

series of questions shall be not less than 15 minutes.

The SPEAKER pro tempore (Mr. SHAYS). Is there any objection to the request of the gentleman from Illinois [Mr. FAWELL]?

There was no objection.

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RESTRICTIONS ON PROMOTION BY
GOVERNMENT OF USE OF EM-
PLOYEE BENEFIT PLANS OF
ECONOMICALLY TARGETED IN-
VESTMENTS

The SPEAKER pro tempore. Pursuant to House Resolution 215 and rule XXIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the consideration of the bill, H.R. 1594.

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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. 1594) to place restrictions on the promotion by the Department of Labor and other Federal agencies and instrumentalities of economically targeted investments in connection with employee benefit plans, with Mr. EMERSON 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 Illinois [Mr. FAWELL] and the gentleman from California [Mr. MARTINEZ] will each be recognized for 1 hour.

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

Mr. FAWELL. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. GOODLING], chairman of the Committee on Economic and Educational Opportunities.

(Mr. GOODLING asked and was given permission to revise and extend his remarks.)

Mr. GOODLING. Mr. Chairman, I thank the subcommittee chairman for yielding time to me. The gentleman from Illinois [Mr. FAWELL] probably has forgotten more about ERISA than the rest of us in the Chamber know collectively about it.

Mr. Chairman, as we open the debate on H.R. 1594, which was ordered reported in a bipartisan vote by the Committee on Economic and Educational Opportunities on July 20, let me make very clear what is at stake and what the bill does and does not do.

At stake is whether the Department of Labor will continue to act as the Nation's pension watchdog, to ensure the safety of the \$3.5 trillion backing the pensions and employee benefits of America's workers and private pensioners. Or, will the Department's role as guardian of those pension assets be undermined by this administration's actions to promote particular investments—investments that may be both risky and tainted by conflict of interest.

Economically targeted investments, or ETI's, is the euphemism used to describe these investments in Interpretative Bulletin 91-1 issued by the Department last June. The interpretive bulletin is but one element of the administration's many-pronged approach to promote particular investments within this ETI classification.

This bill is an attempt to protect workers and their pensions from the overzealous and misguided promotion of ETI's. First, the bill renders the interpretive bulletin null and void and declares that the landmark Federal pension law known as ERISA is to be interpreted and enforced without regard to it. The Secretary of Labor is also prohibited from issuing any other rule, regulation, or interpretive bulletin which promotes or otherwise encourages ETI's as a specified class of investments.

Second, the Department of Labor is directed to terminate the \$1.2 million taxpayer financed clearinghouse through which the Department intends to promote particular ETI's. Further, the bill prohibits any agency from abusing the powers by establishing a future clearinghouse or database which lists particular ETI's.

Third, the bill states that it is the sense of the Congress that it is inappropriate for the Department of Labor, as the principal enforcer of ERISA's fiduciary standards, to take any action to promote or otherwise encourage economically targeted investments.

The bill takes us back to where we stood before the Clinton administration issued the bulletin and maintains the fiduciary standards under ERISA which have stood the test of time over the 21 years since its enactment, and which are not in need of repair.

By issuing the bulletin, the Department calls into question the framework within which employee benefit plan fiduciaries make their investment decisions. While the interpretive bulletin includes the gratuitous statement that "the fiduciary standards applicable to ETI's are no different than the standards applicable to plan investments generally", the real purpose of the bulletin is the promotion of investments that "may require a longer time to generate significant investment returns, may be less liquid and may not have as much readily available information on their risks and returns as other asset categories."

Could a better definition of a relatively risk investment be constructed? It is precisely this more risky type of investment that the Department cloaks in its broader and ambiguous definition of an ETI. In fact, it is unclear exactly what an ETI is under the Department's own interpretation. For example, in response to committee questions, the Assistant Secretary for Pension and Welfare Benefits stated that "the bulletin defines ETI's in terms of the process by which an investment is chosen * * * [even though] there is no specific process * * * nec-

essary to trigger the 'selection criteria'." In addition, the Assistant Secretary stated that "ETI's are defined in terms of the reasons for which they are chosen," even though fiduciaries "may not articulate that collateral benefits were a reason for selecting" such investments. These contradictory and confusing statements are reason enough for rendering the interpretive bulletin null and void.

The bulletin's definition that ETI's are "investments selected for the economic benefits they create * * *" raises another question as to the intended scope of this new rule. Arguably, every investment can be asserted to create an economic benefit, since that is the very nature of investment capital. Indeed, if ETI's do not include all investments then which ones?

Clearly, they include the less liquid and more risky ones mentioned in the bulletin. Incredibly, it is these more risky investments that the Department now considers worthy of special promotion.

