a 10-percent surcharge on the amount of a debt owed, when the Government has to go to court to collect that debt. In addition, a new debt collection fund would be created, where surcharge proceeds would be earmarked to support expanded debt collection efforts. Last Friday's Washington Post estimated that this idea would result in a savings of $961 million. Every committee Republican voted to retain this provision; every Democrat voted to take it out.

The second provision would have required Federal prison inmates to pay a nominal fee to partially cover their health care costs. The Attorney General would have discretion to waive the fee for humanitarian reasons—no inmate would be denied health care because of an inability to pay. The estimated savings—$13.8 million.

Mr. Speaker, everyone knows it is high time for budgetary sanity and economic common sense. How can anyone justify not saving the American taxpayer an estimated $974.8 million? It is high time that the Democrat Party started reading from the same page on budget cuts and effective Federal debt collection.

MORE COMPANIES, MORE JOBS EXPECTED TO BE LOST IF NAFTA PASSES

(Mrs. COLLINS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Speaker, in parts of my district such as North Lawndale more than half of my constituents are without work. In the suburban community of Maywood more than 12 percent of the able-bodied people who want to work do not have any jobs. Why is that? That is because some of our oldest and best known manufacturers have gone to Mexico.

Among them are the Quaker Oats Fisher Price Division, Zenith, Lamkin Leather & Rubber, R.R. Donnelley & Sons, American Hospital Supply, North American Philips, Gould Electric Products, Cooper Lighting, Brunswick, Eureka Manufacturing, and Outward Marine Corp. If NAFTA passes next week, more and more companies will leave, more and more of their jobs will be lost, and more and more of our American workers will be considered disposable by those who vote for NAFTA.

Mr. Speaker, I say, vote against this free-trade agreement. It is not free. It is too costly in terms of jobs.

NAFTA: A TOOTHLESS TIGER

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, if you have any doubts about NAFTA, add this convoluted one to your list: the proposed agreement sets up a three-nation dispute settlement process which is supposed to enforce the NAFTA side agreements on environment and labor. But, according to Canadian law, environmental and labor matters fall largely under the jurisdiction of the provinces, not their national government.

Article 41 of the text states Canada may not join the United States as a complaining party against Mexico unless Canada states in writing that the matter would be under their federal jurisdiction, or where the provinces included in the declaration cited account for at least 55 percent of Canada's gross domestic product.

This means a minimum of three Canadian provinces would have to agree or Canada could not participate in enforcement of NAFTA. Since NAFTA requires a two-third vote of the panel, it is very likely that many cases will arise, where under the terms of the agreement, Canada would be unable to support the United States in serious complaints against Mexico.

How is that for a toothless tiger?

NOVEMBER 9: THREE SIGNIFICANT ANNIVERSARIES

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, today is November 9. In the Dornan family that is a birthday of one of my five children, Bob, Jr., and it is a day that I reminded him all of his life is an important day in history, because it is the 65th anniversary of Kristallnacht, where Nazi thugs took to the street, beat up Jewish shop owners, destroyed and burned their shops, and really was the beginning of the true unending violence of World War II that went on for 7 ghastly years.

But it is also the anniversary now of the coming down of the Berlin Wall. It seems amazing that it was 4 years ago. But in that 61-year span, this great Nation of ours was called upon to produce more heroes and heroins than most nations ever throughout history.

I think in the intervening 4 years we have had a chance to reflect on the new world disorder, and that we still need young men and women to stand forth courageously and be heroes in our time.

Mr. Speaker, I met one of those heroes at Fort Campbell on Friday, CWO Michael Durant. He met my airplane with a young widow who lost her husband as one of these great helicopter pilots over Mogadishu October 3.

Mr. Speaker, we are a lucky, lucky nation to have all of these fine young people in our U.S. military forces.

NAFTA AND THE ENVIRONMENT

(Mr. COPPERSMITH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COPPERSMITH. Mr. Speaker, today I want to talk about NAFTA and the environment. I represent a border state, and I know opposing NAFTA really locks us into the status quo. There are no other resources on the horizon to deal with environmental problems along the border. Opposing NAFTA condemns us to today's problems, the lack of infrastructure and pollution, which will only get worse.

NAFTA requires Mexico to unwind the twin plant system, with its adverse job and environmental effects on my State. NAFTA is also the first trade agreement that deals with the environment. The word does not even appear in the General Agreement in Tariff and Trade, and will not, if we do not pass NAFTA.

I also would tell opponents, as the Washington Post said yesterday, that the alliance between progressive and liberal groups on one hand, and Pat Buchanan and Paul Weyrich on the other hand, has turned arguments against NAFTA into an intellectual muddle.

Mr. Speaker, we cannot turn back the clock and preserve a past that never existed. Too many people, too many businesses, would rather freeze progress and rearrange slices of a static pie. I say "no." We need to grow our economy and seek out new markets, new jobs, and new opportunities. Vote "yes" on NAFTA.

LIFE IMPRISONMENT FOR EGREGIOUS RECIDIVISTS

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, 1½ years ago I heard of an initiative in Washington State called three strikes, you're out. I paraphrased it and called it the LIFER bill, life imprisonment for egregious recidivists, and filed it in the House of Representatives.

The bill would basically say two violent felonies, OK, the State or the Federal Government treats you as they will. On the third one, you go to prison forever. You do not come out. Three violent felonies, or three strikes, and you are out—out of society for good.

Last week Washington State passed that initiative into law by a majority of 76 percent of the voters. Yesterday the U.S. Senate passed the bill by 91 to 1.

The gentleman from Maryland [Mr. HOYER] has introduced a companion bill, and I look forward to working with him in getting this very important measure passed into law. I have 100 cosponsors on my bill, H.R. 93.

We know that about 6 percent of the violent criminals commit 70 percent of the violent crime in America today. If we can take those people off the streets, we will score a major victory over crime. I urge cosponsorship of this bill. It is a real crime bill. Let us get it passed.

Mr. HOYER. Mr. Speaker, if the gentleman will yield, I agree with him.

NAFTA IS BAD FOR AGRICULTURE

(Mr. POMEROY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POMEROY. Mr. Speaker, the wheat farmers in my State have lost markets and experienced suppressed prices because of improper Canadian subsidies under the Canadian Free-Trade Agreement. Section 22 was specifically retained in this trade agreement to protect farmers from exactly these circumstances. Although the evidence supporting a section 22 sanction for Canadian wheat exports is clear, this administration, like the administration before it, has done nothing.

This failure to act exposes the biggest failing of trade agreements for the farmers of this country. When multinational trade agreements create problems for agriculture, the diplomatic discomfort of enforcing the treaties comes before protecting our farmers.

A Section 22 action against Canadian wheat exports has nothing to do with NAFTA, but everything to do with whether farmers can ever expect our Government to enforce trade treaties when agriculture issues are at stake. Because under the last trade agreement this has never been demonstrated, NAFTA to North Dakota stands for not another foolish trade agreement. I will be voting "no" on November 17.

INCONSISTENCIES IN RON BROWN INVESTIGATION

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, Secretary of Commerce Ron Brown has been accused of taking a $700,000 bribe plus other benefits from the Vietnamese Government to lower the trade barriers and to normalize relations with that country, even though we have not had a full accounting of the 2,200 POW-MIA's left behind. We found out later that he lied to the media, and we believe to Members of Congress, about meeting with Mr. Hao, the guy that made the connection with Vietnam. We believe that he may have even lied to Congress when he appeared before the Committee on Foreign Affairs about this.

Mr. Speaker, there was a grand jury impaneled because the man who is his chief accuser passed a 6-hour lie detector test in Florida, administered by the FBI. But that gentleman, Mr. Binh Ly, has never been called before the grand jury to testify.

Mr. Speaker, why is that? Is the Justice Department trying to whitewash this whole issue?

It seems to me that Mr. Ly ought to be called. Now we find out in Time Magazine this week that officials at the White House are saying that Ron Brown is likely to be let off. They are confident this case will be dismissed.

Something is funny here. How does the White House know about what the grand jury is doing down there? They are not supposed to be involved in a grand jury investigation. Something is funny. The Justice Department should be taken to task for not calling Mr. Binh Ly to testify.

DO NOT HURT PEOPLE WITH WELFARE REFORM

(Mr. FORD of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FORD of Tennessee. Mr. Speaker, my Republican colleagues are about to release a welfare reform proposal here tomorrow. They say that the problem is no one works, illegitimacy, and too much welfare for too many immigrants.

□ 1210

They say the solution is to establish paternity, restrict welfare, and crack down on deadbeat dads. If we look at the evidence, the problem is not that welfare recipients choose not to work, but that welfare recipients do not have the job skills to get jobs that will support their children.

They say most of the increase in poverty and welfare is caused by illegitimacy. I believe they are wrong, and not only because of their poor choice of words. It is that Republicans ought to wake up as they try to propose and fashion their welfare package. Most economists believe technology has changed the mainstream, and therefore has caused a lot of poverty in this country. These parents do not need more preaching by the Republicans, they need job preparation.

They say we spend too much on welfare for immigrants. In some cases, this might be right, but let us not forget that we are a nation of immigrants. I ask that we look very closely at this welfare proposal by the Republicans.

AMERICA'S CRIME EPIDEMIC

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, America is in the grip of a crime epidemic. Every year, nearly 6 million people, including 2 million women, are victims of violent crime. It both saddens and infuriates me to turn on the local news or open the paper and be constantly pounded with headlines detailing the newest criminal outrage.

The unfortunate reality in our great Nation is that crime pays. Studies show that violent criminals serve only about one-third of their sentences before being released. It is no wonder that violent crime has increased sevenfold since the 1950's.

On paper, the solution to this crime epidemic is simple: we must deter people from committing crimes in the first place. This means far stiffer penalties, including the death penalty for the most serious criminals, such as drug kingpins, and longer prison sentences in places where inmates actually pay for their crimes, not sit around and watch TV. Until a criminal actually fears the consequences of being caught, we simply do not have a chance to solve our Nation's crime problem.

Women of America are demanding safe streets. We cannot and should not ignore their plea.

THE NORTH AMERICAN FREE-TRADE AGREEMENT

(Mr. TEJEDA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TEJEDA. Mr. Speaker, I rise today to express my strongest support for the North American Free-Trade Agreement [NAFTA]. A window of economic opportunity is before us; in just a few short days, we must decide whether to move forward to more trade and long-term growth, or whether to look backward, regressing into an isolated and protectionism posture.

Passing NAFTA will create opportunity: opportunities for increased exports; opportunities to boost economic reform in Mexico; opportunities for United States companies to stay in the United States instead of moving to Mexico; opportunities for creative solutions to longstanding problems, such as the polluted border environment, severe lack of border infrastructure and the pain of worker displacement; and opportunities to strengthen goodwill between the United States and Mexico, and with other Latin American countries.

On the other hand, defeating NAFTA will not create jobs, and will not solve our United States-Mexico environmental border problems. Defeating NAFTA will not prevent job loss to Mexico or Asia. That is happening now, without NAFTA.

If we do not take advantage of this tremendous opportunity, Japan and the European Economic Community certainly will. Let us not slam the window shut on our children's and grandchildren's economic futures.

TRIBUTE TO TOM LANDRY

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, this past Sunday at the halftime of the Dallas-New York Giant football game, Tom Landry, long-time coach of the Dallas Cowboys, was inducted into the Cowboy Ring of Honor.

This was an honor that was well-deserved. We are all familiar with Coach Landry's football accomplishments: two Super Bowl wins, five Super Bowl appearances, a lifetime winning percentage over 600 percent, almost 300 career victories.

What many people are not familiar with are his accomplishments off the field, as one of the most eloquent spokesmen for the Fellowship of Christian Athletes and many other charities, and a man who devotes a tremendous amount of time to his family. On numerous occasions I have tried to contact Coach Landry to help in a charitable event. I have been told that he was unavailable and he would call back in 5 or 10 minutes from home, where he was babysitting his grandchildren. He and his wife Alicia, their sons and daughters, truly do live the American dream.

Of all the outstanding people I have had the honor to get to know as a public figure, Coach Tom Landry is one of the most impressive and well deserving of this honor, being inducted into the Cowboy Ring of Honor at Texas Stadium.

NAFTA IS A BAD DEAL

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, the great majority of people in this country recognize that the North American Free Trade Agreement is a job killer. It hurts small business, it devastates communities. Now, having lost the jobs and wage debate, the pro-NAFTA people have tried to turn the issue to a foreign policy side, saying if we do not pass NAFTA the Salinas government will run into all kinds of problems, there will be more immigration, it will create crises all around the world for the United States and for foreign policy.

What they do not explain is that we have no business helping the Mexican Government, a government that for 65 years has been a one-party government, the PRI, longer than any single-party reign in the world. There are numerous human rights violations, assassinations, and imprisonment of labor leaders, of political opponents, of journalists all across that country. In Mexico, 36 families control over 36 percent of the wealth. And, most importantly, wages in Mexico have gone down 30 percent over the last 12 years, while productivity has gone up.

NAFTA is a bad deal. It is a job killer. NAFTA is a bad deal and it hurts small business. NAFTA is a bad deal. It hurts our community.

ILLINOIS LEADS BY EXAMPLE ON BUDGET BALANCING

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, Governor Florio of New Jersey could have learned a lesson from Governor Edgar of Illinois.

Our Governor has proven that it is possible to balance a budget without raising taxes. When Jim Edgar ran for Governor in 1990, he pledged to hold the line on taxes. As he always does, Governor Edgar kept his word and forced a reluctant legislature to cut spending in order to balance the budget. It was not easy, but our State made real spending cuts and balanced our budget without eliminating vital social services.

In contrast to New Jersey, Governor Edgar has the strong support of the people of Illinois as he announces his bid for reelection because he has demonstrated that you can cut spending and reject tax increases. Most Americans realize this simple fact. Too bad the Governor of New Jersey did not. Hopefully the majority in Congress will get this message before they are "Florioed" by the voters.

NAFTA, A BAD DEAL FOR AMERICAN WORKERS

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DERRICK. Mr. Speaker, I must admit I am a bit confused by some of the arguments NAFTA supporters have been making. On the one hand, they say Mexico's wages will rise under NAFTA because Mexican workers are becoming more and more productive. With an increase in the wages, they say, Mexicans will then be able to buy more American exports.

But on the other hand, they say "Don't worry. American businesses will not move their plants to Mexico. It is not worth it. Even though the average Mexican is paid about $1 an hour, their productivity is not very high."

It seems to me that NAFTA supporters are more concerned with rationalizing their position than they are with making sure American workers are not sacrificed by this poorly thought-out agreement.

Under NAFTA there will be more jobs for Mexican workers, while hundreds of thousands of Americans will lose their jobs. Many of those who do not lose their jobs will see their wages depressed when they are forced to compete with workers making $1 an hour.

Mr. Speaker, NAFTA is a bad deal for American workers, and it should not pass.

INTRODUCTION OF THE MANDATORY SPENDING CONTROL ACT OF 1993

(Mr. SCHAEFER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SCHAEFER. Mr. Speaker, last Friday, President Clinton proposed a Bipartisan Commission on Entitlement Reform to recommend savings in mandatory spending programs.

It is time that every Member of this body recognize, as the President now does, that the deficit will never go away until Congress honestly deals with the entitlements now consuming over one-half of our budget.

Unfortunately, the President's Commission is a toothless tiger. Since Congress is not compelled to consider its recommendations, we will likely ignore them much as we ignored the Grace Commission.

Today I am introducing legislation with real teeth. The Mandatory Spending Control Act will create a commission whose recommendations will limit the growth of mandatory spending to 3 percent per year. Under my bill, these recommendations must be considered by Congress. If Congress follows the Commission's recommendations, the budget will be balanced in just 6 years.

I urge my colleagues to cosponsor the Mandatory Spending Control Act of 1993.

□ 1220

VIOLENCE AGAINST WOMEN

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the wife from Manassas was tired of the hassles, and having been sexually forced, she went to the kitchen and grabbed a knife, prepared to take her husband's life. But she thought such revenge was just too heinous, so she cut off instead his penis.

And Mr. Speaker, I can assure you this husband will not come home drunk, nor rape his wife anymore. And I do not know if he plays the piano, but from here on out he is singing soprano.

But the serious part of this is it is a sad day in America when women have to take matters into their own hands to get some justice in our troubled land.

With that, I yield back this pain and suffering.

A VERY BAD CALL

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, the President has just made a very bad call. He has said "no" to a balanced budget amendment. Even though 7 of 10 Americans support this effort to force Government to live within its means, President Clinton says "no." Why? Maybe he is afraid real spending controls would cramp his liberal, old-fashioned Democrat, big-spending style. Or maybe he is afraid the proposal would shut down his efforts to syphon more revenue from the pockets of American taxpayers. Or maybe it is just that he is tired of being President and ready to move out of the White House—something that could happen if he continues to oppose the types of fiscal accountability Americans are demanding. As one administration official put it, the President's decision is "on the wrong side of the spending issue and on the wrong side of the voters." I guess that makes it consistent, if nothing else. Meanwhile, Mr. Speaker, we need what most Americans want—a balanced budget amendment.

WEIGHING THE CONSEQUENCES OF SANCTIONS ON HAITI

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute.)

Mr. TORRICELLI. Mr. Speaker, in imposing an embargo on Haiti, the United States is making clear that we stand for democracy in a troubled land. But democracy is not all that America wants for Haiti or for the developing world.

In one of the poorest nations in the world we also want people to have a chance to live a decent life, to be free from disease, to have an economy that can grow and prosper. It is critical in this fight to help restore democracy in Haiti that sanctions be applied against the military leadership, the oligarchs who have denied these people the chance for democratic government. But in applying those sanctions broadly against all of Haitian society, we raise the specter that we may restore democracy, but we may also allow for a situation where contagious disease, and famine and poverty consume an already desperate nation.

I urge the administration in their enthusiasm to restore the Ariside government not to lose the larger and broader American objectives for the Haitian people.

INCREASING THE PERSONAL EXEMPTION FOR FAMILIES WITH CHILDREN

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, most Republican and Democratic Members are concerned about the breakup of the American family. Every indicator, from child abuse to spouse abuse to teen violence to teen pregnancy, all show we are going the wrong way.

We saw the other day that the Senate passed a bill to create more prisons with billions and billions of dollars. I have a bill where we have 197 cosponsors which would increase the personal exemption for families for children from the current $2,300 to $3,500. We have Republicans and Democrats on this bill.

This would do more to help the American family, to help moms and dads on child care, on education, on health care or whatever the case may be. I would ask all Members before they go home for Thanksgiving, please call my office and cosponsor H.R. 436, a bipartisan bill that would do more to help the American family than anything that I think we are working on or talking about, building new prisons or doing all of these things.

Let us give moms and dads a chance to keep more of their hard-earned money whereby they can make the decisions to help the American family. As American values go and family values go, so goes the country.

Please call my office and cosponsor H.R. 436.

THE VIOLENCE AGAINST WOMEN ACT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, crime turned out to be the major issue in last week's elections. Here in Congress jails, more police on the streets, fewer guns, and death penalties have been the debate for weeks. Here in the District of Columbia, and around the country, children are reacting to the slightest provocation with violence. We see violence on TV. We read about violence in the papers. Our children are in danger in their own schools.

Yes, we need more jail space. Yes, we need more cops on the beat. Yes, we need to be tough on crime. But, we cannot crack the culture of violence that these kids are growing up in unless we address the violence in their homes. Violence will occur at least once in two-thirds of all marriages. The only legislation in this body effectively designed to address domestic violence is the Violence Against Women Act.

Domestic violence is a crime that has been ignored by police and prosecutors, and disregarded by judges. Between 22–35 percent of women who visit the emergency rooms are there because of symptoms related to on-going abuse. And 2,000 to 4,000 women are beaten to death every year. Violent homes are a breeding ground for abused children and later, if they receive no help, violent adults.

Anti-crime legislation that fails to address violence at its roots—in the home—is not anticrime legislation. It is a waste of time and money. A lot of us like to think of home as the safest place, but for victims of domestic violence and their children, home is the most dangerous place of all. Let us pass the Violence Against Women Act before the session ends.

AMERICA'S IDEALISM LIVES AGAIN IN "MR. SMITH GOES TO WASHINGTON"

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, today we need the same dedication, patriotism and ideals that some of our predecessors had.

Because of tonight's premiere of the restored 1939 classic, "Mr. Smith Goes to Washington," I quote from statements made by that Mr. Smith:

> We need to bring together kids from all creeds, kinds, and all walks of life. To educate them in American ideals, to promote mutual understanding and to bring about a healthful life to the youth of this great and beautiful land.
>
> You see, kids forget what their country means by just reading "The Land of the Free" and history books—and when they grow up they forget even more.
>
> Liberty is too precious a thing to be buried in books. Men should hold it up in front of them every single day of their lives and say—I'm free to think and to speak. My ancestors couldn't, I can, and my children will. Kids ought to grow up remembering that. They got to see it like that Capitol Dome.

Mr. Speaker, as one of the five Mr. SMITH's in this body, I hope that we can recapture the American idealism of Jimmy Stewart's characterization of Jeff Smith.

NORTH AMERICAN FREE-TRADE AGREEMENT

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mrs. UNSOELD. Mr. Speaker, our NAFTA negotiators did a terrific job of making Mexico safe for United States investment. The agreement forces the Mexican Government to amend several laws to do so. But our negotiators failed to insist that they take any steps to end the antiworker policies.

In failing to do so, this NAFTA does nothing to end the suppression of Mexican wages. And low Mexican wages in an atmosphere of more secure foreign investment will lead to an outflow of United States investment and United States jobs.

A NAFTA truly in the best interest of United States and Mexican workers would end the Mexican government's policy of holding down wages to attract foreign investment. It would end their restrictions on collective bargaining. It would prize the rights of workers as highly as it does security of investment.

We must send our negotiations back to the bargaining table with instructions to get it right.

TURNING JAPANESE

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, if you love our $55 billion trade deficit with Japan now, and if you wish more American jobs would go to Japan, you will vote against NAFTA.

If you think the land of the Rising Sun should have a clear shot at Mexico's markets, without strong competition from American products, you will vote against NAFTA.

If you want to encourage a closer working agreement between the Mexican and Japanese economies, freezing out American companies, you will vote against NAFTA.

If you are a friend of the Japanese worker and a foe of the American worker, you will vote against NAFTA.

Mr. Speaker, the Mexican Government is going to turn to Japan for their products, and reject products made in this country, if we reject NAFTA. That is why Japan strongly opposes NAFTA.

Support the American worker. Support NAFTA.

□ 1230

REPUBLICAN HAT TRICK

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, in hockey they call it a hat trick.

That's the hockey phrase for scoring three goals and that is what Republicans did in last week's elections.

In baseball, they call it batting a thousand.

That is the baseball phrase for getting a hit in every time at bat and that is what Republicans have done in all six major elections since Bill Clinton was elected President.

President Clinton and his liberal game-plan of big government, bigger spending, and biggest taxes have been the best coaches that the Republican party could have—they have shown us how not to do it.

In New York, New Jersey, and Virginia the Democrats will be riding the pine because Democrats ran the wrong way and snatched defeat from the jaws of victory.

They should have been tougher on criminals than on taxpayers.

Instead of just talking about reform, they should have heeded the Republicans battle cry of "Real Reform Now."

Whatever the sport, however you want to say it, America won because the Republicans won last Tuesday.

SUPPORT THE GILMAN AMENDMENT TO BRING OUR TROOPS HOME FROM SOMALIA

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend is remarks.)

Mr. WELDON. Mr. Speaker, how many more lives will be lost in Somalia? The American people in poll after poll have said alarmingly to bring our troops home now. But this President wants us to keep troops there through March 31.

Today this body will have another chance to vote on this issue.

What is our mission today? one disgruntled military officer in Somalia called it duck and run, because our troops are basically hiding away from the Somalia clans.

But last week it was Ambassador Oakley who said to the clan leaders, and I quote, "Soon American troops will resume patrolling the city streets, clearing roadblocks and disarming the technicals," to which Aideed responded on Sunday, "There will be trouble if the Americans start patrolling the streets again."

Mr. Speaker, what will change from now until March 31? How much more money will we spend in Somalia over the $2 billion we have already spent there on this operation? How many more lives will be lost above the 35 that have already been killed there?

I urge our colleagues today to vote for the Gilman amendment to bring our troops home as soon and as expeditiously as possible and not to have any more loss of life 8,000 miles from our borders.

MEMBERS URGED TO SUPPORT THE VIOLENCE AGAINST WOMEN ACT

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, whether walking alone down city streets late at night, driving to work in quiet suburban neighborhoods, or even "Home Alone" with their loved ones, for women and girls in America, violence is an everyday fact of life.

In this country, every 5 minutes a woman is raped, every 15 seconds a women is beaten by her husband or companion, and every year 4,000 women are killed by their abusers.

Street and domestic violence costs our Nation 5.3 billion health care dollars annually. More than 30 percent of women in emergency rooms are there because of domestic violence, and more than 60 percent of the women in mental health wards are there because of ongoing abuse.

It is time for this Congress to act. It is time for Congress to pass the Violence Against Women Act.

Require all States to enforce orders of protection regardless of State or origin and to encourage mandatory arrest policies.

Provide grants for rape prevention and more effective law enforcement strategies and for training our judges about rape and domestic violence.

Grant permission for battered immigrant women, the spouses of U.S. citizens or legal residents, to self-petition for legal status for themselves and their children.

And, most importantly, declare that crimes motivated by gender to be bias crimes and violations of an individual's civil rights.

For too long we have tolerated increasing levels of violence against women and girls. For too long we have tolerated the twin evils of violence and sexism in our society. Now, we say we have had enough.

It is time, Mr. Speaker, to pass the Violence Against Women Act.

CONFERENCE REPORT ON H.R. 3167, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 298 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 298

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, I yield the customary 30 minutes of debate time to the gentleman from California [Mr. DREIER] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 298 provides for the consideration of the conference report on H.R. 3167, Unemployment Compensation Amendments of 1993.

The rule waives all points of order against the conference report and against its consideration. Waivers are required because the conference report has not been available for 3 days and the conference report includes two technical amendments which are in violation of the House rule on the scope of conference. One technical amendment conforms the railroad workers extension effective dates to those for the other workers in the bill. The other technical amendment, necessitated by the delay in passage of this bill, would set the effective date of a provision of the bill as October 3, 1993, the day after the previous extension ended, instead of the date of enactment.

The rule further provides that the conference report shall be considered as read.

Mr. Speaker, the conference report on H.R. 3167, for which the committee has recommended this rule, extends Federal emergency unemployment compensation to those exhausting their regular unemployment compensation benefits between October 3, 1993 and February 5, 1994.

While the economic news is hopeful, the national recovery is still not strong enough to provide jobs for all the workers seeking employment. Passage of this legislation is essential to provide an additional safety net for these workers and for their families.

Mr. Speaker, 38 days have passed since the expiration of these benefits which are so important to the survival and dignity of thousands of American families. Unhappily, we have made this bill a political football for too long. I ask my colleagues to support the rule so that we may proceed with consideration of the merits of this vital conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when our colleagues in the other body took up the emergency unemployment benefits extension bill after it was delayed by the House leadership, they adopted a very important amendment. By a vote of 82 to 14, they approved an amendment to bring about a reduction of 252,000 Federal employees by 1999—a proposal made earlier this year by President Clinton and supported with the National Performance Review submitted by Vice President GORE.

Last Thursday the House voted 275 to 146 to instruct conferees to accept the Senate amendment.

Now, Mr. Speaker, one would think that, based on the overwhelming support for this amendment in both the House and the Senate, this provision would be included in the conference report. Unfortunately, but not surprisingly, it is not. And the reason stems from a procedural abuse known as the motion to instruct conferees, which gets to the root of one of the major problems which exists in this institution, and that is a lack of accountability.

Because the motion to instruct conferees is not binding, Members can vote for the popular position on a bill without the threat of that position becoming law. The Senate amendment on Federal work force reductions is the most recent example of this abuse.

The overwhelming vote in both Chambers also contradicts a contention by some of our colleagues that the work force reduction amendment was only a tactic to delay approval of this bill.

Needless to say, Mr. Speaker, we would not be here debating this measure had the Democrat leadership not tried to force the House to choose between benefits to unemployed Americans and benefits to immigrant aliens.

Mr. Speaker, I am very happy to yield such time as he may consume to my colleague from the Committee on Rules, the distinguished former mayor of Sanibel, FL, the gentleman from Florida [Mr. GOSS].

□ 1240

Mr. GOSS. Mr. Speaker, I thank my good friend the gentleman from greater San Dimas, CA, for yielding me this time.

Mr. Speaker, today we bring down the curtain on the fifth act in this emergency unemployment compensation drama. The script has taken many twists and turns, with much suspense and heightened rhetoric. But here we are today, more than a month after the latest emergency was declared—back to square one and a predictably bad ending. This conference report is virtually identical to the measure first passed by this House on October 15. This gentleman and many colleagues know full well that we should be quite troubled by the smoke-and-mirrors accounting gimmicks that have been used to predict a happy budget landing for this bill.

It will be a miracle if this thing comes down without crashing, given the prognosis and the mechanisms that we are using to pay for it.

Actually, I think it is more a matter of hubris—the same type of prideful tragic flaw that has so many times led this body toward ever higher deficits. I remain concerned about the tendency of this House to fall back on emergency designations rather than implementing long-term, economic fixes to increase productivity and job creation so more Americans can return to meaningful work.

Why do we have to declare emergencies when there is a better way?

Today we have yet another problem that my colleague, the gentleman from California, has alluded to. Since the conference committee, in what must be record time of less than 5 minutes, jettisoned an important amendment crafted in the other body to implement a key provision of the administration's reinventing government proposal. This amendment, which sought to phase out more than 250,000 unneeded, unnecessary, redundant, wasteful Federal jobs over 5 years, was dropped in conference despite the fact that 82 Members of the other body and 275 Members of this House support adding it to H.R. 3167. We are once again bypassing a very fine opportunity for reform—reform that Americans are asking for—buying a vague promise of action sometime down the road.

I well remember the Speaker saying that this was going to be the month of reform, after last month was the month of reform. We have not got to reform, and it does not look like we are going to get to reform this year. I certainly hope we are going to get to it by next year.

It is a tragi-comedy of error and arrogance that is all to familiar to this Member and most Americans, especially in light of the fact that the chairman of the Appropriations Committee of the other body this weekend made a statement saying, "We have cut discretionary spending to the bone." I do not think anybody in America really believes that.

Mr. Speaker, this rule waives all points of order against the conference report—something I am always loathe to do. However, it does allow us to finally move beyond the cat and mouse moves that have kept us in suspense and in gridlock. And for that I think we can all be thankful, and those who need unemployment compensation assistance can be grateful; but it is time to end this long-running drama. Even this emergency bill should not have nine lives.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Sanibel, FL, opened and closed the debate from our side, but I would like to say that I urge a "no" vote on this rule.

The House voted 275 to 146 in support of the amendment that would allow for the reduction of 252,000 Federal workers, and it seems to me that this conference report grossly violates the will of both the House and the Senate.

So, Mr. Speaker, I urge a "no" vote on this rule so that we can come forward with the original package.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the millions of Americans who are out of work, who are dependent upon the unemployment insurance to tide them over, to help them pay their bills, to pay their mortgages and try to keep themselves together with dignity, I urge all Members of this House to vote in support of this rule so that we may get with attending to what all of us realize is a very serious problem.

Mr. DREIER. Mr. Speaker, I yield back the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 249, nays 172, not voting 12, as follows:

[Roll No. 551]

YEAS—249

Abercrombie	Browder	Danner
Ackerman	Brown (CA)	Darden
Andrews (ME)	Brown (FL)	de la Garza
Andrews (NJ)	Brown (OH)	Deal
Andrews (TX)	Bryant	DeFazio
Applegate	Byrne	DeLauro
Bacchus (FL)	Cantwell	Derrick
Baesler	Cardin	Deutsch
Barca	Carr	Dicks
Barcia	Chapman	Dingell
Barrett (WI)	Clay	Dixon
Becerra	Clayton	Dooley
Berman	Clement	Durbin
Bevill	Clyburn	Edwards (CA)
Bilbray	Coleman	Edwards (TX)
Bishop	Collins (IL)	Engel
Blackwell	Collins (MI)	English (AZ)
Bonior	Conyers	English (OK)
Borski	Coppersmith	Eshoo
Boucher	Costello	Evans
Brewster	Coyne	Farr
Brooks	Cramer	Fazio

Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Geren
Gibbons
Gilman
Glickman
Gonzalez
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hoyer
Hughes
Hutto
Inslee
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—172

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Oxley
Packard
Paxon
Penny
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—12

Barlow
Bellenson
Dellums
Fields (TX)
Gephardt
Gordon
Kaptur
Lambert
Lewis (FL)
Moakley
Petri
Rose

□ 1304

Messrs. POMBO, HERGER, and CONDIT changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to the provisions of House Resolution 298, I call up the conference report on the bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of House Resolution 298, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Monday, November 8, 1993, at page 37769.)

The SPEAKER pro tempore. Under the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference agreement on H.R. 3167, the Unemployment Compensation Amendments of 1993. This legislation will extend the authorization for new claims under the Emergency Unemployment Compensation, or EUC, program from October 2, 1993, through February 5, 1994. It also continues the reforms needed to reorient our unemployment compensation system to emphasize reemployment.

It has been over 2½ years since the bottom of the recession. While job growth has improved, most of us know from our time spent back home that unemployment remains a problem. Last Friday's unemployment report simply confirms our experience: the unemployment rate rose slightly to 6.8 percent. And long-term unemployment—at which the EUC program is targeted—remains significantly higher than when this program first was enacted.

Over its 4-month life, H.R. 3167 will provide assistance to roughly 1 million workers and their families who are expected to exhaust regular State benefits. Workers will receive either 7 or 13 weeks of emergency benefits, depending on the unemployment rates in each State. About two hundred and fifty thousand of these workers already have filed claims for assistance and will receive benefits retroactively.

H.R. 3167 also includes an administration proposal that will reduce the cost of unemployment to Government and workers. Workers who have lost their jobs permanently will be identified early in their spells of unemployment, and will engage in intensive job search activities. Rigorous studies demonstrate that the unemployed will find jobs sooner than otherwise, and the Federal Government will save $764 million over the budget period.

Mr. Speaker, the bill before us is the same bill—except for two technical amendments—that this body resoundingly approved 3½ weeks ago. The conference committee chose wisely to delete from the final agreement a Senate amendment, which would have meanstested the EUC program for the first time. This amendment was bad policy; furthermore, it would have been near impossible for States to administer.

Mr. Speaker, I urge my colleagues to put an end to the delays that have characterized this legislation, and to approve this conference report quickly. The hundreds of thousands of Americans who are without work have earned this support, which will help tide their families over during the coming holidays.

□ 1310

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I yield myself such time as I may consume and ask unanimous consent to revise and extend my remarks.

The majority leadership in the House and Senate have done it again. Their Democrat conferees on this measure took less than 5 minutes to ignore overwhelming votes in both chambers—and strike from the bill the Senate amendment to cut the Federal work force by 252,000 employees.

As you'll recall, that Senate amendment had passed the other body on a

vote of 82 to 14. My motion to instruct House conferees to concur in that amendment passed the House on a vote of 275 to 146.

At the close of this debate, my distinguished colleague on the Ways and Means Committee—Mr. CRANE of Illinois—will offer a motion to recommit the bill to the conference with instructions—again—to insist on the Senate amendment. We'll see who was serious about the earlier vote.

The administration and Democrats in Congress have made it clear that they're not serious at all about putting teeth into the rhetoric of cutting the Federal work force over 6 years. Those who want to preserve the bloated Federal bureaucracy made that clear in conference.

The reinventing Government crowd is more interested in rejuvenating it.

But that's not really surprising in a bill to provide another extension of a so-called temporary program which has been extended over and over and over.

Like the Energizer Bunny, it just keeps going and going.

Nearly 2 years ago, Congress enacted the Emergency Unemployment Compensation program as a temporary program to provide Federal benefits to the long-term unemployed.

Today, we are considering the conference report on a fourth extension—and I have no confidence whatsoever that it will be the final one. It's not justified by current economic conditions, but that doesn't seem to matter.

Members are ignoring the fact that we have a Federal and State matching extended benefit system in place already if States choose to implement it. It's designated to address situations exactly like the one we're in today.

It assists States where unemployment is high—without spending precious tax dollars unnecessarily in States with virtually no unemployment at all.

The sense of nationwide economic distress that was used to justify creation of the emergency program no longer exists. The program in fact delivered more benefits than it was expected to.

The initial program—and its three earlier extensions—were estimated to cost some $15 billion. By the end of September, it had actually provided approximately $25 billion in Federal benefits in its 2-year existence.

This latest extension is supposed to cost about $1.1 billion—but who believes that estimate will hold up either?

There's been no sense of urgency about this fourth extension. It's been more like a plodding inevitability as the Democrat leadership has stumbled along for several weeks trying to figure out.

Today we are back at it again. I have no doubt that the votes will be there to pass this extension. Mine won't be one of them.

I for one think it's time to let this temporary program expire as it was intended—and to let the underlying matching program do its job.

Yes, the States would have to put up some matching funds under those circumstances, and it would not be 100 percent financed by the Federal Government. But that is the law. It should be permitted to take effect.

Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I rise in support of the conference report accompanying H.R. 3167. In conference, the Senate receded to the House on a nongermane amendment that would have imposed inflexible and irresponsible employment ceilings on the Federal Government. That amendment constituted an unnecessary intrusion into the administrative responsibilities and operations of the executive branch. It sought to force savings by imposing personnel ceilings regardless of whether those ceilings adversely affected efficiency or the ability of Government to deliver essential services.

If we are honestly interested in achieving savings and improving efficiency, then personnel levels should not be arbitrarily predetermined, but must reflect the realities of existing circumstances. To try to dictate in 1993 what the size of the Government must be in 1999 is not simply fanciful, it is foolish. Congress can and does control employment levels more efficiently in the annual budget process and will ultimately achieve greater savings in this manner.

I understand that a motion will be offered by a Member on the other side of the aisle to recommit the conference report with instructions that the House take the Senate amendment. In my view, it is deplorable that some in this body would jeopardize the welfare of ordinary Americans by further delaying the extension of unemployment benefits over this issue. Unemployment remains a major problem in this country. Unemployment today is only two-tenths of a percent less than it was when the emergency unemployment benefits plan was enacted in November 1991. More than 8.5 million Americans are still looking for work—1.7 million Americans have been out of work for more than 6 months. The current authorization to pay emergency benefits to new claimants expired on Saturday, October 2. Unless the conference report is adopted, those unemployed workers whose regular unemployment benefits have expired since October 2 will continue to be left without any further unemployment benefits

The motion to recommit increases the suffering and hardship that Americans are facing in order to score political points against the administration in support of a ludicrous provision that I believe is deliberately intended to frustrate rather than further efficient and cost effective government. Let us be absolutely clear about what is going on here. This is not about reducing the deficit or achieving savings. This is not about policy. This is pure, blatant politics. The well-being of unemployed Americans is being held hostage to the process. The motion to recommit, if adopted, will not improve government efficiency. It will only serve to further delay the extension of unemployment benefits. Though cloaked in popular rhetoric, the motion to recommit reflects bad policy, and is being pursued for bad ends. I urge Members to defeat the motion to recommit and approve the conference report.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think it is interesting that we have just had a discussion about the unemployment bill being held hostage, when for now 6 weeks the bill has been held hostage to special interest concerns on the Democratic side of the aisle. We had it held hostage because the financing mechanism was not proper. We have had various groups playing games with this bill over on that side. Now, 6 weeks into the process, 6 weeks after people stopped getting their unemployment checks, all of a sudden it becomes important to move the bill very quickly.

Why is it important now to move the bill? Well, because there is a desire on the part of both the House and the Senate, expressed by the majority votes in both of those bodies, to eliminate 252,000 employees, as per Vice President GORE's National Performance Review.

□ 1320

However, the committee, in the games that Congress plays, has decided, despite the majority action in both bodies, to come back with a bill that does not include the elimination of 252,000 Federal employees.

Why do we want to pass the bill quickly? So that Congress can cover its tracks, so that everybody can figure out that we have cast our votes saying we were for 252,000 employees being eliminated, but when it comes to the real action, we are really not for it. This is a perfect example of what happens when people go into back rooms and decide to make decisions.

The public action of the Congress has been to say, "Cut the Federal work force." The public action is in support of the administration's performance review. The administration has said they want precisely that number of employees cut. Now we have a bill on the floor that, while both houses voted within this bill to say they wanted to do what

the President wants to do, we do not have that accomplished.

I think we ought to vote for the motion to recommit. Let us send this back. This will not delay anything. This could be done in the conference committee in a matter of minutes. The bill could come back over here, and we would accomplish two things. First of all, we would assure that people get their unemployment benefits. Second, we would assure that the Federal work force drops by 252,000 employees. That is what should happen here today.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee [Mr. FORD], and ask unanimous consent that he be allowed to control the time on this side.

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the gentleman from Tennessee [Mr. FORD] is authorized to control the time.

Mr. FORD of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report that is before the committee today. Mr. Speaker, this is the third occasion we will have an opportunity to vote to pass this conference report and these emergency unemployment compensation benefits. The Committee on Ways and Means reported the bill out. October 2 was the last day for workers to exhaust all of their benefits. That is long past us now. It has been over a month.

Mr. Speaker, I would hope that the quarter of a million people who have exhausted all of those benefits would be taken into consideration today, and we give final approval so those who have exhausted those emergency benefits will be able to go and receive those benefits immediately.

Mr. Speaker, I urge my colleagues to vote to pass this conference report and let us get on by providing the emergency unemployment compensation benefits to the unemployed in this country.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield 4 minutes to my respected colleague, the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Speaker, at the close of debate today I intend to offer a motion to recommit the conference report. My motion simply sends the report back to conference and instructs our conferees to do what we told them to do last time on a vote of 275 to 146—concur in the Senate amendment to cut the Federal bureaucracy by 252,000 employees.

It is outrageous that in less than 5 minutes the conferees dropped a provision that was overwhelmingly agreed to in both Chambers.

According to the Congressional Budget Office, the Gramm provision summarily dropped by conferees will save American taxpayers more than $21 billion over the next 5 years alone.

It was originally offered in the other body by Senator GRAMM and adopted by an overwhelming vote of 82 to 14.

The provision reduces the bureaucracy by actually implementing one of the recommendations of Vice President GORE's well-publicized national performance review to cut Federal employment by 252,000 positions. This proposal was not cooked up at the last minute.

As we were told by the administration, this is a serious proposal that is the product of a long-term examination of bureaucratic waste by the Vice President.

The Federal employment levels in the Senate amendment for fiscal years 1994 and 1995 are taken directly from the President's fiscal year 1994 budget. The remaining cuts needed to reach the 252,000 level are allocated evenly among fiscal years 1996 through 1999.

We have had lots of proposals around here lately to reduce spending. But as all of us know only too well, it is much more difficult to actually vote for cuts than to simply talk about them.

Here is our chance to vote for serious cuts.

The President has just sent to Congress his proposal for additional spending cuts. After all the anticipation and publicity, his bill saves only around $10 billion over 5 years. We have a chance today to save more than twice that much.

We had this same chance last week on the motion to instruct conferees offered by Mr. ARCHER. On that occasion, a large majority of Members found the courage to vote for the $21 billion in savings.

Who among us that voted for the Archer motion will want to explain to voters why they changed their vote and now oppose cutting the bloated Federal Bureaucracy by 252,000 employees? Voters might be interested in responding to this question next November at the polls.

For many Members, that earlier vote was easy. This time the vote truly counts. Members must now be asked if they stand by their earlier vote.

Answer this challenge by voting "yes" on the motion to recommit.

Mr. FORD of Tennessee. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I rise to object to the anticipated motion to recommit this conference report for two reasons. One is that it is liable to put thousands of families into the Thanksgiving holidays with the traumatic anxiety of not knowing whether they are going to be able to continue to make their mortgage payments, keep their automobiles, provide a livelihood for their family. How irresponsible and uncaring if we let this happen.

However, even as irresponsible as that, is the second reason, because the intent of the recommittal is to take savings by cutting a quarter of a million Federal employees, without having any idea what the impact of that cut will be, who we are cutting, what programs are going to be affected, how badly they are affected. This represents the worst aspect of our legislative process, when we go home and take credit for things without accepting any accountability for the impact of those actions.

We will not disappoint any of our constituency groups. We are not going to have to say no to any special interest group. We will take credit for cutting a quarter of a million Federal employees, completely oblivious as to what the results of that action are.

If we want to eliminate Federal employees, we ought to identify the programs that are not necessary, the functions that are not essential: the budget officers, the auditors, the accountants, the quality control people, the program managers that we have created to respond to the legislation that we have enacted, but we are not willing to do that. We want to take the easy way out and leave it to the executive branch to take the heat for our actions today.

I urge my colleagues to vote "no" on the motion to recommit.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MORAN. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, the Vice President has made this suggestion. I would ask the gentleman, he disagrees with the Vice President of his party?

Mr. MORAN. What will happen, Mr. Speaker, and the Vice President is aware of this, and would also vote against the recommittal, is that the executive branch will be forced to RIF, cause a reduction in force. Because of civil service law, the people with the high salaries are going to bump people with lower salaries, so we will have highly paid people performing less challenging functions and the people who are actually going to be eliminated are the ones who were last to be hired, firing the people that represent affirmative action objectives for women and minorities, firing the people that are getting paid the least and often are providing the most bang for the buck in terms of the cost of Federal employment.

We are going to accomplish just the opposite of what we want to achieve by this motion. We ought to make the tough decisions, do the right things, identify where people can and ought to be eliminated, instead of taking the easy, irresponsible way out.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the respected minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I support the effort that will later be made today

by the distinguished gentleman from Illinois [Mr. CRANE] to recommit the bill, H.R. 3167, with the hope that the conference committee would accept the Senate amendment requiring Government personnel reductions totaling 252,000 over the next 6 years.

Mr. Speaker, the gentleman from Indiana [Mr. BURTON] just made the point with the preceding speaker that the Vice President had recommended this in his National Performance Review. It is a good argument for doing what we are attempting to do here.

□ 1330

It was offered as an amendment to the unemployment bill in the Senate and agreed to in that body, and by the way, that vote was 82 to 14 in favor of what we are attempting to do here. That was on October 28.

Last Thursday this House instructed its conferees to accept the Senate amendment reducing Government personnel by a decisive vote, 275 to 146. Normally when you go to conference and an issue is within the scope of the conference, and both bodies voted in support of the issue, then that issue is included in the conference agreement. Not to do so really undermines the votes that were taken in both Houses. It would have been one thing if it had passed overwhelmingly in one body, but not in the other. But here we have a situation where both bodies of the Congress voted decisively in favor of the personnel reductions, and then when the conferees met that afternoon they disregarded the will of both bodies and struck the Senate amendment.

So it comes back to us without this reduction of 252,000 in Federal personnel that is supported not only by the Vice President but by the entire Clinton administration and by a significant majority of votes in both Houses, as I indicated.

So I would simply says, Mr. Speaker, that I support wholeheartedly the effort that will be made later in these deliberations to recommit H.R. 3167 to the conference committee with instructions that the Federal personnel reductions be included in the conference report.

Mr. FORD of Tennessee. Mr. Speaker, I yield 4 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise in opposition to the motion to recommit the conference report, and my reasons have nothing to do with the fact that the amendment would reduce the government workforce by 250,000 workers. We all know that the Vice President has committed himself to addressing this issue in his reinventing government program.

The compelling reason why I am standing here urging my colleagues not to vote for this recommittal is equity and fairness for unemployed individuals across these United States. On October 2 time ran out for those who were on extended benefits. Today is November 9, and we have gone back and forth on this question.

What does this mean in terms of lives affected? The administration estimates that each month about 250,000 workers will exhaust their unemployment compensation benefits, and as the gentleman from Virginia, Mr. MORAN said, we are not talking about dollars that replace wages. We are talking about benefits that help people keep things together, not the whole mortgage payment, a little on the mortgage payment. It is getting colder where I come from in New England. It means do you turn the thermostat on or not, and at what time do you have to put the children to bed because it is getting cold.

These are the facts of life, and if those who want to recommit the conference report don't want to address these kinds of heart-rending, they might call them, examples which are true, may I just recite what happened to me last Sunday. I was entering the drugstore and I heard my name called out. A young woman came up to me and she said, "Mrs. KENNELLY, when are you going to act on extended benefits?" And I looked at her and I said, "I'm not quite sure, but I hope next week." I said, "What do you do?" She said, "I work at the Labor Department." She said, "Have you listened to some of those phone calls and what they are saying?" And I said yes, they are calling my office. And she said, "That's because we told them we couldn't answer these individual's questions anymore. We can't explain what you are doing down there and why you are holding this up."

So I say to those who have a memory, remember what happened to our former President, remember when he did not understand what people needed, what they had to have to keep going, to make ends meet. Remember he did not heed them, and he no longer is our President.

The American people cannot have public officials who do not understand what it means to try to get through the day, to have dignity. This is what America is about.

I urge Members to get on with the business of Government, to extend these benefits, and then do what we should be doing in other areas.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding me the time.

Do Members know how long it took to take that provision out of the bill that is going to allow 252,000 Federal employees that are supposed to be cut over a 5-year period out of the conference committee report? It took less than 5 minutes. It took less than 5 minutes.

Now how long would it take to put that provision back in that would say we are going to cut those 252,000 Federal jobs over a 5-year period? It would take less than 5 minutes.

So while my colleagues come to the floor and keep saying oh, my gosh, the people who are unemployed are not going to get their benefits, this is a tragic thing, people are not going to be able to get their food for their children, they are going to be dying, and all of this sort of thing, it is baloney. It just simply is baloney.

The fact of the matter is if we send this back to the conference committee with a motion to instruct the conferees, they can do it just like that. Within a matter of a couple of days we will have this thing back on the floor. It will pass, and the people who are not getting their benefits will get them. So that is a red herring.

The fact of the matter is the President of the United States and the Vice President have said and committed to the American people that we are going to cut Federal spending by $21 billion. That is $21,000 million, by reducing the Federal work force by 252,000 over a 5-year period. That provision, supported by the President and the Vice President, passed the House overwhelmingly, passed the Senate overwhelmingly, and yet when it went to conference committee, under the cover of darkness they took it out. Why? Because they want to protect some of their constituents back home that are going to get them reelected.

The fact of the matter is this is a policy that this administration is for, President Clinton is for. This is a policy both the House and the Senate are for. We ought to send it back to the conference committee and cut those 252,000 jobs and save the American taxpayer $21 billion. The deficit is out of control. If we are really serious about getting control of Federal spending and saving the economy of this country, we ought to pass this today overwhelmingly and send it back to the conference committee.

Mr. FORD of Tennessee. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN], a member of the Subcommittee on Human Resources.

Mr. LEVIN. Mr. Speaker, here is the problem: We have structural unemployment in this country. I wish that we did not. More people are exhausting their benefits than when this program was first contemplated.

Many States simply are not eligible for the State programs, so there is no use saying that is a remedy, because the way the law is now written, many States can simply not take advantage of the State program if they want.

So we have structural unemployment. The unemployment compensation system is structurally deficient. We clearly have to amend it and

change it to connect unemployment with reemployment. We cannot do that right here and now, and in the meanwhile we have tens of thousands of people exhausting their benefits, and they are simply asking for some kind of help as they look for new work.

My complaint about the recommittal motion is in essence that it is going to be a further delay, it is going to be a further complication, and we will be saying to the unemployed in this country, "Sorry you are looking for work, but we're not even going to help tide you over."

I do not think that is a reasonable way to proceed. It is not keeping faith with people in this country who are laid off through no fault of their own.

I urge that we pass the conference report. I think the recommittal motion is simply a tactic that will delay action by this body.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the respected Republican whip, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I thank my friend from Texas for yielding the time.

Let me make very clear to my colleagues what the Crane motion to instruct conferees does, because this is not some complicated, difficult or arcane problem. The other body, by 82 to 14, adopted a proposal, not a Republican proposal, it adopted a proposal of Vice President GORE. It adopted a proposal which the President of the United States said was a good idea. It said let us write into law the national performance review standard of reducing Federal employment levels by 250,000.

All it said was we agree with President Clinton, we agree with Vice President GORE. We are prepared to write into law, not just have a press conference, not just make a speech, but Congressman CRANE is now trying to instruct the conferees to accept what was a Clinton administration proposal and put it into law.

The vote, 82 to 14 in the other body, was a bipartisan vote.

□ 1340

Then it came to the House side. Notice the numbers on the House side. We had a motion to instruct, which I believe was the Archer motion, at that time to instruct conferees. The Archer motion to instruct conferees said, "Let's agree with the other body, the Senate, in accepting President Clinton's and Vice President GORE's proposal in writing it into law." What was the margin in the House? It was 275 to 146.

Now, if you were a normal American citizen and you were watching C–SPAN and you had seen the Senate vote 82 to 14 and you had seen the House vote 275 to 146 and you knew the President was for it and the Vice President was for it, you might say to yourself, "Gosh, I guess that's a done deal." Apparently when the conferees got together, and this is why my good friend, Mr. CRANE, is offering this motion, apparently when the conferees got together, the Senate conferees, the other body said, "Oh, heck, we really didn't mean that," promptly caved and walked out. And suddenly the taxpayers, working Americans, voters, people who are concerned about Washington and how it works, are saying to themselves, "You mean you can have a 6-to-1 majority in the Senate, you can have almost a 2-to-1 majority in the House, you can have the President and the Vice President agree, but somehow when it gets to a conference, it disappears, and 250,000 jobs are supposed to be saved, suddenly the politicians figure out a way to avoid what the public wants?"

So what my good friend from Illinois, Mr. CRANE, has done is offer a motion which allows every Member of the House to say, "You know, when I voted, and I say this specifically to the 275 who already voted once, when I voted with the President, when I voted with the Vice President, when I voted with the taxpayers, when I voted to cut the spending by cutting the number of Federal employees, I actually meant it. This was not a press release, not a chance to sneak back home, this was not just another Rotary Club speech; I actually want this to stand."

Now, what will happen? If we pass the motion, the Crane motion to instruct, it will go back to conference. I believe at that moment the Senate conferees, who after all did have an 82-to-14 vote in their favor, have the option of saying, "We really want to pass unemployment compensation." They could agree to it.

I believe on our side, and I think Mr. MICHEL, the leader would agree, we would be willing to bring it up even today, we would be willing to bring it up tomorrow. We could get this right back, pass it before the weekend, and we can go home.

Now, it is that simple, this is not a delaying tactic. We can get unemployment compensation extended this week and we can write into law the Gore National Performance Review standard of eliminating 250,000 Federal jobs so we can both help the taxpayer and help the unemployed in the same bill.

Now, the only way you can help the taxpayer and help the unemployed and you can reduce the deficit over time is to vote "yes" when the Crane motion to instruct conferees is voted on.

So I urge every one of the 275 who voted "yes" earlier to be consistent and vote "yes" again today. I urge the 146 who last time did not quite understand the issue to accept the opportunity to cut spending, to save money, to reduce the deficit. This is an important vote, and I urge the House to send an important signal to the conferees that, "We are tired of the will of the people being in some way blocked magically so that votes in public disappear in secret."

Mr. FORD of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. I thank the gentleman for yielding.

Mr. Speaker, like all Members, I want to see the unemployment benefits extended, but the Congress ought to pay for it and I do not think the Congress is appropriately paying for this bill.

Mr. Speaker, so far as I know, I have voted for every unemployment compensation bill since I have been in the Congress. I believe that workers who have lost their jobs through no fault of their own should get extended benefits. When I was a member of the Texas Employment Commission, I sat on the governing board of my State's unemployment benefits program because I firmly believed that we needed to help people who had lost their jobs, so I have a longstanding commitment to help unemployed workers.

With this particular bill, though, I have grave reservations regarding the lack of proper financing of the extension. We are asked to spend $1.1 billion in the next year, but the recommended revenue raiser, which purports to make up the money in the next 5 years, is not real and valid. The so-called profiling approach, in my view, simply will not produce the intended savings. There's just no reality in that approach.

Mr. Speaker, I want unemployed workers to get their benefits, but we must be more responsible in finding a realistic way to pay for them. I am willing to look at cuts or real revenues, and I would even be willing to look at that most sacred of sacred cows, cutting entitlements. I believe very strongly that we need a real, working unemployment benefits program, but we've got to be responsible enough to really pay for it.

Mr. FORD of Tennessee. Mr. Speaker, I yield 4 minutes to my colleague, the gentleman from Maryland [Mr. CARDIN], a member of the committee.

Mr. CARDIN. Mr. Speaker, I thank the subcommittee chairman for yielding this time to me.

Mr. Speaker, people watching and listening to this debate must be wondering what is going on. We are talking about the unemployed, but we bring in other issues. This is not the first time.

This bill has been on the floor many times before, and there always seems to be problems in dealing with our unemployed. We should have an orderly process, an orderly process to consider legislation.

But when it comes to the unemployed, there are always these other issues that are brought up.

Members of this House, it has been since October 2 when the emergency

unemployment benefits expired that we have been talking about this issue with other issues.

People, 250,000 a month, exhaust their unemployment benefits and go without benefits until we can act. But there is always something brought up.

I do not want to use the procedures of the other body as the right procedure that we should be using. Yes, we should be talking about the Vice President's proposal, but that should be done in an orderly way, not in the legislation that deals with extending the emergency unemployment benefits.

We have been talking since October 2, and people are suffering out there. Make no mistake about it, a vote against the motion to recommit, a vote in favor of the conference committee, is a vote in favor of the unemployed getting their benefits at last. I urge my colleagues to reject the motion to recommit and approve the conference report.

Mr. MORAN. Mr. Speaker, will the gentleman yield?

Mr. CARDIN. I yield to the gentleman from Virginia.

Mr. MORAN. I thank the gentleman from Maryland, my friend and colleague, for yielding to me.

Mr. Speaker, listening to this debate, people would believe that what is being recommended in the motion to recommit is to simply comply with the Vice President's recommendation. That is not true. In fact, what the minority leader said is not the case. If people who are making this recommendation would read the Vice President's report, they would realize that the recommendation to eliminate 252,000 jobs is the bottom line result if the Congress is willing to take the Vice President's recommended reform actions.

The Vice President has recommended a very clear, specific manner in which to achieve the reduction of a quarter of a million Federal employees: procurement and regulatory reform, and especially by taking the plethora of small special interest type programs, the kinds of programs that we create to respond to political interests, and consolidating them into bloc grant programs, a form of revenue sharing that we give back to the States. That will eliminate the need for a lot of Federal employees.

There is a long list of actions that the Vice President recommended this Congress take. And if we have the courage to take those actions, we can then reduce 252,000 people and save $108 billion. But what we are being asked to do is to put the cart before the horse, take the credit for the cuts but not take any of the responsibility for the impact of those cuts on our own constituents.

Mr. Speaker, I thank the gentleman from Maryland [Mr. CARDIN] for yielding, and I urge my colleagues to take the responsible action, to vote against the motion to recommit, to vote for people who are in desperate situations who are unemployed today, and then to go about the responsible business of achieving reductions in the Federal work force and knowing what we are doing before we take the credit for doing it.

Mr. CARDIN. Mr. Speaker, let us remember that we have the chance right now to act on behalf of those people who, through no fault of their own, are unemployed and do not have the resources to take care of their family needs.

I urge my colleagues to vote "no" on the motion to recommit; let us pass this bill, let us get the benefits to the people who are unemployed.

Mr. FORD of Tennessee. Mr. Speaker, I yield such time as I may consume to myself, and I close by saying that hundreds of thousands of Americans and their spouses and their children await our action on this legislation. Through no fault of their own, they are without work and are in need of support. Therefore I urge my colleagues to join with me and members of the subcommittee and the full committee and others to pass this legislation and vote the recommittal motion down.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume, simply to respond to the gentleman from Virginia. I do not think for 1 minute that the American taxpayers are going to accept, on the one hand, what is supposed to be a strong proposal to reduce the Federal work force by over 250,000, and, on the other hand, to accept the gentleman from Virginia's argument that we may not really do this because we may not put into effect the revenue sharing, we may not put into effect some of these other reforms, therefore this is a promise without any substance to it.

□ 1350

The gentleman from Illinois offers a motion to recommit that puts absolute substance into the President's proposal and it does so in such a way that it adopts the President's own recommendation for employment cuts in the next 2 years, precisely what is in the President's budget. That would happen irrespective of all the things that the gentleman from Virginia says may not happen.

In the following 4 years it is implemented on the basis of equal increments.

Now, with 2 years prior to that occurrence, surely there is enough time for whatever reforms are necessary to create this implementation.

It is a smokescreen to say on the one hand that we are going to cut these jobs; on the other hand, but wait, we may not put in the reforms to let it happen. Let us make it happen. Let us be sure that the demand is there, that the reforms are put into effect. Let us vote for the motion to recommit.

Mr. COYNE. Mr. Speaker, I strongly support House passage of the final conference report for H.R. 3167, legislation extending the Emergency Unemployment Compensation Program.

The need for final passage of H.R. 3167 remains as strong today as it was when this program was first enacted.

Over 1 million Americans who have exhausted their regular unemployment benefits would suffer dramatic economic harm without the continuation of a Federal extended unemployment benefits program. The national unemployment rate has continued to hold at just under 7 percent, with the current rate moving back up to 6.8 percent. In addition, many States are faced with rates of unemployment which are significantly above the national rate.

These Americans need help from their elected Representatives in the Congress. The final bill before the House today provides that needed assistance. H.R. 3167 provides that 13 weeks of extended emergency unemployment benefits will be available in States with regular unemployment rates of at least 9 percent, or States with an adjusted unemployment rate of 5 percent. The adjusted unemployment rate includes those Americans who have exhausted their regular unemployment rates. All other States with lower rates of unemployment will be eligible for 7 weeks of extended benefits. For example, residents of Pennsylvania would be eligible for 7 weeks of extended benefits since the most recent unemployment rate was 6.6 percent.

The final conference report maintains the House provisions which guaranteed that the bill would be fully financed. This bill does not add to the Federal deficit and complies with the principle of "pay as you go." This is done by enacting unemployment benefit program reforms which will help workers find a job before they have experienced long-term unemployment. The final conference report requires States to identify workers who, when they first file for unemployment benefits, are considered likely to exhaust their regular benefits. These workers would be required to participate in State job search assistance programs as a condition of receiving unemployment benefits. In addition, the U.S. Labor Department would be required to provide technical assistance to States in classifying workers who may require job search assistance.

Mr. Speaker, I strongly support passage of this conference report for H.R. 3167, an emergency unemployment benefits extension bill. I urge my colleagues to vote for passage of this legislation.

Mr. STOKES. Mr. Speaker, I rise today in support of the conference report to accompany H.R. 3167, a bill to extend the Emergency Unemployment Compensation Act of 1991. I want to commend Congressman ROSTENKOWSKI for his hard work in bringing this bill through the conference committee in an expeditious manner, and for financing the extension without emergency funding, and without making unacceptable cuts in other vital programs.

As we are all aware, H.R. 3167 responds to the continuing unemployment problem by extending the authorization for new claims of emergency unemployment compensation benefits through February 5, 1994. Some Members will argue that extension of the Emergency Unemployment Compensation Program

is unnecessary because the economy is showing some signs of recovery. To those individuals I would simply point out that unemployment is still at almost the same level as when the Emergency Unemployment Benefits Program was enacted in November 1991—8½ million people are still looking for work, and nearly 2 million of there people have been out of work for more than 6 months. Many thousands more individuals are no longer counted in official unemployment estimates because they have been unemployed so long that they are classified as discouraged workers, and are no longer officially counted as unemployed.

To compound the unemployment numbers, the evidence indicates that the current recovery is anemic. In my hometown of Cleveland, OH, we have lost nearly 35,000 jobs over the last 3 years. Alarmingly, 26,000 of the jobs which were lost were high wage manufacturing jobs. These discouraging figures clearly indicate that Cleveland's labor market is currently quite weak, and I am sure other Members have similar stories to tell of the lingering effects of the recent recession.

Mr. Speaker, I believe that we can all take pride in the fact that the extension of the Emergency Unemployment Benefits Program in H.R. 3167 was accomplished in a fiscally responsible way, without adding to the deficit, or declaring a budget emergency. Most importantly, however, is that the extension was financed without taking funds away from other programs addressing vital domestic priorities.

The evidence is clear that the current recovery is not benefiting those who have lost their jobs during the recent recession. It would be unconscionable to let the emergency unemployment compensation benefits expire at this time. An extension of this program is vital to the millions of Americans who desperately want to work, but for whom there still are no jobs available. I urge all my colleagues to vote to extend this program, and to send a message to the millions of long-term unemployed individuals in the United States that their Government has not forgotten them.

Mr. FRANKS of New Jersey. Mr. Speaker, I rise today to support the motion to recommit by Mr. CRANE that would require a reduction of the Federal work force by 252,000.

As my colleagues are aware, in September the National Performance Review and the White House recommended reducing the Government's work force over 5 years by 252,000. By doing so, the White House recognized what many people have already acknowledged: that the Federal work force has grown too big and inefficient and is in need of reform.

Congress will soon be asked to authorize a major buyout program to implement this reduction program. However, that legislation will not specify the target of 252,000 Federal employees for these buyouts. By passing this motion, Congress can codify the goal of cutting 252,000 Federal employees that was first proposed by the White House.

Earlier this year, I introduced H.R. 3086, the Government Employee Limitation Act. This bill established a schedule by which the Government would reduce its work force by 252,000. In addition, it would have reduced the maximum number of permanent staff allowed for Members of Congress from 18 to 16. This motion would carry the substance of H.R. 3086 into law.

Mr. Speaker, putting the goal of reducing the Federal work force by 252,000 into law sends an important message that Congress is finally serious about reducing the deficit. The National Performance Review claims that the Federal Government can save over $40 billion in 5 years if the Federal work force is reduced by 252,000. It's high time Congress started to trim the bloat out of the Federal bureaucracy. Therefore, I urge my colleagues to vote for the Crane motion.

Mr. REED. Mr. Speaker, I rise in support of the conference report on this latest extension of the Emergency Unemployment Compensation [EUC] Program which regrettably expired in early October.

Although this bill does not put Americans back to work, it will help many Rhode Island families stay afloat during the holiday season.

Unfortunately, just staying afloat is becoming more and more difficult for many of the long-term unemployed Americans. Indeed, Rhode Island has the largest percentage of unemployed who have been out of work for over 6 months, but not all Rhode Islanders who have exhausted their State benefits will be eligible for the full 13 weeks of assistance. Even though unemployment in Rhode Island remains high, the official rate has dropped because so many people have either exhausted all State and emergency benefits or they have simply given up looking for work which means they are no longer considered officially unemployed. These people, who have suffered the most, are not even counted as part of the unemployment rate.

It is my hope when Congress reconvenes in January that the administration will propose legislation which not only creates jobs, but also reforms the unemployment and training systems to ensure that people in need of help, get help. They are tired of waiting for Congress to help them. That is why we must pass this conference report.

I urge my colleagues to join me in supporting this legislation.

Mr. ARCHER. Mr. Speaker, I yield back the balance of my time.

Mr. FORD of Tennessee. Mr. Speaker, I yield back the balance of my time, and move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. CRANE. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CRANE moves to recommit the conference report on H.R. 3167 to the committee of conference with instructions that the managers on the part of the House concur in the Senate amendment numbered 1 (relating to a "Reduction of Federal Full-Time Equivalent Positions").

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CRANE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the conference report, following the vote on the motion to recommit.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 226, nays 202, not voting 5, as follows:

[Roll No. 552]

YEAS—226

Allard	Fawell	Leach
Andrews (TX)	Fields (TX)	Levy
Archer	Fingerhut	Lewis (CA)
Armey	Fish	Lightfoot
Bachus (AL)	Fowler	Linder
Baker (CA)	Franks (CT)	Lipinski
Baker (LA)	Franks (NJ)	Livingston
Ballenger	Gallegly	Machtley
Barca	Gallo	Manzullo
Barcia	Gekas	McCandless
Barrett (NE)	Geren	McCollum
Barrett (WI)	Gilchrest	McCrery
Bartlett	Gillmor	McDade
Bateman	Gilman	McHugh
Bereuter	Gingrich	McInnis
Bilbray	Goodlatte	McKeon
Bilirakis	Goodling	McMillan
Billey	Goss	Meehan
Blute	Grams	Meyers
Boehlert	Grandy	Mica
Boehner	Greenwood	Michel
Bonilla	Gunderson	Miller (FL)
Browder	Gutierrez	Minge
Bunning	Hall (TX)	Molinari
Burton	Hancock	Moorhead
Buyer	Hansen	Myers
Callahan	Harman	Nussle
Calvert	Hastert	Orton
Camp	Hayes	Oxley
Canady	Hefley	Packard
Cantwell	Hefner	Parker
Castle	Herger	Paxon
Chapman	Hoagland	Payne (VA)
Clinger	Hobson	Penny
Coble	Hoekstra	Peterson (MN)
Collins (GA)	Hoke	Pickle
Combest	Horn	Pombo
Condit	Houghton	Pomeroy
Cooper	Huffington	Porter
Coppersmith	Hunter	Portman
Costello	Hutchinson	Poshard
Cox	Hutto	Pryce (OH)
Cramer	Hyde	Quillen
Crane	Inglis	Quinn
Crapo	Inhofe	Ramstad
Cunningham	Istook	Ravenel
Deal	Johnson (CT)	Regula
DeLay	Johnson (GA)	Ridge
Derrick	Johnson, Sam	Roberts
Diaz-Balart	Kaptur	Roemer
Dickey	Kasich	Rogers
Dooley	Kim	Rohrabacher
Doolittle	King	Ros-Lehtinen
Dornan	Kingston	Roth
Dreier	Klug	Roukema
Duncan	Knollenberg	Rowland
Dunn	Kolbe	Royce
Edwards (TX)	Kyl	Santorum
Emerson	Lancaster	Sarpalius
Everett	Laughlin	Saxton
Ewing	Lazio	Schaefer

Schenk	Snowe	Thomas (WY)
Schiff	Solomon	Thurman
Sensenbrenner	Spence	Torkildsen
Shaw	Spratt	Upton
Shays	Stearns	Valentine
Shepherd	Stenholm	Vucanovich
Shuster	Strickland	Walker
Sisisky	Stump	Walsh
Skeen	Sundquist	Weldon
Skelton	Talent	Wolf
Slattery	Tanner	Young (FL)
Smith (MI)	Tauzin	Zeliff
Smith (NJ)	Taylor (MS)	Zimmer
Smith (OR)	Taylor (NC)	
Smith (TX)	Thomas (CA)	

NAYS—202

Abercrombie	Gonzalez	Neal (NC)
Ackerman	Gordon	Oberstar
Andrews (ME)	Green	Obey
Andrews (NJ)	Hall (OH)	Olver
Applegate	Hamburg	Ortiz
Bacchus (FL)	Hamilton	Owens
Baesler	Hastings	Pallone
Barlow	Hilliard	Pastor
Becerra	Hinchey	Payne (NJ)
Beilenson	Hochbrueckner	Pelosi
Bentley	Holden	Peterson (FL)
Berman	Hoyer	Pickett
Bevill	Hughes	Price (NC)
Bishop	Inslee	Rahall
Blackwell	Jacobs	Rangel
Bonior	Jefferson	Reed
Borski	Johnson (SD)	Reynolds
Boucher	Johnson, E. B.	Richardson
Brewster	Johnston	Rostenkowski
Brooks	Kanjorski	Roybal-Allard
Brown (CA)	Kennedy	Rush
Brown (FL)	Kennelly	Sabo
Brown (OH)	Kildee	Sanders
Bryant	Kleczka	Sangmeister
Byrne	Klein	Sawyer
Cardin	Klink	Schroeder
Carr	Kopetski	Schumer
Clay	Kreidler	Scott
Clayton	LaFalce	Serrano
Clement	Lambert	Sharp
Clyburn	Lantos	Skaggs
Coleman	LaRocco	Slaughter
Collins (IL)	Lehman	Smith (IA)
Collins (MI)	Levin	Stark
Conyers	Lewis (GA)	Stokes
Coyne	Lloyd	Studds
Danner	Long	Stupak
Darden	Lowey	Swett
de la Garza	Maloney	Swift
DeFazio	Mann	Synar
DeLauro	Manton	Tejeda
Dellums	Margolies-Mezvinsky	Thompson
Deutsch		Thornton
Dicks	Markey	Torres
Dingell	Martinez	Torricelli
Dixon	Matsui	Towns
Durbin	Mazzoli	Traficant
Edwards (CA)	McCloskey	Tucker
Engel	McCurdy	Unsoeld
English (AZ)	McDermott	Velazquez
English (OK)	McHale	Vento
Eshoo	McKinney	Visclosky
Evans	McNulty	Volkmer
Farr	Meek	Washington
Fazio	Menendez	Waters
Fields (LA)	Mfume	Watt
Filner	Miller (CA)	Waxman
Flake	Mineta	Wheat
Foglietta	Mink	Whitten
Ford (MI)	Mollohan	Williams
Ford (TN)	Montgomery	Wilson
Frank (MA)	Moran	Wise
Frost	Morella	Woolsey
Furse	Murphy	Wyden
Gejdenson	Murtha	Wynn
Gephardt	Nadler	Yates
Gibbons	Natcher	Young (AK)
Glickman	Neal (MA)	

NOT VOTING—5

Barton	Moakley	Rose
Lewis (FL)	Petri	

□ 1418

Messrs. NADLER, RANGEL, and GORDON, Ms. MCKINNEY, Mrs. LLOYD, and Ms. DANNER changed their vote from "yea" to "nay."

Messrs. BARCIA of Michigan, BROWDER, DREIER, SHAYS, HALL of Texas, DOOLEY, SKELTON, GILMAN, CHAPMAN, LANCASTER, BOEHLERT, POMEROY, GUTIERREZ, CRAMER, HEFNER, EDWARDS of Texas, and STRICKLAND, Mrs. JOHNSON of Connecticut, and Ms. SCHENK changed their vote from "nay" to "yea."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1420

AMENDING THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 299 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 299

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1036) to amend the Employee Retirement Income Security Act of 1974 to provide that such Act does not preempt certain State laws. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor. After general debate the bill shall be considered for amendment under the five-minute rule for a period not to exceed four hours. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for the purposes of debate only, I yield the customary one-half hour of debate time to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 299 is the rule providing for the consideration of H.R. 1036, legislation to amend the Employee Retirement Income Security Act of 1974 so that the act does not preempt certain State laws.

Mr. Speaker, this is an open rule. It provides 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor.

The rule makes in order the Education and Labor Committee amendment in the nature of a substitute now printed in this bill as an original bill for the purpose of amendment. The substitute will be considered as read.

In addition to the 1 hour of debate time, the rule provides 4 hours for consideration of the bill for amendment. After careful deliberation, the Committee on Rules granted this time limit request as one that is both fair and reasonable for a bill to which only one amendment was offered during full committee consideration.

In fact, when the House last year considered an almost identical rule for a very similar ERISA preemption bill, the rule, which was approved by voice vote, included the same 4-hour restriction. That debate on amendments took less than 2 hours' time.

Further, at the request this year of the Rules Committee for prefiling of amendments, only two amendments were submitted for consideration; I would note for my colleagues that the Education and Labor Committee added to the bill as reported two of the amendments accepted by the House last year.

And, Mr. Speaker, the scope of H.R. 1036 is very narrowly defined so that any potential amendment to the bill must be narrowly written as well, effectively restricting the number and type of amendments that may be offered.

We are all, of course, mindful of the limited amount of time we have as the session nears end, which was another important point the Committee on Rules considered in granting the Committee on Education and Labor's request.

Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, H.R. 1036, the bill for which this resolution is offered, seeks to restore three kinds of State laws that have been preempted by the Employee Retirement Income Security Act, which Congress passed in 1974 to govern most private pensions.

The laws that have been preempted: First, require the payment of prevailing wages and benefits on State public work projects; second, establish minimum standards or regulate certified

apprenticeship programs; and third, provide remedies such as mechanics' liens for nonpayment of multiemployer plan contributions.

All of these areas have traditionally been governed by State laws, which only in the past few years have been held in several court decisions to have been preempted by ERISA.

Mr. Speaker, H.R. 1036 is essentially States rights legislation. It is necessary to restore longstanding State laws that Federal court decisions have invalidated by misinterpreting the intent of ERISA. It is strongly supported by the States and many State organizations, including the National Association of Attorneys General.

Mr. Speaker, to repeat, this is an open rule, providing ample time for consideration of this narrowly written piece of legislation. I urge my colleagues to adopt the rule so that we may proceed with the consideration of H.R. 1036.

□ 1430

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, once again we have a rule before us that is being billed as an "open rule" when, in fact, it is not. The rule contains a 4-hour time limit for the consideration of amendments, a restriction that has no justification except that the rule on a similar bill last year contained an identical restriction.

Mr. Speaker, this rule reminds me of a comment by one of our esteemed colleagues on the Ways and Means Committee regarding the debt limit rule earlier this year. I asked him why he was supporting a closed rule. He said it is "customary" and that he was just following precedent.

Mr. Speaker, this rule is an assault on our sensibilities, just as H.R. 1036 is an assault on American business. At a time when our economy is struggling to create jobs under the weight of stifling Federal regulations, this bill will force small businesses to comply with an array of new, conflicting, and inconsistent State regulations. These regulations will, at a minimum, lead to the likely elimination of employee health and pension benefits and, possibly, to the loss of more jobs.

In addition, the apprenticeship and training requirements contained in H.R. 1036 discriminate against open shop programs and could prevent nonunion employers from training their workers. Fortunately, the gentleman from Illinois [Mr. FAWELL] will offer an amendment to address this problem, and I urge my colleagues to support it.

Mr. Speaker, I include for the RECORD these documents reflecting a count of open versus restrictive rules from the 95th to the 103d Congresses.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	44	11	25	33	75

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Nov. 8, 1993.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 59, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4, R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2, R–12)	4 (1–D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: *Increase Public debt limit*	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: *United States forces in Somalia*	6 (D–1; R–5)	6 (D–1; R–5)	A: *Voice Vote (May 20, 1993)*
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19, R–32)	8 (D–7; R–1)	PQ: 252–178. A: 235–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	*H.R. 5: Striker replacement*	7 (D–4; R–3)	2 (D–1; R–1)	A: *244–176., (June 15, 1993).*
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreiga aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: *Energy and Water appropriations*	NA	NA	A: Voice Vote. *(June 23,* 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 218, July 20, 1993	O	H.R. 2530: BLM authorization, fiscal year 1994–95	NA	NA	
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	(D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: *RTC Completion Act*	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 252, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/05/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	*H.R. 2739: Aviation infrastructure investment*	*N/A*	*N/A*	A: *Voice Vote. (Oct. 7,* 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	*H.J. Res. 283: Continuing appropriations resolution*	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

ROLLCALL VOTES IN THE RULES COMMITTEE—THE RULE ON H.R. 1036, LIMITS ON EMPLOYEE RETIREMENT INCOME SECURITY ACT PREEMPTION OF CERTAIN STATE LAWS

1. Motion offered by Mr. Solomon to strike the time limit on amendments:

Vote (Defeated 3-5): Yeas—Solomon, Dreier, Goss; Nays—Derrick, Beilenson, Frost, Hall, Slaughter. Not voting: Moakley, Bonior, Wheat, Gordon, Quillen.

2. Adoption of Rule:

Vote (Adopted 5-3): Yeas—Derrick, Beilenson, Frost, Hall, Slaughter; Nays—Solomon, Dreier, Goss. Not voting: Moakley, Bonior, Wheat, Gordon, Quillen.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Montana [Mr. WILLIAMS], the chairman of the Subcommittee on Labor-Management Relations of the Committee on Education and Labor.

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am going to vote for this rule, and I urge my colleagues to do likewise, but I must say that I have concerns about this rule. We do not need 4 hours of debate on this bill. We have had interminable debate on this bill already in a previous Congress. Nor should we have an open rule on this debate. Not every Member of this Chamber is enamored with an open rule. I for one believe an open rule on this bill is a mistake.

Mr. Speaker, this bill is very narrowly drawn, but a very narrowly drawn constraint on ERISA. This is a States rights bill, but it is very narrow. An open rule allows Members to come in and amend any part of ERISA, including with regard to health care. That is a mistake. That was not our intention in bringing the bill to the floor.

Mr. Speaker, in fact, it is no accident that my committee would not bring ERISA bills to the floor for 15 years, because we did not want to have the Members faced with inappropriate amendments. Nonetheless, this is a way to begin this process and get us moving in a matter that we have to move on. Because of that, I am going to vote yes on the rule.

Let me say it again, however. We are going to have an hour on the rule, we are going to have an hour of general debate, we are going to have 4 hours on the amendments, we are going to have another hour or two in votes. That is an 8-hour day, an 8-hour day on this one bill, and the minority is not satisfied with that.

We can give them an 8-hour day on the bill, we can give them an open rule, and they still stand up and they are not satisfied. I would recommend to the Committee on Rules that they tell the minority no more often.

Mr. DREIER. Mr. Speaker, I have no requests for time, I yield back the balance of my time, and I urge a no vote on this rule.

Mr. BEILENSON. Mr. Speaker, we have no further requests for time. I do remind my colleagues, as did our friend, the gentleman from Montana [Mr. WILLIAMS], that it is in fact an open rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 299 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1036.

□ 1435

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1036) to amend the Employee Retirement Income Security Act of 1974 to provide that such act does not preempt certain State laws, with Mr. MCDERMOTT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Montana [Mr. WILLIAMS] will be recognized for 30 minutes, and the gentlewoman from New Jersey [Mrs. ROUKEMA] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 1036. Mr. Chairman, this is a States rights bill. That is what we are trying to do here is to reaffirm States rights. This bill would restore to the States their traditional right to require the payment of prevailing wages on State public works projects and to establish minimum standards for apprenticeship and training programs.

In addition, the bill restores State laws permitting multiemployer plans to use State mechanic's liens to collect delinquent contributions. By the way, Mr. Speaker, these were long-established rights, but they have been wiped out by a series of recent Federal court decisions interpreting the ERISA, which is the Employee Retirement Income Security Act of 1974. The courts have recently interpreted ERISA as preempting State laws. We do not believe that was the intent.

As New York State's commissioner of labor pointed out, Mr. Speaker, at a subcommittee hearing that I had a couple of years ago, the effect of the court decisions is particularly troubling. He said that they repudiate the ability of States to set the terms of their own contracts, contracts in which the money being spent is State money and the projects being done are being done to complete State projects.

In addition, State laws have provided additional tools for multiemployer plans to collect delinquent contributions, including mechanics' liens, bonds, or other types of security. Recently, with the approval of the Supreme Court, courts have interpreted ERISA to preclude the States from enforcing these laws as well.

H.R. 1036 restores States' rights in these critical areas and is strongly supported by the Clinton administration, the National Association of Government Labor Officials [NAGLO], the National Association of State Apprenticeship Directors [NASAD], the National Apprenticeship Program [NAP], the National Association of Attorneys General, the National Electrical Contractors Association [NECA], the Sheet Metal and Air Conditioning Contractors' National Association, and the AFL-CIO.

When the Subcommittee on Labor-Management Relations held hearings on the bill this year, considerable debate took place about whether Congress intended to preempt the types of laws affected by this bill. At full committee markup, that debate continued.

There is no question, Mr. Speaker, that the scope of ERISA preemption is broad, because all laws that relate to employee benefit plans are included.

□ 1440

But at the same time, several examples of State laws were expressly saved from preemption, including State insurance, banking, and securities laws. In addition, since 1974, Congress has amended ERISA to allow States to regulate multiple employer welfare arrangements—many people call them MEWAs—and, in recognition of States' traditional role over marital property, excluded from ERISA preemption qualified domestic relations orders issued by State courts.

I was not in Congress when ERISA was first passed, so I cannot read the minds of those who shaped its provisions. But I can say this. There is not one word in the legislative history of ERISA that could lead anyone to conclude that Congress affirmatively intended to strip States of their longstanding authority to determine what terms and conditions a contractor who voluntarily bids on a State public works project must meet.

Nor is there any support in the legislative history for the proposition that State laws authorizing mechanics liens, surety bonds, and other collection tools should not apply to the delinquent contribution obligations of companies who participate in multiemployer plans. In fact, when ERISA was amended in 1980 to establish a Federal

collection mechanism, the legislative history of the Multiemployer Pension Plan Amendment Act of 1980 specifically discussed this new Federal tool as an addition to current State protections.

If the framers of ERISA, in their zeal to protect employers from inconsistent State regulations of benefit plans actually did think about these particular situations and really did intend to block these State laws, then they were wrong, and it is time to change that. But we have no evidence that that is what the authors or those who voted for ERISA originally intended to do.

So H.R. 1036 simply recognizes that ERISA should not interfere with well-established and traditional areas of State concerns such as apprenticeship and training, prevailing wages and mechanics' liens.

Mr. Chairman, I reserve the balance of my time.

Mrs. ROUKEMA. Mr. Chairman, I yield myself such time as I may use.

Mr. Chairman, today, we take up legislation which has a long history in the House. The issue is ERISA preemption and how it relates to State prevailing wages laws, State apprenticeship and training standards, and State mechanics' liens laws. We'll hear today that this is a State's rights issue—that the bill is intended to clarify ERISA and restore State laws that were never intended to be preempted by ERISA.

While on the surface it may seem to be a Federal preemption versus States' rights issue, the uniqueness of the pension and employee benefits law under ERISA begs a deeper look. Since the extension of pension and welfare benefits are premised on a voluntary system, ERISA preemption has retained the freedom for plan sponsors to establish uniform benefit plans across State lines. In this atmosphere, free from myriads of State laws, employees through collective bargaining and other means can also pursue their common objectives and achieve multistate benefit portability.

PREVAILING WAGE STANDARDS

In regard to State prevailing wage laws, proponents have argued that States may not have the ability to set prevailing wages on State and/or State/Federal public works projects. While on the surface this may appear to be true, the real crux of the matter is that, except in rare instances, States have had and will continue to have the ability to set prevailing wages.

An alternative to the intrusive New York supplements law, which was struck down in the General Electric case, exists in other States. These laws set total prevailing wage levels so as to include the cost of prevailing ERISA benefits, but in a benefit neutral fashion as is the case under the Federal Davis Bacon Act. In other words, a prevailing wage and benefits cost of x dollars can be met by x dollars of cash or ERISA benefits costs which may be substituted for cash. Under these laws, an employer is not required to establish a plan or to provide specific benefits or their costs, but is allowed credit in meeting the prevailing wage for the cost of any ERISA benefits already provided.

No court has preempted such benefit neutral statutes, and the General Electric decision does not address these situations. After 17 years of ERISA it is highly unlikely that any challenge will be made to such a statute. Of course, the bill's exception to ERISA preemption for prevailing wage laws will help to ensure that this latter result will be obtained.

In particular, the proposed ERISA section 514(b)(9)(A) relating to the exception to ERISA preemption for certain prevailing wage laws reads, in part, that the State law exempted must permit "any prevailing employee benefit plan contribution or cost requirement of such law be met by crediting (1) the payment of wages in lieu of such contributions or costs, (2) the payment of employee benefit plan contributions or costs, or (3) a combination of wages and such contributions or costs:". In a colloquy during committee markup the chairman of the Subcommittee on Labor-Management Relations, Mr. WILLIAMS, and I affirmed that it is "the intent of the committee that this section require that a State prevailing wage law, to be exempted from ERISA preemption, be structured so as to allow the crediting or substitution of the contributions or costs of any ERISA pension or welfare benefit plan against the 'prevailing employee benefit plan contribution or cost requirement of such law', regardless of whether such ERISA benefits are considered to be 'prevailing' under the State law." What does this mean? In short, that an employer can use any ERISA plan cost to satisfy a State's prevailing benefit requirement.

Also, it can be generally stated that section 514(b)(9)(A) of the bill provides for an exception to ERISA preemption for State prevailing wage laws which permit the crediting or substitution of any combination of wages or ERISA employee benefit plan contributions or costs in satisfaction of the "prevailing employee benefit plan contribution or cost requirement of such law." By means of a second colloquy between Mr. WILLIAMS and myself, it was affirmed that "by limiting this exception to the so-called prevailing employee benefit plan contribution or cost requirement of such law, it is the committee's intent that there be no inference as to the effect of ERISA preemption on other portions of State prevailing wage laws to the extent that they permit the crediting or substitution of ERISA employee benefit plan contributions or costs in satisfaction of the cash wage portion of such laws."

Again, what does this mean? In short, it means that employer ERISA plan costs in excess of State prevailing benefits can continue to be credited against the cash wage portion of a State's prevailing law, such as is the case in my own State of New Jersey.

APPRENTICESHIP AND TRAINING STANDARDS

Turning to the apprenticeship and training provision of the bill, the language goes significantly beyond that needed to merely reverse the Hydrostorage and several other court decisions which proponents say is their intent. Since apprenticeship or other training programs are specifically defined as employee welfare benefit plans under ERISA, the courts have determined in these decisions that ERISA preempts the several State laws, rules, regulations, and administrative orders involved.

I want to stress, however, that these decisions do not jeopardize the many aspects of the apprenticeship programs now operating in the States. To the contrary, the courts have gone to great lengths to limit the reach of preemption only to instances in which the State laws have clearly mandated specific plan operations or mandated that employers participate in a particular plan.

In contrast, by going beyond the Hydrostorage decision, the reach of the bill's exception to preemption would allow States to regulate not only apprenticeship and training programs connected with State public works projects, but also any training program of any employer. While such State laws are now typically limited to construction-related occupations, the broad language of the bill leaves an open invitation for States to extend their jurisdiction to occupations under other single and multiple employer plans whether union or nonunion. There was no reason given—in subcommittee, full committee, or the committee report—to expand the ERISA exemption beyond the overturning of the narrow court cases related to public project work.

As with other benefits under ERISA, it can be stated with regard to training programs that varying State laws will stifle innovation, increase the hassle and costs of setting up such programs, and, ultimately, reduce the number of programs. At a time when all agree that worker training is crucial, restrictive changes would be a serious mistake.

It is my understanding that my colleague, Representative GOODLING, will offer an amendment to H.R. 1036 which ensures that ERISA will continue to preempt State laws which discriminate against the continuation or formation of apprenticeship or training programs that meet the standards of the National Apprenticeship Act. I would call your attention to the remarks of my colleague for a fuller explanation of his

amendment and the serious problems that the bill continues to have in the apprenticeship and training area. In this connection, I would point out that this bill contains my amendment adopted on the floor last year, which corrects a weakness which otherwise would have allowed states to undermine the ERISA fiduciary standards applicable to such plans.

MECHANICS' LIENS

In a manner similar to the apprenticeship provision, the bill's exception to ERISA preemption for collection remedies goes significantly beyond that needed to merely overturn the Iron Workers and related court decisions relating to so-called mechanics' lien remedies.

Under the bill as reported, the mechanics' liens and other remedies imposed under the exempted laws may vary from State to State, thereby exposing employers who contribute to regional or national plans to varying remedies. Such laws could even take a form requiring the bonding of contributing employers or third-parties, in advance of a contributor incurring actual contribution obligations. The actual experience obtained under these remedies will have to be carefully monitored to make sure they do not impinge upon the carefully balanced funding standards and withdrawal liability collection remedies applicable to multiemployer plans under ERISA.

□ 1450

Mr. Chairman, I reserve the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. I thank the gentleman for yielding this time to me.

Mr. Chairman, first I want to compliment the gentleman from Montana [Mr. WILLIAMS] for the hard work he has put forth in getting this to the floor.

I want to thank the gentlewoman from New Jersey [Mrs. ROUKEMA], I think—I have not decided on that, I say to the gentlewoman. Did the gentlewoman come down with us or against us?

Mr. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. I thank the gentleman for yielding.

Mr. Chairman, I say to the gentleman from Michigan that I said we can improve this bill with the amendment that the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Illinois [Mr. FAWELL] are going to present.

Mr. FORD of Michigan. Well, every time we bring this to the floor, we adopt a Roukema amendment. So I am sure that the gentlelady will have—

Mrs. ROUKEMA. Unfortunately, I do not have the authority today. My colleagues have preempted me on that, if the gentleman will pardon the pun.

Mr. FORD of Michigan. Mr. Chairman, this legislation is the same as it was after the floor action in 1992. It passed at that time with a voice vote, but it did not finish in the other body before the end of the Congress. The measure was reported this time in a bipartisan way, including the amendment that the gentlewoman from New Jersey offered on the floor when we last considered the bill. She remains consistently a champion of maintaining current ERISA fiduciary and prudent investment requirements which would, by this bill, continue unaffected.

As the chairman of the subcommittee has already indicated, the main purpose of this bill is the restoration of State and local rights over areas that they have traditionally had in the past. He mentioned that he was not here when we wrote ERISA. I was here, and I was on the committee. And I am confounded with how the courts have managed to construct out of whole cloth an intention that was never any place in the record of our consideration of the bill, was never mentioned in either hearings or in markup sessions, and is a total mystery to those of us who were here and did work on the bill on the committee.

The gentleman's legislation is long overdue, and it has the practical effect of restoring to the States things that we who wrote the bill originally never intended to take from the States in the first place.

Therefore, we are not really going back to write a new substantive law here; we are trying to go back to carry out the original intent of the law.

Mr. Chairman, I rise in strong support of H.R. 1036, a bill amending the Employee Retirement Income Security Act [ERISA], to insure that such act does not preempt certain State and local laws. H.R. 1036 preserves State prevailing wage and benefits laws applicable to State projects; reinstates the States' ability to establish minimum standards for the certification or registration of apprenticeship or other training programs; and permits the States to use mechanics liens to enforce delinquent contributions to multiemployer pension, health and welfare plans.

This is an important piece of legislation needed to restore the validity of three traditional areas of State law authority. It was never the intent of ERISA that its preemption clause would sweep so broadly as to include laws so basic to the States' proprietary role. The courts have, through a recent line of cases, misinterpreted the ERISA preemption clause, depriving State and local authorities of their basic rights to set contract requirements for their public works projects, to set apprenticeship standards, and to use their historical State laws methods for the collection of delinquent payments. These court decisions have had disastrous consequences for the States, for multiemployer plans that cannot collect pension and welfare contributions, and for the millions of workers who were protected by these laws. We need to change the courts' direction and again allow States to exercise their rightful powers in these areas of historic State domain.

The predecessor of this bill, H.R. 2782, passed the House on August 4, 1992, by a voice vote. It died at the end of the last Congress. The Committee on Education and Labor has again reported the measure with bipartisan support. It is essentially the same proposal but for the incorporation of two clarifying amendments which were offered during the floor debate last year. The first was offered by my colleague, Mrs. ROUKEMA, and made certain the current ERISA fiduciary and prudent investment requirements would continue unaffected.

The second was an amendment offered by my late colleague, Congressman Henry, and accepted by Congressman BERMAN, the original sponsor of the bill. It was incorporated to ensure that the bill's exception to preemption would not be construed as allowing a State prevailing wage law to otherwise mandate the maintenance of or regulate the benefits or operations of any employee benefit plan. The amendment also clarified that this measure only relates to workers on public works projects and not on private projects. In committee, one additional clarifying change was made to the Henry-Berman agreement. H.R. 1036 conditions the exemption of State law by allowing the employer to meet the prevailing employee benefit plan contribution or cost requirement in one of three ways: One, by paying cash wages in lieu of such contributions or costs; two, by paying contributions to or costs for employee benefit plans; or, three, by paying any combination of wages and such contributions or costs.

The committee has made every effort to accommodate the legitimate concerns expressed about the intent and wording of this bill. We have debated the policy, we have made legislative changes, and we have, in fact, improved the measure. Now it is time to pass H.R. 1036 as reported and move it one step closer to enactment. I urge my colleagues from both sides of the aisle to vote for H.R. 1036.

Mrs. ROUKEMA. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. GOODLING], the ranking member of the full committee.

Mr. GOODLING. I thank the gentlewoman for yielding this time to me.

Mr. Chairman, I rise to speak about the concern I continue to have as to the content of H.R. 1036 as currently written.

H.R. 1036 now seeks to depart from ERISA's well-reasoned preemption provision by allowing States excessively broad authority with regard to apprenticeship and training laws. When ERISA was enacted in 1974, its sponsors made clear their intention for the broadest possible preemption of State laws in order to eliminate the threat of restrictive, conflicting, and inconsistent State and local regulation. They were seeking to expand and enhance the benefits employers provided their workers by establishing a single, consistent set of rules that applied to all employee benefit plans.

In short, ERISA's preemption provisions were originally intended, and continue to be, as much in employees' best interest as they are in employers'. This is no more clear than in the case of ERISA apprenticeship and training programs. ERISA has encouraged their development and expansion.

However, by allowing States to restrict the types of apprenticeship and training programs employers may utilize, H.R. 1036 could preclude many employers from training their own workers, thereby increasing their costs while at the same time diminishing their available pool of skilled workers.

This unfortunate, yet inevitable, consequence is all the more confusing, Mr. Chairman, when one considers the growing chorus of experts calling for increased efforts to expand apprenticeship-type training opportunities.

Indeed, President Clinton, along with many in his administration, has repeatedly emphasized the need to improve the training and development of the American work force, and to increase apprenticeship and training opportunities, especially for minorities, women, and youth. I and many others in Congress, on both sides of the aisle, share the President's commitment to work force training and have joined him in that effort.

It is all the more disturbing then, in light of these bipartisan efforts, that we are here today considering legislation that could actually stifle the training and development of American workers.

As it stands, the bill would permit States to erect discriminatory barriers to the training of even entry-level workers. For this reason, I will be supporting the amendment to keep apprenticeship and training opportunities open and fair for all American workers.

Before closing, I should point out that in several respects the bill is somewhat less onerous than the version we considered in this Chamber last year. To a degree, this speaks to the merits of considering this kind of legislation under an open rule as was the case in the 102d Congress. Responding to concerns expressed on this side of the aisle, the prevailing wage exemption was made more acceptable by amendments limiting the exemption to public works projects. Amendments to the bill also make it clear that ERISA plan contributions or costs, wages, or any combination thereof can be used to meet any prevailing employee benefit plan contribution or cost requirement of such a law.

As mentioned earlier, ERISA came into being with workers' best interests clearly in mind. The measure of ERISA's success in that regard in perhaps best reflected in its longevity. The fact is that the ERISA preemption section has been amended precious few times in the nearly 20 years it has been in effect. And on those few occasions when changes have been made, they have been carefully crafted and very narrow in scope. And, virtually all have maintained the fundamental premise of ERISA preemption.

Unfortunately, the same cannot be said for the entirety of H.R. 1036. Instead of tampering with ERISA's 20 years of proven success, Congress should be seeking ways to encourage the establishment of new benefit plans and increased opportunities for worker training. H.R. 1036 can be greatly improved by the passage of an amendment that will be offered, and I urge my colleagues to support this amendment at the conclusion of general debate.

Mr. WILLIAMS. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. BERMAN], who has done all the heavy lifting on this bill, and who, as a sponsor of the legislation, has provided leadership which has been very important to our committee on this particular issue.

Mr. BERMAN. I thank the gentleman for yielding this time to me.

Mr. Chairman, as the author of H.R. 1036, I rise to urge my colleagues to support this important legislation. Its purpose is simple: To restore the right of States to protect their workers in three critical areas: Prevailing wages, apprenticeships and training, and remedies for the collection of delinquent plan contributions.

H.R. 1036 preserves the agreement reached with our late colleague, Representative Paul Henry, when this legislation was considered and passed by this body by voice vote last year, as well as the amendment offered on the floor last year by our colleague, the gentlewoman from New Jersey.

I view this bill as narrow legislation intended to clarify that section 514 of ERISA, the preemption provision, was never intended to preempt State law in these three areas.

Section 514 provides that, with certain exceptions, ERISA "shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan."

I think my colleagues would be amazed to learn, as I have, the range of State laws that have been invalidated on the basis of that short sentence—in areas where Congress has never purported to legislate. Relentless efforts have been made to overturn an array of State laws establishing labor standards and other protections for workers. I know that as a former State legislator myself, as are so many of my colleagues here today, I am well aware of the case that was made on behalf of State legislation in those areas—and consequently the tremendous harm resulting to workers as a result of ERISA preemption.

I know firsthand from my discussions with California workers the price they have paid and will continue to pay as a result of preemption of State prevailing wage laws, State law establishing standards for apprenticeship programs, and State laws providing remedies or means for collecting contributions to multiemployer plans. I am convinced that the harm caused by the interpretation of ERISA as to these issues is so significant that action on our part is required.

On the issue of State prevailing wage law, certainly the interest of the State in establishing minimum standards for employment on publicly funded or assisted projects should be clear. The 31 States that have enacted State prevailing wage laws have, in so doing, acted out of an interest in setting the terms on which they will do business with contractors.

But in 1989, the second circuit in General Electric versus New York State Department of Labor invalidated the fringe benefit provisions of New York's prevailing wage law.

The notion that Congress would willfully bar the States from enacting and enforcing laws effectuating State interests in an area which ERISA does not in any way lay claim to cover, is a strange one to me. I cannot believe that this was the intent of Congress in enacting ERISA, and that is why prevailing wage laws are the first of three issues addressed by the bill.

It is typical of prevailing wage laws that they contain provisions for the determination of both a prevailing level of wages and a prevailing level of benefits. H.R 1036 will protect State prevailing wage laws from ERISA preemption as long as the benefit provisions of such laws permit an employer to satisfy the payment of the amount attributable to benefits by the payment of employee benefit plan contributions or costs, the payment of wages in lieu of such contributions or costs, or the payment of a combination of wages and such contributions or costs. Benefit plan costs or contributions, additional wages, or a combination of benefit costs and contributions and additional wages can all be credited against the benefit portion of the prevailing wage obligation.

The type of State prevailing wage law which mandates an employer to pay specific benefit contributions on a line item by line item basis would not be protected by this bill.

Furthermore, under H.R. 1036, a State can require that only that portion of the prevailing wage law attributable to benefits can be satisfied by these crediting provisions. If a State law so requires, then an employer must satisfy that portion of the prevailing wage law attributable to wages by the payment of wages.

Let me provide some examples of how this legislation would work. Assume that a State has determined that the prevailing wage level is $18, consisting of $12 for wages, $4 for health benefits

and $2 for retirement benefits. Thus, $6 of the total prevailing wage level is attributable to benefits.

Under H.R. 1036, a State must allow an employer to meet the obligation to pay the $6 attributable to benefits by paying all $6 in benefit plan contributions or costs or by adding $6 in wages to the employee or by a combination of wages and benefit plan contributions or costs. For example, an employer could pay an additional $1 in wages and $5 in benefit plan costs or contributions. An employer could also satisfy this portion of the obligation by paying $5 in health benefits and $1 in retirement benefits.

The employer would receive a dollar-for-dollar credit for additional wages paid or by benefit plan contributions or costs toward that portion of the prevailing wage level which is attributable to benefits.

However, the State would not be permitted to require an employer to contribute exactly $4 to health benefits or exactly $2 to retirement benefits.

Moreover, State law could, under this legislation, require that an employer must satisfy the wage portion of the obligation by the payment of wages, not benefits. The provisions of the bill which require credits of payments to benefit plan contributions or costs only apply to that portion of the prevailing wage obligation attribution to benefits. Thus, in the example, an employer who provided a benefit plan with a total cost of $8 would not be able to reduce the wage level to $10. If State law so provided, the employer would still be required to pay the prevailing wages of $12.

With regard to the second of the three types of State worker protection laws addressed by H.R. 1036, every one of the 50 States has enacted laws setting standards for the certification or training of apprentices. States have a patent interest in the development of a skilled work force, capable of performing in real jobs and likely to guarantee safer workplaces. This is the basis of State regulation or employer conduct in the establishment and maintenance of apprenticeship programs—and it is fully consistent with the Federal-State scheme of the 50-year-old Fitzgerald Act.

ERISA certainly does not purport to set standards for apprenticeship programs. Yet, in Hydrostorage, Inc. versus Northern California Boilermakers, the ninth circuit in 1989 invalidated California apprenticeship standards on ERISA preemption grounds.

In this area, too, we see State laws that have in many instances been on the books for decades thrown out on preemption grounds, leaving a vacuum in their wake, and in essence nullifying the Fitzgerald Act. H.R. 1036 provides essential clarification on this issue, as well, spelling out that ERISA does not preempt State law establishing apprenticeship program standards, making certified or registered apprenticeship or other training an occupational qualification, or regarding the establishment, maintenance, or operation of apprenticeship programs.

The third and final element of H.R. 1036 provides that ERISA does not preempt State law providing additional remedies or means for collection of contributions to multiemployer plans.

It is quite clear to me that preservation of State collection remedies was explicitly intended by Congress to be an integral part of the ERISA scheme for assisting plans in collecting contributions. Congress reaffirmed this intention in the Multiemployer Pension Plan Amendments Act of 1980. Yet, in Carpenters Southern California Administrative Corp. versus El Capitan Development Co., the California Supreme Court invalidated California mechanics lien law on ERISA preemption grounds.

There is a long history of bipartisan support for effective means of maintaining the fiscal integrity of multiemployer plans. There is certainly no disagreement among plan trustees on this issue; to the contrary, State remedies and means for collecting unpaid contributions simply provide fiduciaries with the necessary tools to protect the plans for which they are responsible. Yet the El Capitan case—and the fifth circuit decision in the Iron Workers Mid-South Pension Fund cases—have severely undermined the fiscal soundness of many plans. We must take action.

Mr. Chairman, every one of the issues I have addressed today was raised first with me by my constituents. And the concerns they have raised have stood the test of time.

State labor standards and remedies that have been on the books for decades have been wiped out; lower court cases which were first brought to my attention several years ago have not been reversed.

These cases certainly do not square with my notion of federalism, and I suspect that they are at odds with all of the rhetoric heard regularly in this Chamber about returning government to the people at State and local levels.

Where Federal law spells out rights and remedies in the interest of protecting Americans and promoting uniformity of our laws, then indeed preemption is in order. But in the cases I have outlined, our courts have invalidated vitally important State laws on matters to which ERISA does not purport to speak.

We cannot allow this situation to stand, and that is why I urge my colleagues to vote for H.R. 1036.

□ 1500

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE SENATE

The SPEAKER pro tempore (Mr. KLINK) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2520), an act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1994, and for other purposes.

The message also announced that the Senate agrees, to the amendments of the House to the amendments of the Senate numbered 1, 2, 4, 10, 12, 18, 23, 24, 38, 39, 62, 69, 71, 72, 73, 74, 75, 77, 81, 84, 90, 100, 102, 118, 120, 121, and 125 to the above-entitled bill.

The message also announced that the Senate recedes from its amendments numbered 123 and 124, to the above-entitled bill.

The SPEAKER pro tempore. The Committee will resume its sitting.

AMENDING THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. FAWELL], a member of the committee.

Mr. FAWELL. Mr. Chairman, I thank the gentlewoman for yielding this time to me.

My comments, even though I know this bill deals with three main issues, but nevertheless, my comments will be in regard to the area of the bill that pertains to apprenticeship training.

In that regard, Mr. Speaker, H.R. 1036, in my view, is anticompetitive and an antiworker training bill.

H.R. 1036 seeks to allow State laws to establish minimum standards for apprenticeship plans without such laws being subject to ERISA preemption. The reason often cited, of course, is "States' rights". Ironically, however, despite ERISA preemption, States have for many years been establishing minimum standards for apprenticeship plans under the National Apprenticeship Act and such State apprenticeship laws are not subject—I repeat—not subject to ERISA preemption as long as one is functioning within the scope of the National Apprenticeship Act.

The problem that has arisen and is the genesis for this bill is that a few

States, only about four or five, have passed State laws which have attempted to discriminate against other qualified apprenticeship plans which are competing against established apprenticeship plans. These State laws have been held to be outside the scope of the National Apprenticeship Act, and therefore subject to ERISA preemption, precisely because they have discriminated against other apprenticeship plans.

H.R. 1036 is a bill, therefore, designed primarily to resuscitate efforts in a few States to pass discriminatory apprenticeship standards in order to ward off competition in apprenticeship and job training in the construction trades.

There is nothing new about that. We all know that groups with special influence seeking to discriminate against competition is something we see around here quite a bit. Virtually every profession or trade group in history has attempted to regulate the number of people that can compete with it.

A direct and open attempt in Congress, of course, to endorse this type of discrimination against qualified apprenticeship training would fail. Therefore, what H.R. 1036 does is indirect and a bit subtle, but without having any problems in regard to ERISA preemption, the Sates are now free to favor a locally-established apprenticeship plan, for instance, and restrict competition. The State could declare, for instance, that only one apprenticeship plan could be approved in a given area. Or the State could require that all employers seeking to bid on State public works projects would be required to have their apprentices trained by an "established" union plan favored by the State Apprenticeship Council.

There are cases that have involved these kinds of issues.

Now, the victims of this type of discrimination, so that we have in effect less apprenticeship plans, are not merely small or nonunion construction firms. The persons who have been consistently excluded from construction union training, and I am talking about training of 4 to 5 years on-the-job training and in-the-classroom training, are minorities, women, disadvantaged youths, native Americans, intercity workers. They are the ones who suffer the most when open competition, and I think that is to be stressed, open competition of qualified apprenticeship plans are frustrated.

□ 1510

The bill is directly aimed, therefore, at the growth and competition from new sponsors of apprenticeship plans expanding into territory previously dominated by an established plan.

Fortunately there is an easy answer for these concerns which I have expressed. I, along with others, will be certainly backing the Goodling amendment which, while accepting the loss of Federal preemption of State apprenticeship standards, which are discriminatory in nature, will require that State laws not limit apprenticeship or training opportunities by discriminating against apprenticeship training programs. It simply says, to States, "Don't discriminate," that is, don't use your powers to establish apprenticeship standards to in effect discriminate against new apprenticeship programs in order to protect established union apprenticeship plans. That is the message of the Goodling amendment.

Mr. WILLIAMS. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Chairman, I rise in support of H.R. 1036 as reported by the Committee on Education and Labor.

Enactment of this legislation is of critical importance to the Commonwealth of Pennsylvania and to hundreds of thousands of workers who labor in my State.

During the Labor-Management Relations Subcommittee hearing in March, Pennsylvania's Secretary of Labor and Industry, Thomas Foley, called for prompt enactment of H.R. 1036 to head-off lawsuits threatening to destroy the State's longstanding prevailing wage law.

In July of this year, Secretary Foley's nightmare became real. A Federal judge ruled that ERISA preempts, and renders enforcement, Pennsylvania's prevailing wage act in a case called Keystone Chapter, Associated Builders & Contractors versus Foley.

That court decision is dead wrong. It misreads ERISA's letter and intent, and must be overruled. H.R. 1036 would overrule the decision by clarifying that ERISA does not preempt State prevailing wage laws like Pennsylvania's.

Pennsylvania's decades-year old law simply requires contractors awarded public works projects to pay their workers on these projects the wages prevailing in the communities where the projects are located. Prevailing wages include employee pension and health benefit contributions, reflecting the fact that these contributions have become an important aspect of the compensation paid to workers for their labor.

This law represents a public policy judgment by the people of Pennsylvania that public contracts should not undercut the wages and living standards of a community. This law is also a means by which Pennsylvania ensures fair competition among contractors for public works contracts.

ERISA was never intended to prevent Pennsylvania, or any other State, from setting the terms and conditions under which it contracts for public works projects. ERISA was never intended to deprive States of their fundamental right to contract.

ERISA was designed to regulate the structure and content of employee benefit plans. Pennsylvania's prevailing wage law does not interfere with ERISA's regulatory scheme. It does not regulate the content or operation of employee benefit plans. It does not mandate employers to create or maintain plans.

In fact, my State's law allows contractors who do not have employee pension or health plans to meet their prevailing wage obligations by paying increased wages in lieu of the benefit plan contributions prevailing in the community. The law does not allow contractors to pay less than the prevailing cash wages, even if they choose to pay more than the prevailing benefit contributions. The prevailing cash wage is in minimum wage for the project, and the setting of minimum cash wages remains of fundamental State concern even though we also have a Federal minimum wage floor. Pennsylvania's policy is that the payment of at least the prevailing cash wage is important to workers and to the economies of their communities.

H.R. 1036 would restore Pennsylvania's prevailing wage law to life. It would restore to my State its fundamental right to determine the terms and conditions under which it would contract for public works financed with State or local funds. Such decisions are Pennsylvania's to make; not Washington's.

I want to note for my colleagues that H.R. 1036 has nothing to do with the Federal Davis-Bacon Act. The bill deals only with State laws. It removes ERISA as an unintended impediment to States which decide to enact prevailing wage laws with respect to State and local contracts.

Beyond preserving the right of States to have prevailing wage laws, H.R. 1036 would clarify that ERISA does not preempt States from continuing to play a vital role in the Nation's regulatory scheme for apprenticeship training and employment.

Since the enactment of the National Apprenticeship Act—or Fitzgerald Act—in 1937, apprenticeship has been regulated through a Federal-State partnership. The Fitzgerald Act itself does not set any apprenticeship standards. It directs the Secretary of Labor to work with State agencies which develop and enforce such standards.

Pursuant to the act, the Labor Department has delegated regulatory authority over apprenticeship to State agencies, called State Apprenticeship Councils, in 27 States. These councils have been free to establish and enforce apprenticeship training and employment standards that go beyond the bare minimums set in Labor Department regulations. The councils set specific requirements that meet the particular needs, policies, and practices of their States.

ERISA was never intended to disturb this longstanding regulatory scheme for apprenticeship. ERISA itself contains no apprenticeship standards. It has nothing to do with the training and employment of apprentices.

It is incomprehensible to me that courts have construed ERISA to prevent State Apprenticeship Councils from performing the vital role in apprenticeship regulation that another Federal law—the Fitzgerald Act—assigned to them. These court decisions are wrong. They create the kind of legal catch 22 that gives Government a bad reputation. I am pleased that H.R. 1036 would overrule these judicial mistakes.

A few may argue that the State Apprenticeship Councils should be cutback and restricted to doing only that which the U.S. Department of Labor's regulations specifically require. Such a cutback in the councils' longstanding authority is no compromise. It would emasculate the councils from playing their traditional role of addressing local needs and concerns, and would further erode essential protections against ineffective and fraudulent apprenticeship programs.

I urge my colleagues to vote in favor of H.R. 1036 as reported.

Mrs. ROUKEMA. Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina [Mr. BALLENGER], a member of the committee.

Mr. BALLENGER. Mr. Chairman, mention ERISA preemption and apprenticeship training programs in the same sentence and you'll probably notice eyes beginning to glaze over and a lot of yawns. While the issue may be dull, this legislation, H.R. 1036, could have a dramatic impact for nonunion contractors.

H.R. 1036 is designed to stop the growth of nonunion apprenticeship programs by reversing a series of Federal and State court rulings that prohibit discrimination in favor of union sponsored programs. Basically, passage of this bill would mean systematic discrimination against nonunion training programs precisely because they compete with entrenched union operations.

The case of Walther Electric of California dramatically illustrates this point. Every attempt has been made to prevent the Walther Electric Co. from providing a training program because it is not controlled by organized labor. Yet, even the California Supreme Court, in an unanimous decision, ruled against the special interest of organized labor and for the Asian, Hispanic, and two women employees who were in the Walther Electric Co.'s training program.

This is the story of this company as I understand it. Operating in California's Central Valley which suffers from high unemployment levels, Walther Electric employs between 50 and 100 people depending on the conditions in the construction industry. The company has been involved in industrial and commercial construction and electrical service since 1953. The company provides its employees with a full benefit package.

Walther Electric has spent a significant amount of time and money to have its apprenticeship training program approved by the U.S. Department of Labor's Bureau of Apprenticeship Training [BAT]. Five apprentices for Walther Electric including an Asian, a Hispanic, and two women, one of them a veteran, have been approved for the apprenticeship program.

With a good ratio of women and minorities in his work force Len Edh, the president and owner of this company, started building an education program which included on-the-job training as well as regular classroom instruction under the supervision of competent journeymen electricians. Insisting on the highest level of training for his employees, Mr. Edh is aware of the benefits of good instruction—safer job sites, quality work, and reduced worker liability.

When the company's program was first approved and then turned down by California's Apprenticeship Council, the company went to court to seek equal training opportunities for its workers. In every instance, right through a unanimous decision by that State's Supreme Court, Walther Electric has prevailed. Even so, California's Department of Apprenticeship Standards and its apprenticeship council has not only refused to obey the courts in freeing up the certification for Walther Electric, it has also commenced a series of harassment actions against the company in an obvious attempt to prevent it from engaging in training apprentices. The California Department of Apprenticeship Standards (DAS) refuses to approve additional Walther trainees, even while admitting that the program standards are sound in every way.

The situation of this company is not unique. The California Apprenticeship Council is treating a number of open shop contractors the same way.

In a 61-page decision, the California Supreme Court unanimously agreed with the court of appeals. ERISA preemption of State apprenticeship laws clearly stops attempts to manipulate State law so as to prevent nonunion employers from operating approved apprenticeship programs. The Walther Electric Co. and other similar nonunion companies see H.R. 1036 as a deliberate attempt to build barriers to needed training.

The direct targets of this legislation are open shop contractors expanding into previously union-dominated territory, and the real victims, however, are the women, minorities, and young people who will be denied training opportunities. Already there is a growing waiting list for existing apprenticeship training programs. Even the Clinton administration has had trouble supporting this antitraining bill in the face of the President's call for expanded training opportunities.

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I notice that, as last year, charges about how this bill is intended to benefit organized labor are beginning to creep into the debate here, and I just want to quickly make a point.

This bill is not about employers and employees or an unorganized versus an organized work force. This bill is about States rights, States rights to determine how State money shall be used on State projects. It does not go beyond that.

Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Chairman, I rise in strong support of H.R. 1036.

This legislation will amend the Employee Retirement Income Security Act to ensure that ERISA does not preempt three types of State worker protection laws: Those dealing with prevailing wages, apprenticeship and training, and mechanics liens.

I have cosponsored H.R. 1036. I know that ERISA preemption of State laws is a big problem for New York, California, and Louisiana.

It has also become a problem in my State. In fact, my friend, Pennsylvania labor and industry secretary Tom Foley, testified before the Education and Labor Committee, of which I am a member, about Pennsylvania's prevailing wage law being preempted by ERISA.

Secretary Foley told us that Pennsylvania's efforts to regulate wage standards have been seriously weakened. Pennsylvania is less able to protect workers from unscrupulous employers or maintain a level playing field for contractors who engage in competitive bidding on public works projects.

Like many of my colleagues, I have also been contacted by businesses in my district who are opposed to H.R. 1036. I understand their concerns about the bill.

However, ERISA was designed to protect the interests of workers and retirees. Ironically, it is now preempting State laws that are also designed to protect workers and retirees.

That is why I am in support of H.R. 1036. I urge my colleagues to do likewise.

Mrs. ROUKEMA. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. BOEHNER], a member of the committee.

□ 1520

Mr. BOEHNER. Mr. Chairman, the issues brought up by this bill are not

straightforward or easy to understand. ERISA is one of the most complicated Federal statutes on the books. Understanding this law and its relationships with State apprenticeship programs is difficult to explain. However, the results of enactment of this legislation are not nearly as difficult to interpret. Enactment of H.R. 1036 will result in union control of construction trade apprenticeship programs.

Union membership in the construction trades has declined dramatically over the past 30 years. Today, less than 30 percent of the construction industry is unionized. Seizing control of apprentice programs would reverse this trend in two ways.

First, union control of apprenticeships would force those who want to learn a trade to join a union, since the union would control the apprenticeship training program. Second, nonunion labor would be prevented from participating in apprenticeship programs. This would deny those who choose not to join a union the opportunity to learn the necessary skills for construction work or in other words, this legislation would allow unions to decide who gets training and who doesn't.

Union control of the construction industry work force is just one of the goals supporters of H.R. 1036 have in mind. There is a second item on the agenda of this bill's supporters: A narrowing of the broad preemptive powers under the ERISA Act.

For almost 20 years, employee benefit programs have been governed by the ERISA statute. It was enacted to create a set of national rules and regulations for employee benefits. The foundation of ERISA is its broad preemption powers. It was the obvious intent of those who wrote this law to preempt all State and local laws that relate to employee benefits.

H.R. 1036 is the first in a series of bills purposely designed to undermine the ERISA preemption. If Congress passes this bill, we would signal to all special interest groups a willingness by Congress to create special carve outs to the ERISA preemption.

This is a very dangerous trend. Many States are facing severe fiscal problems, and employee benefits would be a tempting source of revenues. If Congress were to enact H.R. 1036, it would be an open invitation to the States to enact mandates, regulations, and taxes on employee benefit plans.

For 20 years, ERISA has created a national framework for workplace benefits. Within the parameters of ERISA, employers and employees can determine what benefits best fit the needs of each. Instead of considering legislation to weaken ERISA, the House should be looking for ways to strengthen our Nation's employee benefit laws. Unfortunately, this bill is a step in the opposite direction. I urge my colleagues to oppose this legislation.

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, given some of the things that have been said in the debate, I want to make a few points here. First, H.R. 1036 would not allow broad State mandates to be imposed on all contracts or all plans. The bill deals only with very specific types of State law, State prevailing wage laws applicable only to contractors, union as well as nonunion, who successfully bid on publicly financed or publicly assisted State or local projects.

In addition, the only State laws that would be reinstated are those which permit an employer the choice of satisfying the prevailing wage portion of the minimum wage requirement in one of three ways: First, by paying cash equal to the value of prevailing benefits; second, by paying benefits equal to the value of prevailing benefits; or, third, by a combination of cash and benefits equal to the value of prevailing benefits.

I want to point out to my colleagues that the bill specifically prevents States from mandating the specific passage of benefits that an employer must offer or requiring that the benefits be provided in a particular way or under a particular type of plan.

For instance, in my home State of Montana, our prevailing wage law used to give an employer credit toward the prevailing wage only if benefits would be provided through a multiemployer plan. That type of a law would continue to be preempted even if H.R. 1036 were enacted.

Second, H.R. 1036 would reinforce and strengthen the long-standing role of the States in apprenticeship and training, and would not, as critics argue, stifle innovation and undermine the expansion of these programs.

Although ERISA includes apprenticeship and other training programs as a form of employee welfare benefits, the substantive rules governing these programs are actually provided under another Federal statute, the National Apprenticeship Act, also referred to as the Fitzgerald Act, passed in 1937. The Fitzgerald Act and its implementing regulations establish Federal minimum standards and encourage states to expand on them.

Consistent with the regulatory scheme established in the Fitzgerald Act, 28 states have chosen to regulate apprenticeship through State Apprenticeship Councils [SAC's], using State-appropriated funds. In each case, these State programs have been approved by the Department of Labor. So the State laws at issue in H.R. 1036 are part of a 56-year old Federal-State partnership.

Finally, H.R. 1036 would in fact, as its opponents claim, overturn the current situation in which a single uniform remedy for collecting delinquent contributions must be utilized. But that's the point.

Prior to Federal preemption of State law, multi-employer plans had access to a variety of collection remedies, including mechanics liens laws, some of which have been around from the 19th century, and so-called little Miller Acts which provide for collection through contract bonds or surety bonds. More than one type of collection mechanism is necessary since the needs of the plan vary by industry.

For example, the building and construction industry is characterized by thousands of relatively small, mobile employers who work on short-term projects and who can easily go out of business or simply disappear.

The ERISA remedy for delinquent contributions, suing the employer and trying to collect a money judgment after the fact, simply does not work in most cases. The purpose of the bill is to restore long-standing State remedies that have been invaluable as a collection tool for multiemployer pension, health, and welfare plans.

Finally, Mr. Chairman, I want to point out that the State laws that are restored by its provisions affecting apprenticeship, training, prevailing wages, and mechanics liens and surety bonds are of vital importance to the workers of America organized and unorganized. We must act swiftly to restore these protections that the courts have taken away. Thus, I urge a yes vote on H.R. 1036.

I reserve the balance of my time.

Mrs. ROUKEMA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in conclusion, it should be repeated that what we are dealing with here is legislation that will try to affect or underscore the delicate balance between ERISA Federal preemption and State laws. I think we are two-thirds of the way there with respect to the way we have dealt with prevailing wages and the mechanic liens.

Mr. Chairman, with America's workers and employers facing the competitive pressures of the global economy, we must be extremely careful in making changes so that we do not discourage the establishment and maintenance of plans under our voluntary pension and welfare benefit system.

Consequently, I urge my colleagues to support the efforts of Representative GOODLING to amend this bill in order to clarify States' ability to set apprenticeship and training standards without discriminating or interfering with the establishment of worker training programs. It is my hope that the bill can be improved from its present form by eliminating the restrictive effect it will have on our voluntary employee benefit system.

□ 1530

It is my hope that we can perfect this bill, that it will be improved through

the amendment process from its present form by eliminating any restrictive effects it will have on our voluntary employee benefits system.

Mr. Chairman, I yield back the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I yield back the balance of my time.

Mr. McDADE. Mr. Chairman, I rise in support of H.R. 1036 as reported by the Committee on Education and Labor.

The Commonwealth of Pennsylvania is the most recent victim of the mistaken judicial interpretations of ERISA that this bill is designed to correct.

In July, a Federal court misread ERISA to deprive the Commonwealth of Pennsylvania of its right to require payment of prevailing wages on public projects involving State or local moneys. This court decision was wrong, and should be overturned by this bill.

Pennsylvania's tradition of regulating the terms of employment on public contract work dates back to the last century. The current prevailing wage act is more than 30 years old.

There is no way that Congress intended ERISA to deprive Pennsylvania, or any other State, of the fundamental right to set the terms and conditions under which contracts for public works and services are awarded. The Federal Government sets the terms and conditions of its public contracts. It cannot deny that right to State and local governments, at least in the absence on any conflict with Federal law or policy.

ERISA was intended to federalize the regulation of employee pension and health plans. State prevailing wage laws like Pennsylvania's do not conflict with this regulatory scheme. These State laws do not regulate benefit plans or interfere with their operations. They do not require employers to create or maintain plans. Employers who do not have pension or health plans can substitute cash wages in lieu of plan contributions to satisfy their prevailing wage obligations.

Pennsylvania does require all employees on public contract to pay their workers no less than cash wages prevailing in the community where the project is located, and does not allow this minimum to be offset by benefit contributions in excess of the prevailing rate of contributions. The setting of a minimum wage is a fundamental State right preserved even under the Federal Fair Labor Standards Act. That act sets a floor which the States are free to raise.

H.R. 1036 is a States' rights bill. It does not require any State to enact, or to retain, a prevailing wage law, an apprenticeship standards law, a mechanics lien law, or any other law. The bill merely clarifies that ERISA does not prevent a State from enacting these laws.

My colleagues, you cannot say that you are for States' rights and yet oppose this legislation. You cannot say that you are for States' rights and try to limit the content of the State laws that are preserved by this measure. If you do not like the State law, work to change it in the State. Do not encourage the Federal Government to make these choices for the States. I urge a yes vote on H.R. 1036 as reported.

Ms. PELOSI. Mr. Chairman, I rise in strong support of these amendments to the Employees Retirement Income Security Act [ERISA] of 1974. These amendments return to States the right to: First, set standards for contractors on State public works programs with respect to prevailing wages; second, establish requirements for apprenticeship and training programs; and third, provide mechanisms for securing the employer contribution to pension plans.

These amendments are necessary because the courts have misread ERISA as displacing the States' traditional authority in these three areas. States like California should have the authority to set wage protection determined to be in the public interest—particularly for projects supported by State funds. Further, workers in California need remedies to protect the sound funding of their pension and health plans.

Mr. Chairman, the late Congressman Phil Burton was actively involved in passing ERISA back in 1974. The intent of Congress then was to protect workers and to respond to worker's concerns about the security of their pension plans. We need to reaffirm these worker protections today.

Mr. Chairman, I urge my colleagues to vote for this bill which will assure employee benefit plans, workers and employers the protection ERISA originally intended.

Mrs. KENNELLY. Mr. Chairman, I rise today in strong support for H.R. 1036. This legislation would amend the Employee Retirement Income Security Act [ERISA] to provide that ERISA does not preempt certain State worker protection laws. A series of Federal court decisions have struck down various State laws providing protections for workers on the grounds that ERISA preempted them. This was clearly not the intent of Congress when it enacted ERISA in 1974.

Currently, 31 States have enacted State prevailing wage laws, setting the terms on which they can do business with contractors. Yet, in both New York and California, the prevailing wage laws have been struck down on the ERISA preemption provisions.

In addition, all 50 States have enacted laws setting standards for certification and training of apprentices. In fact, my State of Connecticut has a very strong and successful apprenticeship program. Our States have a vested interest in establishment and maintenance of their apprenticeship programs. These apprenticeship programs serve an important function in the development of our workers skills.

This legislation also addresses the issue of mechanics' lien laws by restoring power to the States to provide for collection of delinquent contributions. Without a lien on the contracted property, workers and their benefit plans would often remain unpaid by employers.

I cosponsored this bill in the 102d Congress and have again cosponsored this year. Last year the House passed an almost identical bill. I, like many of my colleagues, was disappointed that the other body failed to act. I am most pleased that it has come to the floor again. This legislation will restore to States traditional powers that courts denied them and will assure what ERISA originally intended. I commend the Committee on Education and Labor, chaired by Congressman Bill FORD, for their hard work on this important piece of legislation. I urge my colleagues to support H.R. 1036.

Mr. CLAY. Mr. Chairman, I rise in support of H.R. 1036. The opponents of this legislation contend that State prevailing wage, apprenticeship, and mechanics' lien laws somehow conflict with, rather than compliment, the policies that ERISA was intended to further. Such a contention is absurd on its face.

State prevailing wage laws require that employers providing services paid for by public funds provide wages and benefits equal to those prevailing for workers performing similar work in that area. Public contracts are typically awarded on a low bid basis. Absent prevailing wage protection, the low bidder would in many cases be the employer who paid the lowest wages. To contend that ERISA preempts State prevailing wage laws is to claim that in the name of protecting pensions we must adopt a policy that discourages employers from ever providing a pension.

It is equally absurd to contend that ERISA was intended to or should preempt State mechanics' lien laws. These laws provide employees in the construction industry and their pension plans with a means of securing what is owed to them in an industry that is otherwise characterized by thousands of small, mobile employers who work on short term projects, do not own real assets, and frequently disappear without a trace. Such laws have been enacted in all 50 States and many date back to the 19th century. ERISA is intended to promote and not undermine the financing of pension plans.

Nor can one find any more logic in the contention that ERISA was intended to or should preempt State laws intended to regulate apprenticeship programs. Rather, the opponents of H.R. 1036 would seek to preclude the States from ensuring that apprenticeship programs do not serve a guise for undermining both wages and skills. They further contend that we are somehow serving minorities and women by permitting employers to establish sham programs that take work from skilled journeymen and women without providing trainees with either the skills or the opportunity to better their own circumstances.

As one who has been privileged to serve on the Education and Labor Committee since ERISA was enacted, I assure my colleagues this legislation has become necessary as the result of the impact of the appointment of Federal judges unconcerned with the rights and welfare of working Americans rather than any intent on the part of the ERISA's authors. The contention that Jacob Javits, John Dent, Carl Perkins, Frank Thompson, or Phil Burton intentionally sought to preempt State prevailing wage, apprenticeship, or mechanics' lien laws is as absurd as the argument that undermining wages, training, or the ability to collect debts furthers one's retirement security. I urge my colleagues to support H.R. 1036 and to oppose any amendments to it.

Mrs. MINK. Mr. Chairman, I rise in strong support of H.R. 1036, a bill to amend the Employee Retirement Income Security Act of 1974 to limit ERISA preemption of certain State laws.

The ERISA preemption language contained in section 514 has been broadly interpreted to preempt State laws that relate to ERISA-covered employee benefit plans.

When Congress enacted ERISA in 1974, the intent was to establish minimum standards

to protect the interests of participants and beneficiaries of private pension plans and to require the prudent management of pension funds. The preemption language contained in the original legislation was never intended to be interpreted by judicial decision to so broadly preempt State prevailing wage, apprenticeship, and mechanics' lien laws.

It is imperative, therefore, that H.R. 1036 be enacted to overturn a line of court decisions that have strayed from ERISA's original intent and the intent of the 1980 amendments. H.R. 1036 will restore to the States their traditional right and power in the areas previously and erroneously held preempted by ERISA.

As a current member of the Committee on Education and Labor and as a member of the Committee on Education and Labor when ERISA was originally reported out of committee and enacted into law, I can attest to the original intent underlying the passage of ERISA in 1974. H.R. 1036 amends ERISA to be true to its original intent.

Mr. Chairman, I urge my colleagues to vote for H.R. 1036, and to support its enactment into law. It is what was intended in 1974, and it is necessary to correct the misinterpretation of the original intent of Congress.

Mr. FRANKS of Connecticut. Mr. Speaker, the changes in ERISA we are voting on today exempt certain State and local laws regarding apprenticeship programs from ERISA preemption. In 1974, ERISA greatly expanded employee pensions and other employee benefit plans, including training programs, for union and non-union employees. The law created one set of rules for all employers, but left companies and their employees the ability to create their own arrangements to pension, benefit, and training needs.

Recently, a few States have attempted to pass State regulations which ended recognition of certain apprenticeship programs. Federal courts overturned these regulations on the basis of ERISA preemption. Now Congress is attempting to overturn these cases by giving States the ability to establish minimum apprenticeship standards without being subject to ERISA preemption.

If H.R. 1036 is passed, States will be able to discriminate against union or non-union programs. A monopoly on certain types of apprentice programs will stifle innovation, increase the cost of setting up training programs, and ultimately discourage employers from offering training and apprenticeship programs. Most likely to suffer from this change will be women, minorities, and young people who are looking for jobs that require training.

With the changes happening in the American economy today, Congress should not be passing legislation that allows States to require non-union companies to join union training programs or be denied an approved apprenticeship program. I feel that competition between open-shops and union shops expands our workforce and results in better American products. I will vote against this bill.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ERISA PREEMPTION RULES NOT TO APPLY TO CERTAIN ADDITIONAL STATE LAWS.

Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)) is amended by adding at the end the following new paragraph:

"(9) Subsection (a) shall not apply to—

"(A) any provision of State law to the extent that such provision requires the payment of prevailing wages, including employee benefits, on public projects and permits any prevailing employee benefit plan contribution or cost requirement of such law to be met by crediting—

"(i) the payment of employee benefit plan contributions or costs,

"(ii) the payment of wages in lieu of such contributions or costs, or

"(iii) the payment of a combination of wages and such contributions or costs;

except that this subparagraph shall not be construed to exempt from subsection (a) any such provision to the extent it otherwise mandates the maintenance of, or otherwise regulates the benefits or operations of, any employee benefit plan;

"(B) any provision of State law to the extent that such provision—

"(i) establishes minimum standards for the certification or registration of apprenticeship or other training programs,

"(ii) concerns the establishment, maintenance, or operation of a certified or registered apprenticeship or other training program, or

"(iii) makes certified or registered apprenticeship or other training an occupational qualification, and does not conflict with any right, requirement, or duty established under this title; or

"(C) any provision of State law to the extent that such provision provides for a mechanics' lien or other lien, bonding, or other security for the collection of delinquent contributions to a multiemployer plan.".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall take effect on the date of the enactment of this Act and shall apply to matters with respect to which actions are pending on or after such date.

The CHAIRMAN. Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule for a period not to exceed 4 hours.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOODLING: Page 4, line 2, insert after "title;" the following: "except that nothing in this subparagraph shall be construed to exempt from subsection (a) any portion of such provision of the law of such State to the extent that such portion limits apprenticeship or training opportunities by discriminating against any apprenticeship or training program under an employee benefit plan for an anti-competitive purpose which is based on the affiliation or nonaffiliation of the plan sponsor, any participant, or any employer of a participant with any labor organization, or which is designed to benefit or protect any other apprenticeship or training program under such a plan;".

Mr. GOODLING. Mr. Chairman, this amendment is the product of long, hard work by two members of the committee on the minority side.

You may recall that Congressman FAWELL last year offered an amendment entirely striking the section of this bill dealing with apprenticeship and training programs. The result of that amendment would have been that ERISA would have continued to preempt all State laws regarding such programs. The amendment I am offering now represents a well-thought-through compromise on this issue.

This compromise strikes a sound balance between allowing the States maximum flexibility in setting standards for apprenticeship programs in their jurisdiction, while providing that standards which unfairly discriminate, through anticompetitive means, would remain preempted by ERISA.

The bottom line is that this amendment in no way will affect or limit in any way the ability of States to confidently move ahead with progressive and innovative apprenticeship programs.

Mr. Chairman, I would like to take a moment to actually read the amendment so that everyone understands this point. The amendment is fair because it expands States rights to establish and monitor apprenticeship plans while also making sure that women, minorities, and other workers will be able to secure training for jobs through apprenticeship plans.

In contrast, the apprenticeship programs of H.R. 1036 are deeply flawed. Under the guise of overturning a few narrow court cases, its provisions will seriously undermine the establishment of needed ERISA apprenticeship and training programs. The American worker will be the ultimate loser.

But in closing, I want to reemphasize that this amendment will intrude on the State's discretion to set standards only in the most rare circumstances—that is, in cases where a State is limiting apprenticeship opportunities for anticompetitive purposes—a difficult thing to prove—which are either based on the affiliation of the plan sponsor, such as union, nonunion, or is designed to benefit or protect any other apprenticeship or training program under such a plan—one example being a situation where a State decrees that only one program in the area may qualify for approval regardless of the need for and quality of other programs which are available.

The Washington State director of the bureau of apprenticeship training called this exact situation "discriminatory against a segment of our construction industry that performs the majority of the work, and it will continue to

deny hundreds of individuals the opportunity of training in a bona fide apprenticeship program. Politics and philosophies aside, we should be looking to advance the training opportunities for all people in our society and to help alleviate the shortage of skilled workers that is now upon us." I urge you to support this amendment, a revision of the Fawell amendment of which you have heard much about already incorporating the Gunderson ideas.

Mr. WILLIAMS. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

My colleagues, I notice that our good friend, an important member of the full committee and subcommittee from which this legislation emanated, the gentleman from Pennsylvania refers to himself as the offeror, not the author of this amendment. This amendment has at various times been called the Fawell amendment, the Gunderson amendment, and now I guess it is the Goodling amendment. I think I know why the authors are so hard to find. This amendment is wholly unnecessary.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, we changed it to Goodling because Goodling "good," it is a good amendment.

Mr. WILLIAMS. Mr. Chairman, it does have that to commend it. The sponsor is a good gentleman. But he has offered an amendment, as I say, that is wholly unnecessary.

It is also troubling, because I think that this amendment is going to cause a flood of wasteful litigation. Lawsuits are going to be filed, mark my words. They are going to be filed to challenge State apprenticeship standards as subterfuge for discrimination against nonunion programs.

Look, ERISA is not the appropriate vehicle for regulating the standards for apprenticeship training and employment. Those standards are under the Fitzgerald Act. If changes are needed to prevent unfair discrimination against nonunion programs, then amendments should be offered to the Fitzgerald Act. The Fitzgerald Act is not before us now. This is ERISA.

Without this amendment, without this amendment, this bill will in no way disturb the extensive protections that prohibit discrimination against nonunion programs. Under existing law, which is unaffected by this bill, any complainant who believes that a State apprenticeship council is unfairly discriminating against the complainant's apprenticeship program has full recourse under State law, just as they have always had, has full recourse under the State process.

In addition, the Labor Department's Bureau of Apprenticeship and Training regulations provide a formal complaint process, procedure which can result in the Department's withdrawing recognition of a State apprenticeship council and thereby withdrawing the State's authority to register and regulate apprenticeship programs for Federal purposes.

If a nonunion employer association believes that a State is unfairly excluding its programs from registration, the association files a formal complaint with the Federal Labor Department seeking to have the Bureau of Apprenticeship and Training withdraw recognition of the State program. And that pressures the State to reconsider.

Through this complaint process, the particular facts of the situation can be developed and considered. Nonunion apprenticeship programs have been registered under both the State and Federal programs. No State program conditions registration of an apprenticeship program on sponsorship by a union. No State requires that.

For example, in the State of the sponsor of this bill, the gentleman from California [Mr. BERMAN], in California, there are at least 10 State-registered nonunion apprenticeship programs and more than 600 single employer programs that are registered.

□ 1540

Therefore, I worry that the so-called Fawell—pardon me, the so-called Gunderson—I mean the so-called Goodling—that amendment that has been looking for a home, I fear that it is going to do more harm than good. Rather than preventing discrimination, it will upset the effectiveness of the existing prohibitions, and worst of all, it will result in constant litigation.

Mr. Chairman, I urge that the amendment of my three good friends be defeated.

Mr. ENGEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 1036, a bill to clarify ERISA, and I oppose any changing amendments. As a member of the Education and Labor Committee, I was pleased to support this bill at full committee, and want to thank both Chairman FORD and Chairman WILLIAMS for moving this important piece of legislation.

Mr. Chairman, recent Federal court decisions have found that State laws requiring contractors on public works projects to comply with standards on apprenticeship training, mechanics liens, and prevailing wages are a violation of ERISA preemption. These rulings completely misconstrue the original intent of ERISA preemption. This law was intended to protect benefit plans from multiple Government regulation by establishing benefit plan regulation as an exclusive concern of the Federal Government. It was not the aim of Congress when it passed this law to preempt States from setting the terms under which they contract for public works, goods, and services.

My home State of New York requires that general contractors · provide a bond on public construction contracts to assure the payment of wages and benefits in the event of a default by the general contractor or any of its subcontractors. This valuable source for collection of moneys owed to employees is being eroded by courts that misconstrue ERISA to preempt these important State laws.

H.R. 1036 would address this problem so that State laws governing apprenticeship training and prevailing wages would not be preempted by ERISA. Passage of H.R. 1036 is crucial in order to preserve the power of the States to protect employees and their benefit plans.

H.R. 1036 is in essence win-win legislation. Everybody wins. Employees and their benefit plans win, and the States win, because they will be able to legislate in this area to protect the unique needs of each State.

I urge my colleagues to vote in favor of H.R. 1036, and against any amendments which would gut the bill.

Mr. FAWELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Goodling amendment.

Mr. Chairman, H.R. 1036 is an anticompetitive and antiworker training bill, presented in the guise of State's rights.

It is a bill designed to ward off competition in apprenticeship and job training in the construction trades. H.R. 1036 would permit States to undermine the National Apprenticeship Act by establishing nonuniform sets of apprenticeship standards which, history has shown, discriminate against one select group of apprenticeship plans at the expense of many others.

There is nothing new about groups with special influence seeking to discriminate against their competition. Virtually every profession or trade group in history has attempted to regulate its number of competitors. The medieval guilds limited access by birthright.

Of course, a direct and open attempt in Congress to endorse this type of discrimination would clearly fail because of a justifiable public outcry. Therefore, the approach of H.R. 1036 is indirect and subtle; a State, no longer subject to Federal preemption, would be free to set standards which, in effect, only existing apprenticeship—union—programs could meet. In order to favor a locally established apprenticeship plan and restrict competition, the State could declare, for instance, that only one apprenticeship plan could be approved in an area. Or the State could require that all employers seeking to train their work force must register their apprentices only with the established apprenticeship program, thereby, in effect, barring competition from other union or nonunion sponsors.

These examples are not idle conjecture. Each has been tried in several States. But for the fact that the Federal law preempted such State laws because they were outside the scope of the National Apprenticeship Act, as determined by the Federal courts, officially sanctioned discrimination would be the rule in various parts of the country, H.R. 1036 overturns those court decisions and clears the way for abuse by powerful special interests.

The victims of this type of discrimination are not merely small, nonunion construction firms. The persons who have been consistently excluded from construction union training—4 to 5 years of on-the-job and classroom training—minorities, women, and disadvantaged youths are the ones who suffer the most under H.R. 1036.

The experience of California dramatizes this point. The California Apprenticeship Council has established policies which ensured that apprenticeship plans offered by nonunion companies would be denied. The State's Little Hoover Commission found that the policies hampered efforts to increase apprenticeship participation among minorities and females in the construction industry. Specifically, the Commission found that the State apprenticeship council had shown reluctance in certifying more than one program in a given area "because second or parallel programs are usually not union-sponsored, and the California Apprenticeship Council is composed in large part of union representatives."

Without amendment, H.R. 1036 would allow States like California to again subtly limit and discriminate against competition to established apprenticeship plans from both union and nonunion apprenticeship and training programs.

The bill is directly aimed at the growth and competition from new sponsors of apprenticeship plans expanding into territory previously dominated by an established apprenticeship plan—usually a union plan—favored by a State Apprenticeship Council.

But, as indicated, the real victims will be the nontraditional construction workers, that is, women, minorities, native Americans, disadvantaged youth, inner-city workers, who will be denied training opportunities to learn and compete in the construction trades. Also affected will be construction craft unions with the temerity to sponsor new apprenticeship plans which may compete with an older union's apprenticeship plan.

Congress should be in the business of expanding apprenticeship training opportunities, not undermining the National Apprenticeship Act by giving States power to treat apprenticeship plans unequally where no reasonable distinction between those plans favored by the State and those not favored can be found. That is what plan discrimination is and that is what H.R. 1036 would allow unless the Goodling amendment is accepted. Surely, that is not asking too much.

Proponents have also argued that the Goodling amendment does not save from Federal preemption State apprenticeship plans which are of higher standards of more rigorous than the minimum standards of the National Apprenticeship Act. This is not true. The Goodling amendment does not in any way affect State laws taken under the National Apprenticeship Act no matter how high or rigorous those standards may be. Again, the Goodling amendment only asks that States not discriminate between competing apprenticeship plans.

Surely, that is not asking too much.

The CHAIRMAN (Mr. MCDERMOTT). The time of the gentleman from Illinois [Mr. FAWELL] has expired.

(By unanimous consent, Mr. FAWELL was allowed to proceed for 2 additional minutes.)

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I appreciate the gentleman yielding.

There are a number of things I want to say, Mr. Chairman, but I will seek my own time for that. The gentleman keeps talking about plans which exceed the scope of the national act.

Mr. FAWELL. Yes.

Mr. BERMAN. The national act is the Fitzgerald Act.

Mr. FAWELL. That is correct.

Mr. BERMAN. Mr. Chairman, it is not ERISA. It authorizes cooperation with State agencies engaged in the formulation and promotion of standards of apprenticeship. By definition, it says, "You can have a Federal program or you can have a State program. Both are within the scope of this act."

Mr. FAWELL. Mr. Chairman, let me reclaim my time. If one is outside the scope of the National Apprenticeship Act, that is the only time one can suffer ERISA preemption.

We will note the cases, we will note, because otherwise the courts have held if it is under the National Apprenticeship Act, lawfully under this act, it is a Federal act and we do not have preemption of sister Federal statutes.

Mr. BERMAN. If the gentleman will continue to yield, I disagree completely with that point.

Mr. FAWELL. It is that which we are taking away. No longer will laws or standards of the State which actually may discriminate rather subtly, and that is usually the case, it is usually not overt discrimination, no longer will one be able to file a lawsuit and say, "Because this is outside the scope of the National Apprenticeship Act, it is therefore subject to ERISA preemption." That has been lost.

Therefore, we are substituting an amendment that simply says, "Well, in regard to all State standards pertaining to apprenticeship, we are merely asking that the States will agree not to discriminate against one particular apprenticeship plan and in favor of another."

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FAWELL] has expired.

(By unanimous consent, Mr. FAWELL was allowed to proceed for 2 additional minutes.)

□ 1550

Mr. ENGEL. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. I yield to the gentleman from New York.

Mr. ENGEL. The gentleman talks about the intent to establish uniform Federal standards. The Fitzgerald Act never intended uniformity. The implementing regulations, which I have here, and I would like to read, specifically contemplate States going beyond the Federal standards.

It says that they want each State to supply a description of the policies and operating procedures which depart from or oppose requirements in addition to those prescribed in this part. So uniformity was never intended.

All we are saying is allow the States to pass the legislation that is right for their State. Do not put the States in straitjackets.

Mr. FAWELL. May I respond? I do not want to repeat what I have already said, but the Goodling amendment makes it very clear the States can do anything they wish in regard to setting standards in reference to apprenticeship plans. That is a given. We know that ERISA preemption would be lost.

But we are saying something that everybody ought to be able to readily agree to, and that is that the State laws and standards will not in effect discriminate between apprenticeship plans. That is, discriminate in regard to the competition of these plans so that if you have a building trades or an employer who meets all of the standards of the State, that you will not subtly or otherwise discriminate so as to deny that particular apprenticeship plan to operate. When you do that, when you have competition in what is basically educational programs, apprenticeship plans, then you have more and more people who are able to break into the construction trades, and that means to a great degree the minorities, the inner-city people, disadvantaged youth, women, who do not have and never have had that opportunity. That is all that the amendment does. It simply says that the States do not discriminate in regard to apprenticeship plans.

Mr. BERMAN. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, this amendment by our friend and offeror, the gentleman

from Pennsylvania [Mr. GOODLING], is a very bizarre way to try and reach a result that could be reached much more directly, clearly, and effectively by approaching the underlying law. This amendment is imprecise. It undercuts the fundamental purpose of the bill, and it comes from a part of the House which, in the area of other ERISA legislation, has screamed and yelled about the consequence and flow of litigation that will come if we were to undo the cases which we are seeking to undo.

I guarantee if this amendment were to pass that in every single State, all 27 where you have apprenticeship programs, as to the dozens and dozens of apprenticeship programs you have in each State you will now find you have a lot of Federal litigation trying to find out whether a provision of ERISA passed in 1974, that was never intended to have any impact on State apprenticeship programs, will now preempt or not preempt based on a whole series of undefined, ambiguous terms.

We are not talking about amending the Fitzgerald Act to increase the effectiveness of remedies against discrimination. We heard about a case. The gentleman from North Carolina talked about a case of a Republican activist family in California and the problems they had with an apprenticeship program. The absurdity of this issue is they are saying an apprenticeship council, State apprenticeship council appointed by Governor George Deukmejian and Governor Pete Wilson has been out in this case to get this particular company's apprenticeship program because they are not union. Anyone who has followed the appointment process in California and the political process in California and thinks that George Deukmejian and Pete Wilson have spent the last 10 years seeking to discriminate against nonunion apprenticeship programs has been looking at something very different from what I have been looking at out in California for the past 10 years.

What is this amendment that is in front of us? I will ask the gentleman from Pennsylvania. Perhaps he can clarify or one of the Members on that side could clarify. We talk about a provision of law to extend, that that provision of law limits apprenticeship or training opportunities, discriminating against any apprenticeship or training program under an employee benefit plan for an anticompetitive purpose. Let us start with anticompetitive purpose, a term of art that is not defined in the amendment, that it is not defined in ERISA, that is not defined in the Fitzgerald Act, and which construed one way can make certain sense, and in another way can make no sense.

The whole premise of apprenticeship programs and the efforts to provide certain skills and certain standards to workers in certain crafts can be used and viewed as an anticompetitive purpose. It is saying in order to do certain kinds of electrical work you have to know and pass certain electrical standards, any standard, any test, any State's licensing process which has certain kinds of anticompetitive consequences. We balance those against the desire to ensure that that craft and that skill is reliable, and that consumers can depend upon it, and it makes perfect sense.

There is no effort to define what we mean by anticompetitive purpose.

One last point, and then I am happy to yield. Then we have a phrase which is based on the affiliation or nonaffiliation of the plan sponsor. Affiliation with what? The local Chamber of Commerce, the Kiwanis Club, the AFL–CIO, a non-AFL–CIO association? This language has not been drafted with any thought to specificity, to definition, to providing standards by which you are going to have 27 State laws challenged in the Federal courts for program after program that exist based on an application that this amendment gives no hope to.

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has expired.

(By unanimous consent, Mr. BERMAN was allowed to proceed for 2 additional minutes.)

Mr. FAWELL. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, this amendment is all about discrimination. The States are being given complete authority, unrestricted authority to establish standards in regard to apprenticeship programs.

Mr. BERMAN. Discrimination on what basis?

Mr. FAWELL. Let me explain. Discrimination in regard to favoritism for the established, usual apprenticeship plan in an area, and in effect discrimination that says to the other apprenticeship plans, brother, or sister, your apprenticeship plan is not going to qualify. For instance, as I said before, the rule of no parallel plans allowed.

Mr. BERMAN. May I reclaim my time to ask, and we are getting right to the heart of this, is the gentleman suggesting that any State limitations authorized under State law as envisioned in the Fitzgerald Act which might limit to 600 rather than 1,200 or to 200 rather than 900 the number of apprenticeship programs, based on viability, ability to police, and the need for the work force, any effort to put a limit, which by definition then favors the ones that have been established versus the ones that might seek to be established, any type of limit like that makes that State law fall, makes it preempted by ERISA by the State apprenticeship regulation, is that what the gentleman intends?

Mr. FAWELL. Of course not.

Mr. BERMAN. Where in this amendment does the gentleman distinguish what discrimination is appropriate with reference to established plans, which is appropriate and which is not? Where in the amendment is this kind of language?

Mr. FAWELL. The amendment, I repeat, refers to discrimination.

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has again expired.

(On request of Mr. FAWELL and by unanimous consent, Mr. BERMAN was allowed to proceed for 3 additional minutes.)

Mr. FAWELL. The amendment deals with discrimination.

Mr. BERMAN. On what basis?

Mr. FAWELL. It is explained here. Discrimination in regard to particular apprenticeship plans which are denied the opportunity to compete in the educational endeavor called apprenticeship training for American workers.

Now there is a lot of case law on the subject, and the facts and circumstances may vary. But let me give an example if I may.

Mr. BERMAN. Just to reclaim my time, this amendment is what is in front of us. No case is in front of us. This is new law the gentleman is seeking to support in this legislation.

□ 1600

Tell me what kind of discrimination is allowed and what kind of discrimination is not allowed? If one does not have to accept every single person's idea of apprenticeship program at the State level and approve every apprenticeship program, how many do you have to approve? What is the standard? What is the marketplace test?

Mr. FAWELL. May I respond?

Mr. BERMAN. Sure.

Mr. FAWELL. As it is stated here, if you have standards of State laws which are designed to benefit or protect any particular apprenticeship program at the expense of others, that is a factual situation, obviously. And just as in the past when we litigated these matters and basically we litigated them on the assumption that if they are outside the scope of the apprenticeship act, the National Apprenticeship Act, they would be subject to preemption. That was the issue in those cases. That is how discrimination against certain plans occurs so that certain people never have the opportunity to have their plans approved; that is how it took place. You are taking that away. You are taking it away because some States found they were losing in the courts as a result of it. What we have here is a definition, a broad definition that points out that there can be discrimination where one plan will be favored over the other. That is just part of it, of course. And if you have, for instance, you find that the affiliation or nonaffiliation of a plan's sponsor—let us say I am an

employer or that I represent the building and trades council so that there is discrimination because of my lack of an affiliation with the union. That, in part, is what it refers to.

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has expired.

Mr. BERMAN. Mr. Chairman, I ask unanimous consent that I be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California [Mr. BERMAN]?

Mr. WILLIAMS. Mr. Chairman, reserving the right to object, I would just say to my colleagues that the debate is, frankly, becoming circular, it is turning back on itself. I think it has been helpful, but there are others here, including perhaps the other sponsor of this amendment, who would probably like to be heard.

So I will not object to this request, but I may in future extensions of time.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

(By unanimous consent, Mr. BERMAN was allowed to proceed for 2 additional minutes.)

Mr. BERMAN. I would like to ask, if I may, the gentleman from Illinois: Affiliate with whom? The gentleman does not say in the statute.

Mr. FAWELL. It does.

Mr. BERMAN. Based on the affiliation or nonaffiliation of a plan's sponsor. Affiliate with whom or what?

Mr. FAWELL. It refers to a labor organization.

Mr. BERMAN. Where, where?

Mr. FAWELL. Right in the affiliation or nonaffiliation of a plan's sponsor with a labor organization.

Mr. BERMAN. Affiliation of the plan's sponsor, any participating or any employer participant?

Mr. FAWELL. Yes; with a labor organization.

Mr. BERMAN. And on that basis, what should happen?

Mr. FAWELL. What we are saying is that because you are not affiliated with a labor organization, there could be discrimination against any sponsor who presented an apprenticeship program. And if the court were to find that there was that kind of discrimination, then of course you have a violation of this law.

Mr. BERMAN. In order not to—I do not want to abuse the time. I have already had a good deal of time.

Let me just close by indicating I would suggest the appropriate approach is to amend the Fitzgerald Act, if that is what you seek to do, establish the standards you want, define what the gentleman means by anticompetitive, indicate when it is appropriate to say, "Enough apprenticeship plans in this particular skill area," versus, "We have to continue allowing more," set up the standards the gentleman wants, create a new administrative remedy with a judicial remedy at the end of it. Do not have 27 State laws challenged as they would apply to each different skill or craft, and let us defeat this amendment and take an approach which makes coherence, which follows on the law .

Mr. GUNDERSON. Mr. Chairman, in order to get somebody else involved in this debate, if I may, I move to strike the requisite number of works.

Mr. Chairman and colleagues, I have got to tell you I am up here not as an opponent of this bill but as a supporter. But I am also a supporter of this amendment. So I do not want people to understand that this amendment is a quote unquote killer amendment to the bill. That is why I am involved in this whole process.

Let us understand the bill in front of us is the same bill from the last Congress dealing with three issues: prevailing wage, I do not think there is any debate; mechanics liens, I do not think there is any debate; apprenticeship preemption under ERISA, and obviously there is some debate, evidenced by what we have just been listening to.

I passionately believe that training programs in this country, to be successful, must be done at the most local level possible. And everything we are doing in our Education and Labor Committee with job training programs, with last week's school-to-work transition programs, everything we are doing is sending those training programs back to the States and the locals.

That is why I support the legislation in front of us, because I think that is where it belongs, and I can tell you from personal experience in the State of Wisconsin that is where our State wants it to belong. That is a State administration under a Republican Governor.

We talked to them about this legislation, and we have talked to them about the amendments from the last Congress and the amendments in the Committee on Education and Labor, and they too share the concern that Mr. BERMAN and others have raised here about, "Do we want to recreate a Federal preemption under the Fitzgerald Act when we are eliminating our under ERISA?" They do not want that, and, very frankly, ladies and gentleman, I do not want that.

We began in 1989 a program in Wisconsin to modernize and reform our apprenticeship programs in that particular State. We are succeeding in innovative ways, creating dynamic new standards and goals for those programs, hopefully, unlike anything else being done anywhere in the country.

In all due respect, we do not want the Federal Government to come in and tell us we cannot do that, that we have to be part of some national standard on apprenticeship programs.

The problem we have today is that all of a sudden in solving the ERISA problem we have this new question of what are we going to do under the Fitzgerald Act?

The first thing this Congress ought to do under the Fitzgerald Act is to commit to modernizing it. It was written in 1937. It is antiquated for apprenticeship programs for the 21st century. That is why we find ourselves in the catch-22 situation here this afternoon.

And at the same time that we do not want to create a new preemption, I think we ought to admit that there is a problem. That problem is: If you give States total control to design the apprenticeship programs they want without any limitations, you allow the possibility of, very frankly, discrimination based on affiliation.

Now, hopefully, there are enough of us in this Congress on both sides of the aisle who are neither 100 percent pronor 100 percent anti-union, but want to allow both the opportunity to compete and succeed based on the merits of their programs, that we want to try to find a solution to this problem.

I want to read to my colleagues the language of the amendment offered by Mr. GOODLING:

> Nothing in this subparagraph shall exempt any provision of such State to the extent that in doing so we, No. 1, limit apprenticeship or training opportunity by, No. 2, discriminating against any apprenticeship or training program, No. 3, based on the affiliation or nonaffiliation of the plan's sponsor or any participant.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I will yield when I am——

Mr. FORD of Michigan. I want to know what the gentleman is reading. I have the Goodling amendment before me, and I do not find the language the gentleman is reading.

Mr. GUNDERSON. Okay. I can read the whole thing. I was trying to take those pertinent words and convert this legalese into plain English.

Mr. FORD of Michigan. The gentleman from Illinois is a very skillful lawyer and frequently confuses me because he talks way over my head most of the time. The gentleman from Wisconsin has always demonstrated such fine Midwestern common sense that I usually understand him. That is why I am upset when I read the same thing he does and do not see the same words.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. GUNDERSON] has expired.

(On request of Mr. FORD of Michigan and by unanimous consent, Mr. GUNDERSON was allowed to proceed for 3 additional minutes.)

□ 1610

Mr. GUNDERSON. All right, let us not read it. Let us talk plain English.

The fact is what this amendment is trying to do is say, "Look, we're going to eliminate any ERISA preemption except under one circumstance. That

circumstance being where a State limits apprenticeships by discriminating against any apprenticeship program based on the affiliation or non-affiliation either of the sponsor or the participants."

Now, why did we develop this language? We developed this language because we were trying to get at the goal that I have been told is supported on both sides of the aisle, which is parallel programs ought not to be prohibited just by virtue of their sponsor. You do not want a right-to-work State denying a union-sponsored apprenticeship program, and very frankly you do not want a union-controlled State apprenticeship program denying a non-union sponsor if the merits of that program are there. We like that kind of competition. That has to be dealt with somehow, someway. Ideally, and that gets to the point that the gentleman from California [Mr. BERMAN] and the gentleman from Montana [Mr. WILLIAMS] are trying to get at.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman tell me, it is certainly not my State the gentleman has in mind. Is this a problem in Wisconsin?

Mr. GUNDERSON. This is not a problem in Wisconsin at the present time.

Mr. FORD of Michigan. Where is the problem we are trying to solve?

Mr. GUNDERSON. There is a concern that it will be a problem in a number of States in the future.

Mr. FORD of Michigan. It is a hypothetical concern that has not happened and it might happen?

Mr. GUNDERSON. It is a concern that the gentleman from Montana [Mr. WILLIAMS] does not want.

Mr. FORD of Michigan. Well, it has not happened, has it?

Mr. GUNDERSON. It has not happened? Wait a minute.

Mr. FORD of Michigan. I would maybe not agree. but I would feel more at ease if the gentleman could tell me, where has this evil practice existed by State law?

Mr. GUNDERSON. Well, first of all, I think we have got the State law. We have the State of Washington case. We obviously have the Hydrostorage case and others that have brought this issue to the Congress.

Now, they happen to have used the ERISA preemption as the basis. That is why we are here today overturning that, because most of us do not believe that ERISA benefits are to include apprenticeship, and we certainly do not believe that we ought to have one national standard.

But having agreed on those two goals, I would hope that we also do not disagree on the desire not to discriminate based on the affiliation of the sponsor. I am trying to make sure we solve all three problems.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield again?

Mr. GUNDERSON. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I am trying very hard to understand what it is we are curing here. In the first instance, the gentleman says he has no problem with the idea that we pull the Federal Government out of the States' hair to regulate these three areas. The gentleman mentioned apprenticeship as one of them.

Except we say but the States in operating their apprenticeship programs shall be subject to a new rule, except that I cannot read in this amendment any standard that would let a State legislature know when they were within the rule and outside the rule.

This is a lawyer's employment dream.

I would suggest that the gentleman and I do not belong to the same union as lawyers, but this will put every lawyer to work in the country.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

(By unanimous consent, Mr. GUNDERSON was allowed to proceed for 3 additional minutes.)

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I want to clarify this issue.

The chairman of the committee asked the question, where is the problem? The gentleman from Wisconsin mentioned Hydrostorage. Hydrostorage was not a case about discrimination. Hydrostorage was a case that decided that little phrase in ERISA relating to employee benefit plans preempted——

Mr. GUNDERSON. A State council from doing what they had been doing.

Mr. BERMAN. A State council from doing what they were doing. There was no finding that the State council had exercised its power abusively or discrimatorily or had shut out certain people. It just said you cannot regulate in this area because ERISA preempts you. So Hydrostorage was not the case of discrimination. Hydrostorage was the case of preemption.

Mr. GUNDERSON. Mr. Chairman, I want to reclaim my time, because we all agree on that, but we also know that the reason that case was filed is because there was inability to get apprenticeship programs approved by the State Apprenticeship Council in California.

We also know that despite what has been said here this afternoon, people who suggest that the Bureau of Apprenticeship Training in Washington can reclaim a State certification, that is not going to happen when we are cutting money at the Federal level. That has never been done in recent memory, even under Ronald Reagan. We did not retract that authority here at the Federal level when we did not like what a union-dominated apprenticeship council was doing, for budget reasons. So that is not going to happen, either.

The fact is that the gentleman and I both know that ideally we ought to be dealing with the reform of Fitzgerald. We do not have that opportunity.

The gentleman knows in an attempt to correct this problem, the gentleman was going to offer an amendment that says we could not deny a plan simply based on whether it was union or nonunion. That was the same intent of this language, only we both know and recognize that nobody ever says the reason we are rejecting this application for apprenticeship program is because it is union or nonunion program. They come up with some other reason to do that.

So if we are going to try to make the kind of reforms that I think the gentleman wants and that I want as sponsors and supporters of this bill and supporters of the right of States to design and implement the highest standard possible programmatically in their apprenticeship programs, this amendment, added to the bill, solves that problem and makes it a better bill.

Mr. Chairman, I encourage Members to vote for the amendment, and upon its adoption, for the bill.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the amendment, and I yield to my colleague, the ranking member, the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, I thank the gentlewoman for yielding to me.

I was sitting over here in amazement, kind of chuckling the whole way through because I have sat beside I forget how many chairmen so far and every time we have the labor issue, I say, "If we can produce legislation from this committee to guarantee full employment for attorneys, why can we not do it for the rest of the Nation?"

All of a sudden today I am being told from that side that we are producing legislation that is somehow or other going to produce work for attorneys. Every time I have said that, they have said, "Oh, this will never happen. You're just over-reacting," et cetera, et cetera. So I found that amazing.

The second thing that I found amazing was the fact that everybody on that side of the aisle, everybody on this side of the aisle, all of our Members who may or may not be listening know exactly what the legislation is protecting. Everybody knows that, and they know who you are protecting.

When the Secretary of Labor came and said to me, "I would like your support to see whether we can do the kind

of training that we need to do if we are going to stay competitive," I said, "Mr. Secretary, I will be very happy to help you, but first of all, you have to bring organized labor into the 21st century when it comes to training and when it comes to apprenticeship programs."

And he said, "I realize changes have to be made."

That is what we are trying to do here. Changes have to be made.

So again, let us support an amendment that will give us an opportunity to truly prepare and train for the 21st century, not those programs that are no longer effective, not those programs where you have to know an uncle, an aunt, a cousin, a brother, a sister, et cetera, et cetera. It does not matter whether you are underprivileged and should get an opportunity. It does not matter whether you are a woman and you should have that opportunity. The only thing that matters is that you know the right people.

So let us be realistic. Let us not play games. Let us pass the amendment and make sure that we have a good ERISA program and that we have a good training and apprenticeship program.

Mrs. ROUKEMA. Mr. Chairman, I thank the gentleman, the author of the amendment.

Mr. Chairman, I yield to the other author of the amendment, the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, there was a question put to the gentleman from Wisconsin [Mr. GUNDERSON] as to whether or not there have been problems. One case was mentioned, Hydrostorage, where indeed in that case a contractor from Tennessee was told that in order to be able to bid on a public works project, he had to sign a boilermaker's union apprenticeship plan and drop his own.

I have got a list of other cases, too. There have been a number of cases. We all know that.

There is the Electrical Joint Apprenticeship Committee versus MacDonald:

The standards of the State Committee (which allowed an exemption from a state prevailing wage law for a State Apprenticeship Council approved programs but not for BAT approved programs) (are) 'independent and apart from the regulation authorized and provided for by the Fitzgerald Act and its accompanying regulations against plans.'

The Inland Pacific Chapter of Associated Builders and Contractors versus Joseph A. Dear:

It is clear that the State of Washington is not allowing parallel apprenticeship programs (union and nonunion), which are allowed under the Fitzgerald Act and the applicable regulations.

Southern California Chapter of Associated Builders and Contractors versus California Apprenticeship Council:

In speaking of a California "no parallel program" rule, the court stated, "we observe that the only apparent purpose of the challenged requirement in section 212.2(a) is to restrict competition among apprenticeship programs, as it was interpreted by the Council to do in this case.

The experience in California I think is especially poignant. The California Apprenticeship Council has established policies which insured that apprentice plans offered by nonunion companies would be denied, and the State's Little Hoover Commission found that the policies hampered efforts to increase apprenticeship participation among minorities and females in the construction industries.

Specifically, the commission found that the State Apprenticeship Council had shown "reluctance" in certifying more than one program in a given area, "because second or parallel programs are usually not union sponsored and the California Apprenticeship Council was composed in large part of union representatives."

□ 1620

That is the Little Hoover Commission, Mr. Chairman. Those are not my words.

So, there are problems that exist right now, and I thank the gentlewoman from New Jersey [Mrs. ROUKEMA] for having yielded this time to me.

Mr. ARMEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Goodling amendment and in opposition to H.R. 1036. In what is clearly a triumph of the efforts of trial lawyers and the AFL–CIO, H.R. 1036 represents a new direction counter to the original intent of ERISA. For those Members who may be confused about this issue, let me give you some background. The purpose of the Employment Retirement Income Security Act is to provide for uniform regulation of employer provided benefit programs. Employee benefits can include pension plans, employer provided health packages and the like. Congress sought to shield these plans from dual Federal and State regulation by broadly preempting State laws. Representative John Dent, an early supporter of ERISA, made the case on the floor of this House for the broadest possible preemption of State laws in the area of regulation of employee benefit plans. He stated, and I quote,

Finally, I wish to make note of what is to many the crowning achievement of this legislation, the reservation to Federal authority [of] the sole power to regulate the field of employee benefit plans. With the preemption of the field, we round out the protection afforded participants by eliminating the threat of conflicting and inconsistent State and local regulation.

Mr. Chairman, H.R. 1036 would practically throw this consensus out the window. In fact, it is precisely the inconsistent and conflicting local and State regulation that the supporters of this legislation seek. Straining credibility, the backers of H.R. 1036 argue that it was never the intent of ERISA to preempt State laws regulating apprenticeship and prevailing wage programs or collection remedies for multiemployer plans.

The fact of the matter is that many past efforts by the States go to the heart of ERISA precisely because their result, if unchallenged, is the regulation of employee benefit plans. Invariably the decisions of the courts have demonstrated that these State laws or regulations relate to employee benefits and thus are preempted by ERISA.

My colleague recognizes the problems of H.R. 1036 and offers alternatives that this House should consider. His amendment would ensure that apprenticeship programs aren't subject to discrimination by union dominated State apprenticeship boards. In a move designed to foster job training and employment opportunity, the Goodling amendment would prevent special interests from either decertifying legitimate apprenticeship programs or from disallowing the creation of new apprenticeship programs.

Today, this House is being asked to start down the pathway of unraveling the uniformity of ERISA. What will the result be? With passage of H.R. 1036 we risk lowering worker training. We will be encouraging discriminating against nonunion apprenticeship programs. We will raise the cost of providing employee benefits. We will raise more barriers against women and minorities by keeping them out of the work force. Mr. Chairman, the Goodling amendment will protect most apprenticeship programs from the effects of this new change, and for that reason I will support it.

But overall, the erosion of ERISA is not in the interest of workers. It's not in the interest of small business. It's not in the interest of minorities and women. In whose interest then is passage of H.R. 1036? The AFL–CIO and the American Trial Lawyers Association. They will benefit, and they will prosper.

Having a host of differing standards across the Nation will be administratively and financially a nightmare. Complying with a different standard all across the country may be good for the unions and trial lawyers, but it's extremely burdensome for struggling small businesses and contractors. It will force companies to pay additional benefits to its workers where local prevailing wages were found to vary even slightly from those provided by the company. Even if a company whose benefits were superior to the local prevailing benefits would have to provide additional payments or benefits to it workers.

The shredding of the uniformity and predictability of ERISA regulation will severely impair the preemption cornerstone provided by ERISA which has

served our Nation well for nearly 18 years. With American workers and employers facing the competitive pressures of the global economy, now is the time to discourage the establishment and maintenance of apprenticeship and training programs.

Mr. Chairman, H.R. 1036 is bad for apprenticeship, bad for minority and women participation in the work force, and bad for the American worker. I urge my colleagues to vote for the Goodling amendment and against H.R. 1036, and I admonish my colleagues to listen to the gentleman from Illinois [Mr. FAWELL] who has command of the details and is unchallenged by anybody with an objective understanding of this legislation held aside from service to a special interest group that would like to control the workers' destiny, thousands of Americans who have exercised their freedom and prerogative in this country to not join a union.

Mr. WILLIAMS. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Montana [Mr. WILLIAMS] is recognized for 5 minutes.

There was no objection.

Mr. WILLIAMS. Mr. Chairman, the merits or demerits of the issue aside, it is unfortunate that some people, including the gentleman from Texas [Mr. ARMEY] who just spoke, use occasions like this to draw a line in the sand, to claim all the good people are on one side and the bad people are on the other, and they try to paint millions of people, lawyers, common workers who happen to decide to join a union, on the side of the line with the bad people. Polarization, name calling, no matter how subtle, really has no place in a debate like this.

Mr. Chairman, the gentleman from Texas [Mr. ARMEY] simply is wrong. Those of us on this side who are supporting the bill of the gentleman from California are not trying to defend any particular interest group. But neither are we attempting to condemn any particular group that does not see the language of this bill precisely the way we do.

Mr. Chairman, I yield back the balance of my time.

Ms. PRYCE of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment offered by my distinguished colleague, the gentleman from Pennsylvania [Mr. GOODLING].

The Goodling amendment preserves the availability of a very important employee benefit—training and apprenticeship programs for American workers. Under the Goodling amendment, any employer who wants to offer their workers training which meets the standards of the National Apprenticeship Act may do so.

In its present form, H.R. 1036 would allow States to force nonunion employers to participate in union training programs or be denied an approved apprentice plan, even if those plans meet Federal standards. The minorities, women, and young people generally employed by nonunion firms are sure to feel the negative impact of such action. In addition, nonunion firms will find themselves at a competitive disadvantage, with a less talented work force and higher payroll costs.

Mr. Chairman, this is simply an issue of fairness. The Goodling amendment eliminates the discriminatory effects of H.R. 1036 by preserving the right of union and nonunion employers alike to provide quality worker training to improve the skills of their employees, while providing States flexibility.

We cannot afford to inhibit the productivity of America's work force by denying access to quality training, nor can we afford to encourage a less competitive environment in which American businesses must operate. We must provide flexibility for our businesses and opportunity for our workers to meet high standards.

I strongly support the Goodling amendment. A vote in favor of this amendment is a vote for education, and a vote for American workers, American business, and American competitiveness. Vote "yes" on the Goodling amendment.

□ 1630

Mr. GRAMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as an independent contractor, I rise in support of the Goodling-Fawell amendment.

In its current form, H.R. 1036 would add burdensome and unnecessary costs to independent contractors by permitting States to discriminate against nonunion organizations regarding apprenticeship programs. As a result, State laws which discriminate against nonunion-affiliated contractors will be permitted if this bill is passed.

Such discrimination is not only unfair, it is also unwise, as it will reduce the number of apprenticeship and training programs because of cost. This will mean fewer trained workers and a less competitive American work force.

For these reasons, I strongly urge my colleagues to support the Goodling-Fawell amendment.

Mr. DELAY. Mr. Chairman, I rise in support of the Goodling amendment which will protect an outstanding training program in my district.

Brazosport College has worked in cooperation with the local chapter of the Associated Builders and Contractors and Dow Chemical Co. in training apprentices in the Brazosport community for over 20 years.

Obviously, I am very proud of this successful program. But my colleagues should be aware that this partnership is nationally recognized. The John Gray Institute of Lamar University was commissioned to conduct a study for the Occupational Safety and Health Administration in the Labor Department.

The lead author of that study, Dr. John Wells, stated that the program run in the Brazosport area should be a model for the Nation. To quote Dr. Wells, he said "I think the story of Dow Chemical Plant Freeport, TX, and the Brazosport ABC chapter can be a shining light for this industry and this Nation."

I submit for the RECORD a copy of an article which appeared in the Brazosport Facts which discusses the wonderful success of this program.

H.R. 1036, as written, would jeopardize the continuation of this program.

Mr. Chairman, I would also like to submit for the RECORD a letter from John Grable, president of Brazosport College expressing his opposition to H.R. 1036 which threatens to end the successful training program at his school.

I support the Goodling amendment which would prevent the big labor unions from ending this nonunion training program which is a model for the Nation. I strongly urge my colleagues to support the Goodling amendment and oppose H.R. 1036.

BRAZOSPORT COLLEGE,
Lake Jackon, TX, September 24, 1993.

Hon. TOM DELAY,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE DELAY: Brazosport College, a two-year community college, serving your constituents, strongly opposes H.R. 1036, which exempts certain state laws from the preemption provisions of the Employee Retirement Income Security Act of 1974 (ERISA).

H.R. 1036 seeks to amend ERISA by exempting state laws from ERISA in the areas of apprenticeship and training, benefits on private and public projects, and mechanics liens.

Apprenticeship and other training programs are important benefits which many employers, both union and non-union, offer on a multi-state and multi-locality basis. The effect of the proposed amendment could have a negative impact on providing training opportunities for non-union employees by requiring non-union companies to join union training or be denied an approved apprenticeship program.

A part of the mission of Brazosport College is to provide educational programs which insure success of all students. Brazosport College has worked successfully with Associated Builders and Contractors, an association of non-union employers, in training apprentices for over twenty (20) years. This cooperative training partnership has been a model for other ABC chapters throughout the nation. The passage of H.R. 1036 would be extremely detrimental to the ability of the college to provide for the needs of local employers.

It is my belief that unnecessary limitations or restrictions that might be placed on non-union employers as a result of H.R. 1036 should be viewed as being in direct opposition to President Clinton's focus on improving the skill level of the entire work force.

Sincerely,

JOHN R. GRABLE,
President.

[From the Brazosport (TX) Facts, Aug. 14, 1991]

CONTRACTOR SAFETY—INSTITUTE OFFICIAL PRAISES ABC, DOW, COLLEGE

(By Rachelle Whitney)

The president of John Gray Institute called the partnership between the Dow Chemical Co., Brazosport College and Associated Builders and Contractors a model for the nation.

The John Gray Institute of Lamar University System in Beaumont conducted a study on contractor safety and health issues for the Labor Department's Occupational Safety and Health Administration (OSHA) in the aftermath of the Phillips Petroleum Co. Pasadena explosion.

The recently announced results have generated media and political attention on the state of contractor safety nationwide.

Dr. John Wells, president of the institute, and associate Michal Smith were invited to the Brazosport area Wednesday to observe the three facilities and speak to industry and contractor firm leaders about key findings on contractor safety.

Wells said the objective of the study was to determine the facts concerning the use of contractors and safety, and health practices in the petrochemical industry.

"The study is not to castigate or recommend the elimination of contract workers," Wells said. "It is not a study to take sides in the debate between union or nonunion."

The study examined six issues:

The use of contractors and how it is changing.

The motivation for using contractors.

The education and training of contractors compared to direct-hire employees.

The injury/illness rate of contractors compared to direct-hire employees.

The role of safety in the contractor selection process.

Who bears the responsibility for contractors when working on site?

"Despite what you may have heard, we were not asked to try to prove contractor workers had caused catastrophic incidents," Wells said. "In fact, we were prohibited from looking at fatalities and incidences. We were not asked to make a judgment on 'There should or shouldn't be contract workers.'"

Wells said the four data streams were nationwide plant manager surveys, nine case studies, surveys with 600 contract workers and 600 direct-hire employees, and surveys of 300 contractor firms.

The plants studied in Texas, California, Louisiana, West Virginia, Ohio and Illinois were not disclosed.

The study found that contractors account for 32–54 percent of all hours worked.

Out of the total work force contractors are doing 50 percent of major renovations, 37 percent of turnaround, 22 percent of maintenance and repair, 20 percent of specialty and 9 percent of operations, the report said.

Over the past five years, use of contractors in all areas but operations has increased, the report stated.

The three motivations for use of contractors is flexibility (not having to hire and fire), specialty requirements and cost, according to the study.

As far as education and training are concerned, the study said contractors are less prepared for work than direct-hire employees.

The study showed the accident rate for contractors is higher than direct-hire employees, although researchers also found the probability declined significantly through training.

The role of safety in contractor selection ranged from "a rigorous pre-bid review to they didn't know what it was," Wells said.

Oversight of contractors was generally the principal responsibility of plant managers, with a major concern being co-employment liability, the study found.

Other key findings were:

There is no industry standard of excellence, although excellence exists.

There is no industry standard for education, such as grade level or even language.

Wells said the study was the first of its kind and tremendous in scope.

"We couldn't find a single scholarly article in the literature that addressed these issues—not one." he said. "As far as we can determine, this is the single largest volume of data collected on this issue known to mankind."

After spending 20 months on this study, Wells said the experience they had Wednesday left them impressed.

"We are very impressed with the level of personal commitment demonstrated by ABC and Dow and the sophisticated system of safety for all workers," Wells said.

"We're impressed by the holistic, comprehensive approach that's integrated into the management of the firms."

Wells said the high points they observed were the cooperative relationship between owners and users, the rigorous standards for selection of contractors and the partnership with Brazosport College.

Wells urged Dow and the ABC chapter to show themselves to the nation as a model of excellence.

"I think the story of Dow Chemical Plant Freeport, Texas, and the Brazosport ABC chapter can be a shining light for this industry and this nation."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WILLIAMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 174, noes 255, not voting 9, as follows:

[Roll No. 553]

AYES—174

Allard	Derrick	Horn
Archer	Dickey	Houghton
Armey	Doolittle	Huffington
Bachus (AL)	Dornan	Hunter
Baker (CA)	Dreier	Hutchinson
Baker (LA)	Duncan	Hutto
Ballenger	Dunn	Hyde
Barrett (NE)	Emerson	Inglis
Bartlett	Everett	Inhofe
Barton	Ewing	Istook
Bateman	Fawell	Johnson (CT)
Bentley	Fields (TX)	Johnson (GA)
Bereuter	Fowler	Johnson, Sam
Billirakis	Franks (CT)	Kasich
Bliley	Gallegly	Kim
Blute	Gekas	Kingston
Boehner	Geren	Klug
Bonilla	Gilchrest	Knollenberg
Bunning	Gillmor	Kolbe
Burton	Gingrich	Kyl
Buyer	Goodlatte	Laughlin
Callahan	Goodling	Leach
Calvert	Goss	Lewis (CA)
Camp	Grams	Lightfoot
Canady	Grandy	Linder
Castle	Greenwood	Livingston
Clinger	Gunderson	Machtley
Coble	Hall (TX)	Manzullo
Collins (GA)	Hancock	McCandless
Combest	Hansen	McCollum
Cox	Hastert	McCrery
Cramer	Hayes	McDade
Crane	Hefley	McInnis
Crapo	Herger	McKeon
Cunningham	Hobson	McMillan
Deal	Hoekstra	Meyers
DeLay	Hoke	Mica
Michel	Ravenel	Spence
Miller (FL)	Regula	Stearns
Molinari	Roberts	Stenholm
Montgomery	Rogers	Stump
Moorhead	Rohrabacher	Sundquist
Morella	Ros-Lehtinen	Talent
Myers	Roth	Tanner
Neal (NC)	Roukema	Taylor (MS)
Nussle	Rowland	Taylor (NC)
Oxley	Royce	Thomas (CA)
Packard	Sarpalius	Thomas (WY)
Parker	Schaefer	Thurman
Paxon	Schiff	Upton
Payne (VA)	Sensenbrenner	Valentine
Pombo	Shaw	Vucanovich
Porter	Shuster	Walker
Portman	Skeen	Walsh
Pryce (OH)	Smith (MI)	Wolf
Quillen	Smith (OR)	Young (FL)
Quinn	Smith (TX)	Zeliff
Ramstad	Snowe	Zimmer

NOES—255

Abercrombie	Fazio	Markey
Ackerman	Fields (LA)	Martinez
Andrews (ME)	Filner	Matsui
Andrews (NJ)	Fingerhut	Mazzoli
Andrews (TX)	Fish	McCloskey
Applegate	Flake	McCurdy
Bacchus (FL)	Foglietta	McDermott
Baesler	Ford (MI)	McHale
Barca	Ford (TN)	McHugh
Barcia	Frank (MA)	McKinney
Barlow	Franks (NJ)	McNulty
Barrett (WI)	Frost	Meehan
Becerra	Furse	Meek
Bellenson	Gallo	Menendez
Berman	Gejdenson	Mfume
Bevill	Gephardt	Miller (CA)
Bilbray	Gibbons	Mineta
Bishop	Gilman	Minge
Blackwell	Glickman	Mink
Boehlert	Gonzalez	Mollohan
Bontor	Gordon	Moran
Borski	Green	Murphy
Boucher	Gutierrez	Murtha
Brewster	Hall (OH)	Nadler
Brooks	Hamburg	Natcher
Browder	Hamilton	Neal (MA)
Brown (CA)	Harman	Oberstar
Brown (FL)	Hastings	Obey
Brown (OH)	Hefner	Olver
Bryant	Hilliard	Ortiz
Byrne	Hinchey	Orton
Cantwell	Hoagland	Owens
Cardin	Hochbrueckner	Pallone
Carr	Holden	Pastor
Chapman	Hoyer	Payne (NJ)
Clay	Hughes	Pelosi
Clayton	Inslee	Penny
Clement	Jacobs	Peterson (FL)
Clyburn	Jefferson	Peterson (MN)
Coleman	Johnson (SD)	Pickett
Collins (IL)	Johnson, E. B.	Pickle
Collins (MI)	Johnston	Pomeroy
Condit	Kanjorski	Poshard
Conyers	Kaptur	Price (NC)
Cooper	Kennedy	Rahall
Coppersmith	Kennelly	Rangel
Costello	Kildee	Reed
Coyne	King	Reynolds
Danner	Kleczka	Richardson
Darden	Klein	Ridge
de la Garza	Klink	Roemer
de Lugo (VI)	Kopetski	Rostenkowski
DeFazio	Kreidler	Roybal-Allard
DeLauro	LaFalce	Rush
Dellums	Lambert	Sabo
Deutsch	Lancaster	Sanders
Diaz-Balart	Lantos	Sangmeister
Dicks	LaRocco	Santorum
Dingell	Lazio	Sawyer
Dixon	Lehman	Saxton
Dooley	Levin	Schenk
Durbin	Levy	Schroeder
Edwards (CA)	Lewis (GA)	Schumer
Edwards (TX)	Lipinski	Scott
Engel	Lloyd	Serrano
English (AZ)	Long	Sharp
English (OK)	Lowey	Shays
Eshoo	Maloney	Shepherd
Evans	Mann	Sisisky
Faleomavaega (AS)	Manton	Skaggs
Farr	Margolies-Mezvinsky	Skelton
		Slattery

Slaughter	Thompson	Waters
Smith (IA)	Thornton	Watt
Smith (NJ)	Torkildsen	Waxman
Solomon	Torres	Weldon
Spratt	Torricelli	Wheat
Stark	Towns	Williams
Stokes	Traficant	Wilson
Strickland	Tucker	Wise
Studds	Unsoeld	Woolsey
Stupak	Velazquez	Wyden
Swett	Vento	Wynn
Swift	Visclosky	Yates
Synar	Volkmer	Young (AK)
Tejeda	Washington	

NOT VOTING—9

Lewis (FL)	Romero-Barcelo (PR)	Underwood (GU)
Moakley	Rose	Whitten
Norton (DC)	Tauzin	
Petri		

□ 1653

The Clerk announced the following pair:

On this vote:

Mr. Lewis of Florida for, with Mr. Moakley against.

Mr. PETERSON of Florida, Mr. LIPINSKI, Ms. WOOLSEY, and Messrs. RUSH, ORTIZ, and TEJEDA changed their vote from "aye" to "no."

Mr. DERRICK changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

□ 1655

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HUGHES) having assumed the chair, Mr. MCDERMOTT, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee having had under consideration the bill (H.R. 1036) to amend the Employee Retirement Income Security Act of 1974 to provide that such act does not preempt certain State laws, pursuant to House Resolution 299, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mrs. ROUKEMA. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 276, noes 150, not voting 7, as follows:

[Roll No. 554]

AYES—276

Abercrombie	Gejdenson	Mollohan
Ackerman	Gephardt	Moran
Andrews (ME)	Gibbons	Morella
Andrews (NJ)	Gilman	Murphy
Andrews (TX)	Glickman	Murtha
Applegate	Gonzalez	Nadler
Bacchus (FL)	Gordon	Natcher
Baesler	Green	Neal (MA)
Barca	Greenwood	Neal (NC)
Barcia	Gunderson	Oberstar
Barlow	Gutierrez	Obey
Barrett (WI)	Hall (OH)	Olver
Becerra	Hamburg	Ortiz
Bellenson	Hamilton	Orton
Bentley	Harman	Owens
Berman	Hastings	Pallone
Bevill	Hayes	Pastor
Bilbray	Hefner	Payne (NJ)
Bishop	Hilliard	Pelosi
Blackwell	Hinchey	Penny
Bliley	Hoagland	Peterson (FL)
Blute	Hochbrueckner	Peterson (MN)
Boehlert	Holden	Pickett
Bonior	Horn	Pomeroy
Borski	Houghton	Poshard
Boucher	Hoyer	Price (NC)
Brewster	Hughes	Quinn
Brooks	Inslee	Rahall
Brown (CA)	Jacobs	Rangel
Brown (FL)	Jefferson	Reed
Brown (OH)	Johnson (CT)	Regula
Bryant	Johnson (GA)	Reynolds
Byrne	Johnson (SD)	Richardson
Cantwell	Johnson, E. B.	Ridge
Cardin	Johnston	Roemer
Carr	Kanjorski	Ros-Lehtinen
Chapman	Kaptur	Rose
Clay	Kennedy	Rostenkowski
Clayton	Kennelly	Roukema
Clement	Kildee	Rowland
Clyburn	King	Roybal-Allard
Coleman	Kleczka	Rush
Collins (IL)	Klein	Sabo
Collins (MI)	Klink	Sanders
Condit	Kopetski	Sangmeister
Conyers	Kreidler	Santorum
Cooper	LaFalce	Sawyer
Coppersmith	Lambert	Saxton
Costello	Lancaster	Schenk
Coyne	Lantos	Schroeder
Danner	LaRocco	Schumer
Darden	Lazio	Scott
de la Garza	Leach	Serrano
Deal	Lehman	Sharp
DeFazio	Levin	Shays
DeLauro	Levy	Shepherd
Dellums	Lewis (GA)	Sisisky
Derrick	Lipinski	Skaggs
Deutsch	Lloyd	Skelton
Diaz-Balart	Long	Slattery
Dicks	Lowey	Slaughter
Dingell	Machtley	Smith (IA)
Dixon	Maloney	Smith (NJ)
Dooley	Manton	Solomon
Durbin	Margolies-Mezvinsky	Spratt
Edwards (CA)	Markey	Stark
Edwards (TX)	Martinez	Stokes
Engel	Matsui	Strickland
English (AZ)	Mazzoli	Studds
English (OK)	McCloskey	Stupak
Eshoo	McCurdy	Swett
Evans	McDade	Swift
Farr	McDermott	Synar
Fazio	McHale	Tejeda
Fields (LA)	McHugh	Thompson
Filner	McKinney	Thornton
Fingerhut	McNulty	Thurman
Fish	Meehan	Torkildsen
Flake	Meek	Torres
Foglietta	Menendez	Torricelli
Ford (MI)	Mfume	Towns
Ford (TN)	Miller (CA)	Traficant
Frank (MA)	Mineta	Tucker
Franks (NJ)	Minge	Unsoeld
Frost	Mink	Velazquez
Furse	Molinari	Vento
Gallo		Visclosky
Volkmer	Wheat	Wynn
Washington	Williams	Yates
Waters	Wilson	Young (AK)
Watt	Wise	Zimmer
Waxman	Woolsey	
Weldon	Wyden	

NOES—150

Allard	Gilchrest	Moorhead
Archer	Gillmor	Myers
Armey	Gingrich	Nussle
Bachus (AL)	Goodlatte	Oxley
Baker (CA)	Goodling	Packard
Baker (LA)	Goss	Parker
Ballenger	Grams	Paxon
Barrett (NE)	Grandy	Payne (VA)
Bartlett	Hall (TX)	Pickle
Barton	Hancock	Pombo
Bateman	Hansen	Porter
Bereuter	Hastert	Portman
Billrakis	Hefley	Pryce (OH)
Boehner	Herger	Quillen
Bonilla	Hobson	Ramstad
Browder	Hoekstra	Ravenel
Bunning	Hoke	Roberts
Burton	Huffington	Rogers
Buyer	Hunter	Rohrabacher
Callahan	Hutchinson	Roth
Calvert	Hutto	Royce
Camp	Hyde	Sarpalius
Canady	Inglis	Schaefer
Castle	Inhofe	Schiff
Clinger	Istook	Sensenbrenner
Coble	Johnson, Sam	Shaw
Collins (GA)	Kasich	Shuster
Combest	Kim	Skeen
Cox	Kingston	Smith (OR)
Cramer	Klug	Smith (TX)
Crane	Knollenberg	Snowe
Crapo	Kolbe	Spence
Cunningham	Kyl	Stearns
DeLay	Laughlin	Stenholm
Dickey	Lewis (CA)	Stump
Doolittle	Lightfoot	Sundquist
Dornan	Linder	Talent
Dreier	Livingston	Tanner
Duncan	Manzullo	Tauzin
Dunn	McCandless	Taylor (MS)
Emerson	McCollum	Taylor (NC)
Everett	McCrery	Thomas (CA)
Ewing	McInnis	Thomas (WY)
Fawell	McKeon	Upton
Fields (TX)	McMillan	Valentine
Fowler	Meyers	Vucanovich
Franks (CT)	Mica	Walker
Gallegly	Michel	Walsh
Gekas	Miller (FL)	Wolf
Geren	Montgomery	Young (FL)

NOT VOTING—7

Lewis (FL)	Petri	Zeliff
Mann	Smith (MI)	
Moakley	Whitten	

□ 1712

The Clerk announced the following pairs: On this vote:

Mr. Mann for, with Mr. Lewis of Florida against.

Mr. Moakley for, with Mr. Smith of Michigan against.

Mr. ORTIZ and Mr. TEJEDA changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 1036, the bill which was just considered and passed.

The SPEAKER pro tempore (Mr. HUGHES). Is there objection to the request of the gentleman from Montana?

There was no objection.

PERSONAL EXPLANATION

Mr. MANN. Mr. Speaker, on rollcall 554 I would like to indicate that I was unavoidably detained and could not cast my vote. Had I cast my vote I would have voted "aye."

CONFERENCE REPORT ON H.R. 3116, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1994

Mr. MURTHA submitted the following conference report and statement on the bill (H.R. 3116) making appropriations for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes.

CONFERENCE REPORT (H. REPT. 103-339)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3116) "making appropriations for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 27, 36, 57, 61, 62, 64, 80, 88, 92, 93, 94, 95, 96, 97, 104, 105, 106, 110, 111, 112, 131, 135, 149, 150, 153, 160, 164, 166, 171, 175, 176, 177, 184, 193, 195, 199, 200, 202, 204, 206, 207, 210, 213, 215, 219, and 223.

That the House recede from its disagreement to the amendments of the Senate numbered 12, 15, 17, 20, 24, 28, 35, 37, 39, 41, 42, 43, 45, 48, 50, 52, 53, 55, 60, 66, 69, 72, 73, 74, 75, 77, 79, 82, 85, 87, 98, 118, 123, 125, 126, 134, 137, 146, 158, 159, 162, 167, 168, 172, 179, 181 182, 188, and 224, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$21,296,177,000*; and the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$18,330,950,000*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$5,772,317,000*; and the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$15,823,030,000*; and the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,149,147,000*; and the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,555,800,000*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$350,890,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$781,958,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,340,283,000*; and the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,223,492,000*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$15,802,057,000*; and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

After the words "on January 1, 1947 and ending on December 31, 1971" named in said amendment strike out all the matter that follows:

And the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$19,860,309,000*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided, That $350,000 shall be available only to connect residences located in the vicinity of the Naval Air Warfare Center, Warminster, to the Warminster municipal water supply system: Provided further, That of the funds appropriated under this heading, not less than $56,442,500 shall be made available only for the Pacific Missile Range Facility, Hawaii: Provided further, That for costs associated with the termination of the planned MHC facility in Astoria, Oregon, $2,000,000 shall be made available only to the State of Oregon within 60 days after enactment of this Act for the Marine and Environment Station at South Tongue Point, Oregon, and of this amount, $500,000 shall be made available for program development*; and the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$1,857,699,000*; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$19,093,805,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That $15,500,000 shall be used only to operate, maintain and enhance the Tactical Interim CAMS and REMIS Reporting System (TICARRS-92): Provided further, That TICARRS-92 be reestablished, with direct maintenance data input, as the supporting system for at least one wing each of F-15, F-16 and F-117A aircraft by no later than May 31, 1994: Provided further, That TICARRS-92 be reestablished, with direct maintenance data input, as the supporting system for all F-15, F-16, and F-117A aircraft by no later than August 31, 1994: Provided further, That none of the funds appropriated or otherwise made available under this Act shall be used to operate, maintain or otherwise support an automated maintenance management system for F-15, F-16, and F-117A aircraft other than TICARRS-92 after August 31, 1994: Provided further, That of the funds appropriated under this heading, not more than $9,538,000 shall be available only for a grant to the Women in Military Service for America Memorial Foundation, Inc., to be used solely to perform the repair, restoration, and preservation of the main gate structures, center plaza, and Homicycle of the Arlington National Cemetery, and these funds shall be made available solely for project costs and none of the funds are for remuneration of any entity or individual associated with fund raising for the project: Provided further, That of the funds appropriated under this heading, $5,000,000 shall be made available only for continued environmental restoration of the former Olmsted Air Force Base, Pennsylvania*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$9,456,801,000*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *: Provided, That of*

the funds appropriated in this paragraph, $10,000,000 shall be made available for activities to support the clearing of landmines for humanitarian purposes: Provided further, That of the funds appropriated under this heading, $48,000,000 shall be made available only for aiding school districts in accordance with authority granted under Public Law 81–874: Provided further, That of the funds appropriated in this paragraph, not less than $50,000,000 shall be made available only for the Legacy Resource Management Program, of which not less than $200,000 shall be made available for the Legacy Resource Management Program fellowships: Provided further, That notwithstanding the provisions of the Federal Cooperative Grant and Agreement Act of 1977 (31 U.S.C. 6303–6308), the Department of Defense may hereafter negotiate and enter into cooperative agreements and grants with public and private agencies, organizations, institutions, individuals or other entities to implement the purposes of the Legacy Resource Management Program: Provided further, That of the funds appropriated under this heading, $10,000,000 shall be made available only for the repair and maintenance of federally owned education facilities located on military installations ; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$1,075,140,000*; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$763,137,000*; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$83,130,000*; and the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$1,335,354,000*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,230,419,000*; and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *: Provided, That of the funds appropriated in this paragraph, $10,000,000 shall be made available only for a National Guard Outreach Program in the Los Angeles School District: Provided further, That of the funds appropriated under this heading, $3,000,000 shall be made available only for the MEDRETES program*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,632,298,000*; and the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided, That of the funds appropriated under this heading, $10,000,000 shall be made available only for the operation of Air National Guard C–130 operational support aircraft of the 159th Air National Guard Fighter Group, the 169th Air National Guard Fighter Group, and the 118th Airlift Wing*; and the Senate agree to the same.

Amendment numbered 38:

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,962,300,000*; and the Senate agree to the same.

Amendment numbered 40:

That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SUMMER OLYMPICS

For logistical support and personnel services (other than pay and nontravel related allowances of members of the Armed Forces of the United States, except for members of the reserve components thereof called or ordered to active duty to provide support for the 1996 Games of the XXVI Olympiad to be held in Atlanta, Georgia) provided by any component of the Department of Defense to the 1996 Games of the XXVI Olympiad; $2,000,000.

WORLD CUP USA 1994

For logistical support and personnel services (other than pay and nontravel related allowances of members of the Armed Forces of the United States, except for members of the reserve components thereof called or ordered to active duty to provide support for the World Cup USA 1994) provided by any component of the Department of Defense to the World Cup USA 1994; $6,000,000.

And the Senate agree to the same.

Amendment numbered 44:

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *: Provided, That of the funds appropriated under this heading, $30,000,000 shall be made available only for Kurdish relief activities, of which $15,000,000 shall be made available for a 1993–1994 winterization relief program*; and the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows:

After the words "Congressional defense" named in said amendment in two instances insert: *, foreign affairs,* in two instances;

And the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,320,886,000*; and the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,094,309,000*; and the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$888,817,000*; and the Senate agree to the same.

Amendment Numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$735,445,000*; and the Senate agree to the same.

Amendment Numbered 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,892,766,000*; and the Senate agree to the same.

Amendment Numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$5,704,220,000*; and the Senate agree to the same.

Amendment Numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

In lieu of the sum "*$2,972,906,000*" named in said amendment insert: *$2,985,720,000*; and the Senate agree to the same.

Amendment Numbered 63:

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert: *, and in addition, $50,000,000 for advance procurement on the LHD–7 amphibious assault ship*; and the Senate agree to the same.

Amendment Numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$110,049,000*; and the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$343,104,000*; and the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$4,195,075,000;* and the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,994,231,000;* and the Senate agree to the same.

Amendment numbered 71:

That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *Provided, That notwithstanding any other provision of law, not less than $20,000,000 shall be obligated and expended only for automatic data processing investment equipment and peripheral equipment and related software for the Defense Accounting Office and Naval Computer and Telecommunications Station, New Orleans, the Enlisted Personnel Management Center, the Naval Reserve Personnel Center, and the Naval Reserve Force Information Systems Office: Provided further, That the Department of Defense shall establish a central management and control site for local area networks at the Naval Computer and Telecommunications Station, New Orleans: Provided further, That the operations and functions of the Reserve Financial Management System and other Reserve specific automation systems shall remain colocated with the Commander, Naval Reserve Force*; and the Senate agree to the same.

Amendment numbered 76:

That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$441,216,000;* and the Senate agree to the same.

Amendment numbered 78:

That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$6,662,934,000;* and the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,899,170,000;* and the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$7,637,250,000;* and the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,200,000,000;* and the Senate agree to the same.

Amendment numbered 86:

That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,810,039,000;* and the Senate agree to the same.

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$5,427,546,000;* and the Senate agree to the same.

Amendment numbered 90:

That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *: Provided further, That not less than $1,000,000 of the funds appropriated in this paragraph shall be made available only to a joint research partnership involving an educational institution, not now engaged in a large volume of basic research, and a biomedical research institute, including a working arrangement with Canadian and German scientists, for the development and testing of a new insulin derivative for the treatment of diabetes and hypoglycemia in the dependents of active duty military members: Provided further, That $850,000 of the funds appropriated in this paragraph shall be available for a lyme disease program*; and the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$8,365,786,000;* and the Senate agree to the same.

Amendment numbered 99:

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$12,314,362,000;* and the Senate agree to the same.

Amendment numbered 100:

That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *: Provided, That not less than $21,000,000 of the funds appropriated in this paragraph shall be made available only for the Joint Seismic Program and Global Seismic Network administered by the Incorporated Research Institutions for Seismology: Provided further, That not less than $40,000,000 of the funds appropriated in this paragraph shall be made available only for the National Center for Manufacturing Sciences (NCMS): Provided further, That of the funds appropriated in this paragraph, not less than $15,000,000 of the funds in the 'Advanced Weapons program element shall be made available only to continue the establishment and operation of an image information processing center supporting the Air Force Maui Space Surveillance Site (MSSS)*; and the Senate agree to the same.

Amendment numbered 101:

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$8,838,690,000;* and the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said amendment insert: *: Provided, That not less than $97,000,000 of the funds appropriated in this paragraph are available only for the Extended Range Interceptor (ERINT) missile: Provided further, That not less than $55,000,000 of the funds appropriated in this paragraph are available only for the Patriot Multimode Missile: Provided further, That not less than $56,424,000 of the funds appropriated in this paragraph are available only for the Arrow Continuation Experiments (ACES): Provided further, That the Ballistic Missile Defense Organization (BMDO) shall continue its current strategy of flight testing, ground testing, simulations, and other Government analyses of the Patriot Multimode Missile and the Extended Range Interceptor for selection of the best technology in terms of cost, schedule, risk, and performance to meet PAC-3 missile requirements for theater missile defense and that the Director, BMDO, will determine when there is adequate information to proceed to selection for engineering and manufacturing development: Provided further, That the Secretary of Defense and the Secretary of Energy shall jointly certify to interested Committees of Congress that activities conducted by the Department of Defense and the Department of Energy in the areas of research, development, demonstration, or commercialization of electric vehicles and the related infrastructure; fuel cell research; and natural gas research are coordinated: Provided further, That of the funds appropriated under this heading, not less than $43,000,000 shall be made available only for the Computer-aided Acquisition and Logistics Support (CALS) Shared Resource Center (CSRC) program, which shall be managed only by the Advanced Research Projects Agency (ARPA) and of that amount, not less than $23,000,000 shall be made available only for the continued operation of the original CSRC by the current nonprofit institution or its successor in interest, as the Department's tri-service CALS standards and technologies development, deployment, training, and education hub for the CSRC program; the continued operation of the CSRC Regional Satellite (CRS); and the establishment and continued operation of additional CRSs to be operated by educational or other nonprofit institutions: Provided further, That the remaining $20,000,000 shall be made available only for the continued operation of the six original CRSs: Provided further, That nothing shall prohibit use of the CSRC or CRSs by industry, associations, other Department of Defense services and agencies, and other government agencies for efforts to be separately negotiated and funded: Provided further, That $2,300,000 of the funds appropriated in this paragraph shall be made available only for cell adhesion molecule research: Provided further, That of the funds appropriated in this paragraph, not less than $5,000,000 of the funds in the High Performance Computing Modernization program element shall be made available only to upgrade the supercomputing capability and capacity of the Maui High Performance Computing Center*; and the Senate agree to the same.

Amendment numbered 103:

That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment, as follows:

Delete the matter stricken and delete the matter inserted by said amendment.

And the Senate agree to the same.

Amendment numbered 107:

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$232,457,000;* and the Senate agree to the same.

Amendment numbered 108:

That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,102,295,000*; and the Senate agree to the same.

Amendment numbered 109:

That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *Provided, That none of the funds available in the Defense Business Operations Fund shall be used for any hardware procurement, new development, or expansion of the Defense Business Management System beyond that required to support fiduciary, management information and other requirements established by law or directive and support existing customers consistent with the provisions of the DBOF Improvement Report*; and the Senate agree to the same.

Amendment numbered 113:

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,540,800,000*; and the Senate agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided, That up to $50,000,000 shall be available for transfer to the Secretary of Transportation: Provided further, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: Provided further, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: Provided further, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes* ; and the Senate agree to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$9,626,072,000* ; and the Senate agree to the same.

Amendment numbered 116:

That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$9,352,435,000* ; and the Senate agree to the same.

Amendment numbered 117:

That the House recede from its disagreement to the amendment of the Senate numbered 117, and agreed to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$273,637,000*; and the Senate agree to the same.

Amendment numbered 119:

That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *: Provided further, That of the funds appropriated in this Act, such funds as necessary shall be used for the continuation of the cooperative program model being established at Madigan Medical Center for severely behavior disordered students: Provided further, That of the funds appropriated under this heading, not less than $1,410,000 shall be made available only for annual incentive pay bonuses for certified nurse anesthetists: Provided further, That of the funds appropriated under this heading, not less than $3,000,000 shall be made available only for nursing research programs*; and the Senate agree to the same.

Amendment numbered 120:

That the House recede from its disagreement to the amendment of the Senate numbered 120, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$389,947,000*; and the Senate agree to the same.

Amendment numbered 121:

That the House recede from its disagreement to the amendment of the Senate numbered 121, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$291,261,000*; and the Senate agree to the same.

Amendment numbered 122:

That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$67,986,000*; and the Senate agree to the same.

Amendment numbered 124:

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$30,700,000*; and the Senate agree to the same.

Amendment numbered 127:

That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$868,200,000*; and the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named in said amendment insert: *$3,200,000*; and the Senate to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$137,601,000*; and the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment as follows:

In lieu of the sum proposed by said amendment insert: *$136,801,000*; and the Senate agree to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$10,000,000*; and the Senate agree to the same.

Amendment numbered 133:

That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$151,288,000*; and the Senate agree to the same.

Amendment numbered 136:

That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,500,000,000*; and the Senate agree to the same.

Amendment numbered 138:

That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of the section number named in said retained matter insert: *8014A*; and the Senate agree to the same.

Amendment numbered 139:

That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8023. None of the funds made available by this Act may be obligated for the acquisition of major automated information systems which have not successfully completed oversight reviews required by Department of Defense regulations: Provided, That the automated information systems oversight review board will be independent of any other Department review function and chaired by the Assistant Secretary of Defense for Command, Control, Communications and Intelligence: Provided further, That except for those programs to modernize and develop migration and standard automated information systems that have been certified by the Department's senior information resource management (IRM) official as being fully compliant with the Department's information management initiative as defined in Defense Department Directive 8000.1, no funds may be expended for modernization or development of any automated information system (AIS) by the military departments, services, defense agencies, Joint Staff or Military Commands in excess of $2,000,000 unless the senior official of the Office of the Secretary of Defense with primary responsibility for the functions being supported or to be supported certifies to the Assistant Secretary of Defense for Command, Control, Communications and Intelligence that the functional requirement(s) is valid and that the system modernization or development has no unnecessary duplication of other available or planned AISs: Provided further, That the Department shall develop the capability for open systems integration of commercial-off-the-shelf (COTS) applications within

the Composite Health Care System (CHCS): Provided further, That the Department shall limit deployment of the Defense Blood Standard System (DBSS) to existing donor and processing centers, the ten Primary Casualty Receiving Hospitals (PCRHs), and two OCONUS military hospitals, with transfusion services only, and shall procure, install, and integrate by April 1, 1994, at two or more CHCS sites an open system compliant COTS hospital-based blood bank/transfusion application, with security access by application function and developed in the same application language as CHCS: Provided further, That the Department shall procure and install at all CHCS alpha and beta sites by September 1, 1994, an open system integrated anatomic pathology COTS application with security access by application function and developed with the same software application language as CHCS: Provided further, That notwithstanding any other provision of law, the one time investment cost, including the procurement or lease of new or reutilized automatic data processing investment equipment, peripheral equipment and related software, for the July 16, 1993 DOD Data Center Consolidation Plan shall not exceed $309,000,000.

And the Senate agree to the same.

Amendment numbered 140:

That the House recede from its disagreement to the amendment of the Senate numbered 140, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8025. Notwithstanding any other provision of law, to establish region-wide, at-risk, fixed price managed care contracts possessing features similar to those of the CHAMPUS Reform Initiative, the Secretary of Defense shall submit to the Congress a plan to implement a nation-wide managed health care program for the military health services system not later than December 31, 1993: Provided, That the program shall include, but not be limited to: (1) a uniform, stabilized benefit structure characterized by a triple option health benefit feature; (2) a regionally-based health care management system; (3) cost minimization incentives including "gatekeeping" and annual enrollment procedures, capitation budgeting, and at-risk managed care support contracts: and (4) full and open competition for all managed care support contracts; Provided further, That the implementation of the nation-wide managed care military health services system shall be completed by September 30, 1996: Provided further, That the Department shall competitively award contracts in fiscal year 1994 for at least four new region-wide, at-risk, fixed price managed care support contracts consistent with the nationwide plan, that one such contract shall include the State of Florida (which may include Department of Veterans Affairs' medical facilities with the concurrence of the Secretary of Veterans Affairs), one such contract shall include the States of Washington and Oregon, and one such contract shall include the State of Texas: Provided further, That any law or regulation of a State or local government relating to health insurance, prepaid health plans, or other health care delivery, administration, and financing methods shall be preempted and shall not apply to any region-wide, at-risk, fixed price managed care contract entered into pursuant to chapter 55 of title 10, United States Code: Provided further, That the Department shall competitively award within 13 months after the date of enactment of this Act two contracts for stand-alone, at-risk managed mental health services in high utilization, high-cost areas, consistent with the management and service delivery features in operation in Department of Defense managed mental health care contracts: Provided further, That the Assistant Secretary of Defense for Health Affairs shall, during the current fiscal year, initiate through competitive procedures a managed health care program for eligible beneficiaries in the area of Homestead Air Force Base with benefits and services substantially identical to those established to serve beneficiary populations in areas where military medical facilities have been terminated, to include retail pharmacy networks available to Medicare-eligible beneficiaries, and shall present a plan to implement this program to the House and Senate Committees on Appropriations not later than January 15, 1994.

And the Senate agree to the same.

Amendment numbered 141:

That the House recede from its disagreement to the amendment of the Senate numbered 141, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

In lieu of the matter restored by said amendment insert:

SEC. 8028. Of the funds appropriated to the Army, $217,600,000 shall be available only for the Reserve Component Automation System (RCAS): Provided, That none of these funds can be expended—

(1) except as approved by the Chief of the National Guard Bureau;

(2) unless RCAS resource management functions are performed by the National Guard Bureau;

(3) to pay the salary of an RCAS program manager who has not been selected and approved by the Chief of the National Guard Bureau and chartered by the Chief of the National Guard Bureau and the Secretary of the Army;

(4) unless the Program Manager (PM) charter makes the PM accountable to the Chief of the National Guard Bureau and fully defines his authority, responsibility, reporting channels and organizational structure;

(5) to pay the salaries of individuals assigned to the RCAS program management office unless such organization is comprised of personnel chosen jointly by the Chiefs of the National Guard Bureau and the Army Reserve;

(6) to pay contracted costs for the acquisition of RCAS unless RCAS is an integrated system consisting of software, hardware, and communications equipment and unless such contract continues to preclude the use of Government furnished equipment, operating systems, and executive applications software; and

(7) unless RCAS performs its own classified information processing: Provided further, That notwithstanding any other provision of law, none of the funds appropriated shall be available for procurement of computers for the Army Reserve Component which are used to network or expand the capabilities of existing or future information systems or duplicate functions to be provided under the RCAS contract unless the procurement meets the following criteria: (A) at sites scheduled to receive RCAS equipment prior to September 30, 1995, RCAS ADP equipment may be procured and only in the numbers and types allocated by the RCAS program to each site; and at sites scheduled to receive RCAS equipment after September 30, 1995, RCAS ADP equipment from a list of RCAS compatible equipment approved by the Chief of the National Guard Bureau or his designee, may be procured and only in the numbers and types allocated by the RCAS program to each site; (B) the requesting organizational element has insufficient ADP equipment to perform administrative functions but not to exceed the number of work stations determined by the RCAS program for that site; (C) replacement equipment will not exceed the minimum required to maintain the reliability of existing capabilities; (D) replacement will be justified on the basis of cost or feasibility of repairs and maintenance of present ADP equipment as compared to the cost of replacement; and (E) the procurement under this policy must be approved by the Chief of the National Guard Bureau or his designee, provided that the procurement is a one for one replacement action of existing equipment.

And further

Amend the matter retained by said amendment as follows:

In lieu of the section number named in said retained matter insert: *8028A* and

Delete the words "Deputy Under Secretary of Defense (Logistics)" named in said retained matter and insert in lieu thereof: *Principal Deputy Under Secretary of Defense, Acquisition;* and the Senate agree to the same.

Amendment numbered 142:

That the House recede from its disagreement to the amendment of the Senate numbered 142, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of the section number named in said retained matter insert: *8029A;* and

After the words "February 28, 1992" named in said retained matter insert: *: Provided, That the Director of Central Intelligence may waive this provision, on a case by case basis only, upon certification that the above cited locks are not adequate for the protection of sensitive intelligence information;* and the Senate agree to the same.

Amendment numbered 143:

That the House recede from its disagreement to the amendment of the Senate numbered 143, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of the section number named in said retained matter insert: *8030A;* and the Senate agree to the same.

Amendment numbered 144:

That the House recede from its disagreement to the amendment of the Senate numbered 144, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 8035. None of the funds available to the Department of Defense shall be obligated or expended for (or to implement) automatic data processing, data processing center, central design activity, DMRD 918, defense information infrastructure, and military or civilian personnel function consolidation plans, consolidations, and disestablishment or realignment plans that impact, in terms of reductions in force or transfers in military and civilian personnel, end strength, billets, functions, or missions, the Enlisted Personnel Management Center, the Naval Computer and Telecommunications Station, New Orleans, and the Naval Reserve Personnel Center until sixty legislative days after the Secretary of Defense submits to the House and Senate Committees on Appropriations a report, including complete review comments and a validation by the Department of Defense Comptroller, justifying and validating that such plans and actions: (1) do not consolidate, plan to consolidate, plan to consolidate, disestablish or realign Department of Defense or Service data processing functions or centers, central design activities, or military and civilian personnel functions

and activities, or claim savings from such function and activity consolidations and disestablishment, realignment, or consolidation plans, that are in more than one defense management report plan or decision or any other Department of Defense or Service consolidation, disestablishment or realignment plan; (2) utilize criteria to evaluate, measure and compare, using objective measurements, how data processing centers, central design activities, and military and civilian personnel functions and activities are ranked in terms of operational readiness, customer satisfaction, and the most cost effective and least expensive from a business performance, and regional operations cost standpoint; (3) will provide equal or better service for DoD customers; (4) provide details as to the impacts on the quality of life and benefits of the individual service person, dependents, and civilian personnel, and (5) will not adversely impact the mission and readiness of the Navy and Navy Reserves: Provided, That funds made available to the Department Base Closure and Realignment Commission approved recommendations concerning the Enlisted Personnel Management Center and the Naval Computer and Telecommunications Station, New Orleans.

And the Senate agree to the same.

Amendment numbered 145:

That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *8035A*; and the Senate agree to the same.

Amendment numbered 147:

That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of the section number named in said amendment insert: *8046A*; and the Senate agree to the same.

Amendment numbered 148:

That the House recede from its disagreement to the amendment of the Senate numbered 148, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8051. Notwithstanding any other provision of law, a qualified Indian Tribal corporation or Alaska Native Corporation furnishing the product of a responsible small business concern shall not be denied the opportunity to compete for and be awarded a procurement contract pursuant to section 2323 of title 10, United States Code, solely because the Indian Tribal corporation or Alaska Native Corporation is not the actual manufacturer of processor of the product to be supplied under the contract.

and the Senate agree to the same.

Amendment numbered 151:

That the House recede from its disagreement to the amendment of the Senate numbered 151, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of the section number named in said amendment insert: *8056A*; and the Senate agree to the same.

Amendment numbered 152:

That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter restored by said amendment as follows:

Delete the words ", and supporting software, not engineered and" named in said restored matter and insert in lieu thereof: *not*, and further

Amend the matter retained by said amendment as follows:

In lieu of the section number "8059" named in said amendment insert: *8059A* and

Delete the words "(4)(B)" named in said retained matter.

And the Senate agree to the same.

Amendment numbered 154:

That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

(c) Notwithstanding any other provision of law, of the amounts available to the Department of Defense during fiscal year 1994, not more than $1,352,650,000 may be obligated for financing activities of Federally Funded Research and Development Centers.

(d) The total amount appropriated by this Act is hereby reduced by $200,000,000 to reflect the obligation limitation contained in subsection (c).

(e) The total amount appropriated to or for the use of the Department of Defense in titles III and IV of this Act is reduced by $200,000,000 to reflect savings from the decreased use of non-FFRDC consulting services by the Department of Defense.

And the Senate agree to the same.

Amendment numbered 155:

That the House recede from its disagreement to the amendment of the Senate numbered 155, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter restored by said amendment as follows:

Delete all the matter contained in said restored matter appearing after the words "being as of the date of enactment of this Act." down to and including "national security purposes."

And further

Amend the matter retained by said amendment as follows:

In lieu of section "8065" named in said retained matter insert: *8065A*; and the Senate agree to the same.

Amendment numbered 156:

That the House recede from its disagreement to the amendment of the Senate numbered 156, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

In lieu of the matter restored by said amendment insert:

Sec. 8070. (a) Of the funds made available in this Act in title II, Operation and Maintenance, Army, $5,000,000 shall be available only to execute the cleanup of uncontrolled hazardous waste contamination affecting the Sale Parcel at Hamilton Air Force Base, in Novato, in the State of California.

(b) Notwithstanding any other provision of law, in the event that the purchaser of the Sale Parcel exercises its option to withdraw from all or a portion of the sale, as provided in the Agreement and Modification, dated September 25, 1990, between the Department of Defense, the General Services Administration, and the purchaser, as amended, the purchaser's deposit of $4,500,000 shall be returned by the General Services Administration and funds eligible for reimbursement under the Agreement and Modification, as amended, shall come from the funds made available to the Department of Defense by this Act.

(c) In the event that the purchaser purchases only a portion of the Sale Parcel and exercises its option to withdraw from the sale as to the rest of the Sale Parcel, the portion of the Sale Parcel that is not purchased (other than Landfill 26 and an appropriate buffer area around it and the groundwater treatment facility site), together with any of the land referred to in section 9099(e) of Public Law 102-396 that is not purchased by the purchaser, shall be sold to the City of Novato, in the State of California, for the sum of One Dollar as a public benefit transfer for school, classroom or other educational use, for use as a public park or recreation area or for further conveyance as provided herein, subject to the following restrictions: (1) if the City sells any portion of such land to any third party within ten years after the transfer to the City, which sale may be made without the foregoing use restrictions, any proceeds received by the City in connection with such sale, minus the demonstrated reasonable costs of conducting the sale and of any improvements made by the City to the land following its acquisition of the land (but only to the extent such improvements increase the value of the portion sold), shall be immediately turned over to the Army in reimbursement of the withdrawal payment made by the Army to the contract purchaser and the costs of cleaning up the Landfill and (2) until one year following completion of the cleanup of contaminated soil in the landfill and completion of the groundwater treatment facilities, the sale must be at a per-acre price for the portion sold that is at least equal to the per-acre contract price paid by the purchaser for the portion of the Sale Parcel purchased under the Agreement and Modification, as amended, and thereafter must be at a price at least equal to the fair market value of the portion sold. The foregoing restrictions shall not apply to a transfer to another public or quasi-public agency for public uses of the kind described above. The deed of the City shall contain a clause providing that, if any of the proceeds referred to in clause (1) are not delivered to the Army within 30 days after sale, or any portion of the land not sold as provided herein, is used for other than educational, park or recreational uses, title to the applicable portion of such land shall revert to the United States Government at the election of the General Services Administration. The Army shall agree to deliver into the applicable closing escrow an acknowledgement of receipt of any proceeds described in clause (1) above and a release of the reverter right as to the affected land, effective upon such receipt.

(d) Notwithstanding any other provision of law, the Air Force shall be reimbursed for expenditures in excess of $15,000,000 in connection with the total clean-up of uncontrolled hazardous waste contamination on the aforementioned Sale Parcel from the proceeds collected upon the closing of any portion of the Sale Parcel purchased by the contract purchaser under the Agreement and Modification, as amended.

(e) Notwithstanding any other provision of law, the purchaser's reimbursement claims shall be audited by the Defense Contract Audit Agency for reasonableness and accuracy before the Department of Defense provides any funds under the purchaser's withdrawal and reimbursement rights.

And further

Amend the matter retained by said amendment as follows:

In lieu of the section number named in said retained matter insert: *8070A*; and the Senate agree to the same.

Amendment numbered 157:

That the House recede from its disagreement to the amendment of the Senate numbered 157, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of section "8075" named in said retained matter insert: *8074A* and

After the words "Environmental Policy Act" named in said retained matter insert: , *or for General Accounting Office studies requested by a member of Congress or a Congressional Committee* ; and the Senate agree to the same.

Amendment numbered 161:

That the House recede from its disagreement to the amendment of the Senate numbered 161, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *8083A*; and the Senate agree to the same.

Amendment numbered 163:

That the House recede from its disagreement to the amendment of the Senate numbered 163, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

In lieu of the matter retained by said amendment insert:

SEC. 8088A. None of the funds available to the Department of Defense for establishing a Naval East Coast Electronics Engineering Center may be obligated or expended for the establishment of such Headquarters at any location other than Charleston, South Carolina: Provided, That no such funds may be obligated or expended for the establishment or operation of subordinate detachments at Portsmouth, Virginia, with manning levels or broader functions than that specifically stated in the 1993 Report to the President of the Defense Base Closure and Realignment Commission: Provided further, That no funds may be obligated or expended for the relocation, alteration or modification of the functions specified in the 1993 Report to the President of the Defense Base Closure and Realignment Commission to be maintained at St. Inigoes, Maryland, including all civilian management, support personnel and management operations associated with these functions that were in existence as of September 20, 1993.

and the Senate agree to the same.

Amendment numbered 165:

That the House recede from its disagreement to the amendment of the Senate numbered 165, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter restored by said amendment as follows:

Delete the words "domestic owned and" in said restored matter, and further

In lieu of the matter retained by said amendment insert:

SEC. 8090A. None of the funds available to the Department of the Air Force shall be available to establish or support any organic depot maintenance support activity for the B–2 bomber until the Under Secretary of Defense, Acquisition reviews the existing infrastructure for the private sector and Air Force Depot support and maintenance of the B–2, and reports to the Congressional Defense Committees no later than May 15, 1994, the most efficient and cost effective utilization of both public and private facilities to support the B–2.

And the Senate agree to the same.

Amendment numbered 169:

That the House recede from its disagreement to the amendment of the Senate numbered 169, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of the section number named in said retained matter insert: *8094A*; and the Senate agree to the same.

Amendment numbered 170:

That the House recede from its disagreement to the amendment of the Senate numbered 170, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

(TRANSFER OF FUNDS)

SEC. 8096. In addition to amounts appropriated or otherwise made available by this Act, $25,000,000 is hereby appropriated to the Department of Defense and shall be available only for transfer to the National Park Service, of which: $10,000,000 shall be available to repair and rehabilitate military structures transferred from the Department of Defense to the National Park Service as part of the Golden Gate National Recreation Area; $10,000,000 shall be available to convert and rehabilitate military structures at Fort Wadsworth for National Park Service's purposes; and $5,000,000 shall be available for cultural cyclic resource programs within the National Park Service system: Provided, That these funds shall remain available for obligation until September 30, 1995.

And the Senate agree to the same.

Amendment numbered 173:

That the House recede from its disagreement to the amendment of the Senate numbered 173, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8099A. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installation in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

And the Senate agree to the same.

Amendment numbered 174:

That the House recede from its disagreement to the amendment of the Senate numbered 174, and agree to the same with an amendment, as follows:

Restore the matter stricken and retain the matter inserted by said amendment, amended as follows:

Amend the matter retained by said amendment as follows:

In lieu of the section number named in said retained matter insert: *8102A*; and the Senate agree to the same.

Amendment numbered 178:

That the House recede from its disagreement to the amendment of the Senate numbered 178, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8109. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8110. None of the funds appropriated by this Act shall be available for the planning, programming or actual movement of any component or function of the Defense Mapping Agency Aerospace Center annex from the St. Louis, Missouri, area.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8111. In addition to amounts appropriated or otherwise made available by this Act, $21,700,000 is hereby appropriated to the Department of Defense and shall be available only for transfer to the United States Coast Guard for a 2.2 percent pay increase for uniformed members.

SEC. 8112. Notwithstanding any other provision of law, and in accordance with section 2905 of the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, the Department of Defense shall proceed with implementation of the 1993 Defense Base Closure and Realignment Commission recommendation concerning the consolidation of tactical missile maintenance at Letterkenny Army Depot.

SEC. 8113. In addition to amounts appropriated elsewhere in this Act, $200,000 shall be available only for settlement of claims and interest thereon, associated with contract numbered N62474–86–C–0253 for construction of a multipurpose range complex at the Marine Corps Air Ground Combat Center in Twentynine Palms, California: Provided, That such settlement shall be made pursuant to the recommendation of August 19, 1993, of the Comptroller General of the United States (case B–230871.3): Provided further, That such settlement shall be accomplished within thirty days of enactment of this Act.

SEC. 8114. Notwithstanding any other provision of law, none of the funds appropriated for fiscal year 1993 and fiscal year 1994 for the DDG–51 destroyer program shall be obligated or expended for procurement of the ring laser gyroscope inertial navigation system under a sole source contract.

SEC. 8115. The Secretary of the Navy shall carry out the establishment of the Mine Warfare Center of Excellence at the naval station at Ingleside, Texas (including the establishment of all subordinate units and the relocation of Navy mine warfare forces), in accordance with the schedule of the Navy for the establishment of such center and without regard to any alteration in that schedule that would otherwise be required pursuant to any other provision of law enacted during the first session of the 103d Congress that applies specifically to the construction and operation of that center or to the relocation of Navy mine warfare forces to Ingleside, Texas.

SEC. 8115A. None of the funds appropriated by this Act shall be used to begin closing a military treatment facility unless the Secretary of Defense notifies the Committees on Appropriations of the House of Representatives and the Senate ninety days prior to such action.

SEC. 8116. Unobligated balances of the funds appropriated in Public Law 102-172 and Public Law 102-396 under the headings "World University Games", "Summer Olympics" and "World Cup USA 1994" in title II of those Acts shall, notwithstanding any other section of those Acts, remain available for obligation until September 30, 1995.

SEC. 8116A. Notwithstanding any other provision of law, reimbursements received from the North Atlantic Treaty Organization for the E-3 Airborne Warning and Control System (AWACS) Radar System Improvement Program (RSIP) attributable to development work for fiscal years 1987 through 1992 shall be available to the Air Force until September 30, 1994, for meeting that service's financial commitments for the AWACS RSIP.

SEC. 8117. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions to the Johnston Atoll for the purpose of storing or demilitarizing such munitions.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

SEC. 8118. None of the funds available to the Department of Defense may be used to support the relocation of P-3 aircraft squadrons or other aircraft or units from the Naval Air Station at Barbers Point, Hawaii unless such relocation was specifically stated in the 1993 Report to the President of the Defense Base Closure and Realignment Commission.

SEC. 8119. The Secretary of Defense is authorized to use, for foreign military sales otherwise authorized under Chapter 39, title 22 United States Code or for transfer to United States Army, Army National Guard, or Army Reserves, articles and services procured for the implementation of the Italian air defense agreements: Provided, That the term "Italian air defense agreements" has the meaning given such term in Section 1050 of Public Law 102-190 (105 Stat. 1469): Provided further, That upon notification of the Government of the United States by the Government of Italy of its desire to withdraw from the Italian air defense agreement or 180 days from the enactment of this Act, section 1050 of Public Law 102-190 (105 Stat. 1469) is repealed.

SEC. 8119A. Notwithstanding any other provision of law, funds and credits received from the contractor under contract warranties for the failure of the first ultra high frequency follow-on satellite shall no longer be available for a replacement ultra high frequency satellite but shall be made available to finance a replacement extremely high frequency satellite and its launch.

And the Senate agree to the same.

Amendment numbered 180:

That the House recede from its disagreement to the amendment of the Senate numbered 180, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

Under the heading, "Research, Development, Test and Evaluation, Navy, 1993/1994", $42,936,000;

Under the heading, "Research, Development, Test and Evaluation, Air Force, 1993/1994", $55,500,000;

Under the heading, "Aircraft Procurement, Navy, 1992/1994", $8,000,000;

Under the heading, "National Guard and Reserve Equipment, 1992/1994", $3,400,000;

Under the heading, "National Guard and Reserve Equipment, 1992/1994", $3,618,000;

And the Senate agree to the same.

Amendment numbered 183:

That the House recede from its disagreement to the amendment of the Senate number 183, and agree to the same with an amendment, as follows:

After the sum "$49,868,000;" named in said amendment insert: *Under the heading, "Other Procurement, Navy 1993/1995", $58,456,000;* and the Senate agree to the same.

Amendment numbered 183:

That the House recede from its disagreement to the amendment of the Senate number 185, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

Under the heading, "Aircraft Procurement, Navy 1993/1995", $45,700,000;

Under the heading, "National Guard and Reserve Equipment, 1993/1995", $29,282,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1991/1995":

Craft, outfitting, post delivery, and special support equipment, $3,806,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996":

DDG-51, destroyer program, $41,800,000;

Craft, outfitting, post delivery, and DBOF transfer, $2,560,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1992/1995":

T-AO fleet oiler program, $27,000,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1993/1994":

T-AO fleet oiler program, $13,000,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1993/1996":

T-AO fleet oiler program, $12,129,000; and the Senate agree to the same.

Amendment numbered 186:

That the House recede from its disagreement to the amendment of the Senate numbered 186, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$55,932,000;* and the Senate agree to the same.

Amendment numbered 187:

That the House recede from its disagreement to the amendment of the Senate numbered 187, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$38,062,000;* and the Senate agree to the same.

Amendment numbered 189:

That the House recede from its disagreement to the amendment of the Senate numbered 189, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1993/1996":

T-AO fleet oiler program, $31,371,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1993/1997":

DDG-51 destroyer program, $14,400,000;

Refueling overhauls, $909,000;

MHC coastal mine hunter program, $9,343,000;

Craft, outfitting, post delivery, and first destination transportation, and inflation adjustments, $45,177,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1987/1991":

AO conversion program, $256,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1988/1992":

LSD-41 cargo variant ship program, $28,250,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993":

T-AO fleet oiler program, $14,184,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994":

LSD-41 dock landing ship cargo variant program, $30,300,000; Oceanographic ship program, $410,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1991/1995":

LSD-41 dock landing ship cargo variant program, $27,800,000

And the Senate agree to the same.

Amendment numbered 190:

That the House recede from its disagreement to the amendment of the Senate numbered 190, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8120A. The provision in Public Law 102-396 requiring that not less than $55,500,000 be made available only for the Space Nuclear Thermal Propulsion Program is hereby repealed.

SEC. 8121. Notwithstanding any other provision of law, funds appropriated in this Act for the upgrade, purchase, or modernization of supercomputing capability and capacity under the High Performance Computing Modernization program shall only be available for contracts, contract modifications, or contract options which are awarded as the result of open competition based upon the requirements of the users without regard to the architecture or design of the supercomputer system.

SEC. 8122. Amounts collected for the use of the facilities of the National Science Center for Communications and Electronics during the current fiscal year pursuant to section 1459(g) of the Department of Defense Authorization Act, 1986 and deposited to the special account established under subsection 1459(g)(2) of that Act are appropriated and shall be available until expended for the operation and maintenance of the Center as provided for in subsection 1459(g)(2).

And the Senate agree to the same.

Amendment numbered 191:

That the House recede from its disagreement to the amendment of the Senate numbered 191, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8124. Notwithstanding any other provision of law, none of the funds appropriated in this or any other Act shall be used for the purchase of a totally enclosed lifeboat survival system, which consists of the lifeboat and associated davits and winches, if less than 50 percent of the entire system's components are manufactured in the United States, and if less than 50 percent of the labor in the manufacture and assembly of the entire system is performed in the United States.

SEC. 8125. None of the funds appropriated by this Act may be used (1) to transfer to the United Nations a facility in the continental United States for use as a United Nations peacekeeping facility, or (2) for the renovation of such a facility in preparation for such a transfer.

And the Senate agree to the same.

Amendment numbered 192:

That the House recede from its disagreement to the amendment of the Senate numbered 192, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

SEC. 8126. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the

term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1993 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

SEC. 8127. In the case of members who separate from active duty or full-time National Guard duty in a military department pursuant to a Special Separation Benefits program (10 U.S.C. Sec. 1174a) or a Voluntary Separation Incentive program (10 U.S.C. Sec. 1175) at any time after the enactment of this Act, the separation payments paid such members who are also paid any bonus provided for in chapter 5, title 37, United States Code, during the same years in which they separate shall be reduced (but in no event to an amount less than zero) by an amount equal to any such bonus: Provided, That any future bonus payments to which such members would otherwise be entitled are rescinded: Provided further, That this measure will not apply to members who separate during the last year of a bonus paid pursuant to chapter 5, title 37, United States Code: Provided further, That civilian employees of the Department of Defense are prohibited from receiving voluntary separation payments if such employees are rehired by another agency of the Federal Government within one hundred and eighty days of separating from the Department of Defense.

SEC. 8128. Under the heading "Research, Development, Test and Evaluation, Army" in the Department of Defense Appropriations Act, 1993 (Public Law 102-396), delete the final proviso and insert in lieu thereof: ": Provided further, That of the funds appropriated in this paragraph, $4,000,000 shall be used only for a grant to the Assistive Technology Center at the National Rehabilitation Hospital for laboratory and other efforts associated with research and development and other programs of major importance to the Department of Defense".

SEC. 8129. None of the funds available to the Department of Defense in this Act shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

And the Senate agree to the same.

Amendment numbered 194:

That the House recede from its disagreement to the amendment of the Senate numbered 194, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *8131*; and the Senate agree to the same.

Amendment numbered 196:

That the House recede from its disagreement to the amendment of the Senate numbered 196, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *8132*; and the Senate agree to the same.

Amendment numbered 197:

That the House recede from its disagreement to the amendment of the Senate numbered 197, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *8133*; and the Senate agree to the same.

Amendment numbered 198:

That the House recede from its disagreement to the amendment of the Senate numbered 198, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8134.(a)(1) The Secretary of Defense shall pay a death gratuity under this section to each beneficiary under a Servicemen's Group Life Insurance policy in the case of each deceased member of the uniformed services described in paragraph (2).

(2) This section applies with respect to any member of the uniformed services—

(A) who died on or after October 29, 1992 (the date of the enactment of the Veterans' Benefits Act of 1992 (Public Law 102-568)), and before December 1, 1992 (the effective date of amendments made by title II of the Act, relating to veterans' life insurance programs); and

(B) whose death was in performance of duty.

(b)(1) The amount of the death gratuity payable to a beneficiary under this section shall be equal to the amount of the life insurance proceeds paid or payable to that beneficiary under section 1967(a) of title 38, United States Code, by reason of death of such member.

(2) In the case of a deceased member of the uniformed services who, before death, affirmatively elected, in writing, to apply for an increase in SGLI coverage in an amount less than $100,000 under subsection (e) of section 1967 of title 38, United States Code, the death gratuity paid under this section shall be equal to the amount of the increase so elected.

(c) A death gratuity may not be paid under this section if the deceased member, before death, affirmatively elected, in writing, to apply for increased SGLI coverage under subsection (e) of section 1967 of title 38, United States Code, and, by reason of a provision of law enacted after October 29, 1992, insurance is payable pursuant to that election.

(d) A death gratuity shall be payable under this section to a SGLI beneficiary upon receipt of a written application for the payment of such gratuity. Any such application must be received by the Secretary of Defense not later than September 30, 1994.

(e) In addition to amounts otherwise appropriated in this Act, the amount of $5,300,000 is hereby appropriated for, and shall be available only for, the payment of death gratuities under this section. Funds provided under this section shall remain available until expended for any valid claims received by the Secretary of Defense not later than September 30, 1994.

And the Senate agree to the same.

Amendment numbered 201:

That the House recede from its disagreement to the amendment of the Senate numbered 201, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

(RESCISSIONS)

SEC. 8135. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

"Aircraft Procurement, Army, 1993/1995", $42,700,000;

"Procurement of Ammunition, Army, 1992/1994", $30,181,000;

"Procurement of Ammunition, Army, 1993/1995", $52,480,000;

"Other Procurement, Army, 1992/1994", $4,000,000;

"Weapons Procurement, Navy, 1992/1994", $15,000,000;

"Weapons Procurement, Navy, 1993/1995", $7,500,000;

"Other Procurement, Navy, 1993/1995", $26,600,000;

"Procurement, Marine Corps, 1992/1994", $8,274,000;

"Procurement, Marine Corps, 1993/1995", $6,508,000;

"Missile Procurement, Air Force, 1993/1995", $6,000,000;

"Other Procurement, Air Force, 1993/1995", $13,706,000;

"Other Procurement, Air Force, 1992/1994", $17,276,000;

"Research, Development, Test and Evaluation, Air Force, 1993/1994", $51,000,000;

And the Senate agree to the same.

Amendment numbered 203:

That the House recede from its disagreement to the amendment of the Senate numbered 203, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8136. Not later than may 1, 1994, the Under Secretary of Defense for Acquisition shall submit to the Congressional defense committees the complete results of an independent study of options for accomplishing the functions now performed by the Defense Nuclear Agency (DNA): Provided, That of the total amounts available to the Department of Defense for financing the activities of defense federally funded research and development centers during fiscal year 1994, $1,000,000 shall be made available within 30 days after the enactment of this Act for the purposes of the aforementioned study.

And the Senate agreed to the same.

Amendment numbered 205:

That the House recede from its disagreement to the amendment of the Senate numbered 205, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *8137*; and the Senate agreed to the same.

Amendment numbered 208:

That the House recede from its disagreement to the amendment of the Senate numbered 208, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *8138*; and the Senate agreed to the same.

Amendment numbered 209:

That the House recede from its disagreement to the amendment of the Senate numbered 209, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *8139*; and the Senate agree to the same.

Amendment numbered 211:

That the House recede from its disagreement to the amendment of the Senate numbered 211, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *8140*; and the Senate agree to the same.

Amendment numbered 212:

That the House recede from its disagreement to the amendment of the Senate numbered 212, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *8141*

In lieu of the word "Senate" named in said amendment insert: *Congress*; and the Senate agreed to the same.

Amendment numbered 214:

That the House recede from its disagreement to the amendment of the Senate numbered 214, and agree to the same with an amendment, as follows:

In lieu of section number "8152" named in said amendment insert: *8142*; and the Senate agree to the same.

Amendment numbered 216:

That the House recede from its disagreement to the amendment of the Senate numbered 216, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8143. Notwithstanding any other provision of law, the Secretary of the Navy shall obligate the funds appropriated for fiscal years 1992 and 1993 for the USH-42 Mission Recorder program within the A-6 aircraft program: Provided, That the Secretary of the Navy verifies that the mission recorder is required in the future for Navy aircraft for peacetime training and bomb damage assessment in combat: Provided further, That the Secretary shall make this verification within thirty days of this Act becoming law: Provided further, That the Secretary shall obligate such funds within thirty days of this verification that the mission recorder is required in Navy aircraft for peacetime training and bomb damage assessment in combat.

And the Senate agree to the same.

Amendment numbered 217:

That the House recede from its disagreement to the amendment of the Senate numbered 217, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment insert: *8144*

Delete the words "an annual" named in said amendment and insert in lieu thereof: *a*

Delete the word "annual" named in said amendment; and the Senate agree to the same.

Amendment numbered 218:

That the House recede from its disagreement to the amendment of the Senate numbered 218, and agree to the same with an amendment, as follows:

In lieu of section number "8156" named in said amendment insert: *8145*; and the Senate agree to the same.

Amendment numbered 220:

That the House recede from its disagreement to the amendment of the Senate numbered 220, and agree to the same with an amendment, as follows:

In lieu of the words "Sec. 8158.(a) Is is" named in said amendment insert: *Sec. 8146.(a) It is*; and the Senate agree to the same.

Amendment numbered 221:

That the House recede from its disagreement to the amendment of the Senate numbered 211, and agree to the same with an amendment, as follows:

In lieu of section number "8159" named in said amendment insert: *8147*; and the Senate agree to the same.

Amendment numbered 222:

That the House recede from its disagreement to the amendment of the Senate numbered 222, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert:

SEC. 8148. Funds appropriated in title III of this Act for the Department of defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to Section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8149. Funding appropriated under the heading "Operation and Maintenance, Defense-Wide" for increasing energy and water efficiency in Federal buildings may be transferred to other appropriations or funds of the Department of Defense, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8150. Upon approval by the Secretary of the Navy, clause (2) of section 7308(c) of title 10, United States Code, shall not apply with respect to the transfer of the USS Blueback by the Secretary of the Navy under section 7308(a) of such title.

SEC. 8151. (a) The Congress finds that—

(1) the United States entered into Operation Restore Hope in December of 1992 for the purpose of relieving mass starvation in Somalia;

(2) the original mission in Somalia, to secure the environment for humanitarian relief, had the unanimous support of the Senate, expressed in Senate Joint Resolution 45, passed on February 4, 1993, and was endorsed by the House when it amended S.J. Res. 45 on May 25, 1993;

(3) Operation Restore Hope was being successfully accomplished by United States forces, working with forces of other nations, when it was replaced by the UNOSOM II mission, assumed by the United Nations on May 4, 1993 pursuant to United Nations Resolution 814 of March 26, 1993;

(4) neither the expanded United Nations mission of national reconciliation, nor the broad mission of disarming the clans, nor any other mission not essential to the performance of the humanitarian mission has been endorsed or approved by the Senate;

(5) the expanded mission of the United Nations was, subsequent to an attack upon United Nations forces, diverted into a mission aimed primarily at capturing certain persons, pursuant to United Nations Security Council Resolution 837, of June 6, 1993;

(6) the actions of hostile elements in Mogadishu, and the United Nations mission to subdue those elements, have resulted in open conflict in the city of Mogadishu and the deaths of 29 Americans, at least 159 wounded, and the capture of American personnel; and

(7) during fiscal years 1992 and 1993, the United States incurred expenses in excess of $1.1 billion to support operations in Somalia.

(b) The Congress approves the use of United States Armed Forces in Somalia for the following purposes—

(1) The protection of United States personnel and bases; and

(2) The provision of assistance in securing open lines of communication for the free flow of supplies and relief operations through the provision of—

(i) United States military logistical support services to United Nations forces; and

(ii) United States combat forces in a security role and as an interim force protection supplement to United Nations units: Provided, That funds appropriated, or otherwise made available, in this or any other Act to the Department of Defense may be obligated for expenses incurred only through March 31, 1994, for the operations of United States Armed Forces in Somalia: Provided further, That such date may be extended if so requested by the President and authorized by the Congress: Provided further, That funds may be obligated beyond March 31, 1994 to support a limited number of United States military personnel sufficient only to protect American diplomatic facilities and American citizens, and noncombat personnel to advise the United Nations commander in Somalia: Provided further, That United States combat forces in Somalia shall be under the command and control of United States commanders under the ultimate direction of the President of the United States: Provided further, That the President should intensify efforts to have United Nations member countries immediately deploy additional troops to Somalia to fulfill previous force commitments made to the United Nations and to deploy additional forces to assume the security missions of United States Armed Forces: Provided further, That—

(A) captured United States personnel in Somalia should be treated humanely and fairly; and

(B) the United States and the United Nations should make all appropriate efforts to ensure the immediate and safe return of any future captured United States personnel: Provided further, That the President should ensure that, at all times, United States military personnel in Somalia have the capacity to defend themselves, and American citizens: Provided further, That the United States Armed Forces should remain deployed in or around Somalia until such time as all American service personnel missing in action in Somalia are accounted for, and all American service personnel held prisoner in Somalia are released: Provided further, That nothing herein shall be deemed to restrict in any way the authority of the President under the Constitution to protect the lives of Americans.

SEC. 8152. Funds appropriated by this Act for intelligence or intelligence-related activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 1994 until the enactment of the Intelligence Authorization Act for fiscal year 1994.

SEC. 8153. (1) Except as provided in subsection (c) below, it is the sense of the Congress that none of the funds appropriated by this Act should be obligated or expended for costs incurred by the United States Armed Forces units serving in any international peacekeeping or peace-enforcement operations under the authority of Chapter VI or Chapter VII of the United Nations Charter and under the authority of a United Nations Security Council Resolution, or for costs incurred by United States Armed Forces serving in any significant international humanitarian, peacekeeping or peace-enforcement operations, unless:

(a) the President initiates consultations with the bi-partisan leadership of Congress, including the leadership of the relevant committees, regarding such operations; these consultations should be initiated at least 15 days prior to the initial deployment of United States Armed Forces units to participate in such an operation, whenever possible, but in no case later than 48 hours after such a deployment; and these consultations should continue on a periodic basis throughout the period of the deployment;

(b) such consultation should include discussion of—

(1) the goals of the operation and the mission of any United States Armed Forces units involved in the operation;

(2) the United States' interests that will be served by the operation;

(3) the estimated cost of the operation;

(4) the strategy by which the President proposes to fund the operation, including possible supplemental appropriations or payments from international organizations, foreign countries or other donors;

(5) the extent of involvement of armed forces and other contributions of personnel from other nations;

(6) the operation's anticipated duration and scope;

(c) subsection (a) does not apply with respect to an international humanitarian assistance operation carried out in response to natural disasters; or to any other international humanitarian assistance operation if the President reports to Congress that the estimated cost of such operation is less than $50,000,000.

(2) Further, it is the sense of the Congress—

(a) that the President should seek a supplemental appropriation to defray the costs of United States military operations in Somalia in