Furthermore, the public expression by Department officials that certain ETI's need to be encouraged seems to be based on the premise, disputed by the Congressional Budget Office, that the market does not work. Apparently, the administration believes pension managers are not investing an optimal amount of pensioners' money in ETI's. Those who are retired and those who will retire. But what is optimal, or enough? The various actions taken by the administration in this area has created confusion within the investment community and the general public. The Department has even had to deny that the Clinton administration intends to mandate that private pensions invest a certain percentage of their assets in ETI's. The millions of pension investors and private pensioners deserve better from the Nation's pension watchdog. By voiding the interpretive bulletin, the bill removes a serious element of confusion and reinforces the pre-eminence of the time-tested fiduciary standards under ERISA.

If the interpretive bulletin is a somewhat subtle means to promote ETI's, the Department of Labor's creation of a so-called ETI clearinghouse is much more direct. The Department, as Secretary of Labor Robert Reich has testified, fully intends to showcase ETI's for both public and private plan investment purposes. Here the Department has clearly deviated from its role as the chief enforcers of ERISA's prudence, exclusive benefit, and other fiduciary standards to become the chief promoter and apologist for social investments selected by a securities firm handpicked by the Department's chief ERISA enforcement officer. What are pensioners and the public supposed to conclude about such conduct by the administration?

Would it not be safe to assume that the Department would run into at least the appearance of conflict by instigating and funding a clearinghouse listing specific ETI transactions? Is it not also foreseeable that a plan which invested in an ETI listed by the clearinghouse might raise as a defense the argument that the Department had endorsed the investment notwithstanding any disclaimer to the contrary by the clearinghouse? Finally, might not the clearinghouse operators be influenced to list particular investments based on the fees paid

by a participating financial intermediary? Of course, the answer in each case is "yes". The most troubling aspect, however, is that Department officials were aware of these red flags, which were raised by the ERISA Advisory Council before the beginning of the promotion campaign, yet they ignored them in their desire to showcase and promote ETI's.

Will the ETI's listed by the clearinghouse be prudent and appropriate investments for particular plans? The Department has responded to our committee that the clearinghouse is not intended to function as a guarantor of the fiduciary suitability of an investment, even though it is the responsibility of the clearinghouse to develop criteria and methods for evaluating particular investments. We have asked the administration for their criteria, but both the Congress and pension investors remain in the dark. What is the criteria and what special interests will benefit?

Understandably the investing public remains confused. As a result, departmental officials have already been forced to take steps to inform the public that investments listed by the clearinghouse will not have prior approval by the Department.

The bill before us is the perfect antidote to this source of public confusion and scandal in-the-making. The bill terminates the clearinghouse and prevents this or any future administration from resurrecting any similarly imprudent device. According to CBO, the taxpayer also comes out ahead by over one-half of a million dollars.

Clearly, the Department's actions involving ETI's are not a model for reinventing government. Taxpayer funds can be better spent on protecting pensioners' assets by enforcing ERISA, rather than on ETI speechmaking, promotion tours, and clearinghouses.

When the time comes, I urge my colleagues to vote for the passage of the bill unamended. By voting "yes", you will be saying that the ERISA fiduciary standards which have served to well protect our Nation's pensioners for over 20 years should continue without the interference of misguided interpretive bulletins, clearinghouses, and other promotions of ETI's.

On the other hand, if you vote "no", let it be understood that in the name of "Big Government Knows Best" you will allow the Clinton administration and future administrations to transform the "Nation's Pension Watchdog" into a lapdog and huckster for special interests and the latest politically targeted investment. In this case, pensioners will suffer, the capital markets will be undermined, and the entire voluntary private pension system will be put at risk.

I urge you to vote "yes" on the passage of H.R. 1594 to ensure the continuance of a sound private pension system which is free from political interference.

I would ask Members to vote for this legislation unamended.

Mr. MARTINEZ. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. CLAY], the ranking member of the Committee on Economic and Educational Opportunities.

Mr. CLAY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to this so-called Pension Protection Act. It has nothing to do with retirement protection, but rather attempts to address a nonexistent problem.

If this bill were a movie, the committee substitute, the original Saxton bill, and the hysteria generated by the Republican leadership about economically targeted investments, would be a comedy, featuring dumb, dumber, and dumb-agoguary—cousins of the famous three stooges.

This whole effort to eliminate ETI's is driven by pure, unadulterated demagoguery. It is a solution in search of a problem. More than that, if a problem did exist, it would be the worst possible solution. This bill would create enormous and completely unnecessary havoc in Federal pension policy.

By now you may have read the "Dear Colleague" circulated by my committee colleagues, Representatives BILL GOODLING and HARRIS FAWELL. It reminded me of what communicating must have been like in the Tower of Babel. Many of their groundless, incoherent charges will be repeated here today.

I am sure you had no idea that the Nation's pensions were in such grave jeopardy!

Without offering any shred of evidence, they accuse the Clinton administration of all sorts of dishonest, deceitful behavior, including trying to use private pensions to fund "its liberal social agenda."

My colleagues throw around terms like "social investing" and "politically targeted investments" without ever saying that they are or offering a single example of either involving private pension plan investments.

Their Dear Colleague letter reflects a lack of knowledge of what ETI's are and what the Labor Department policy has been for 15 years.

In addition, the bill's sponsor presents a study showing, with breathtaking precision, that the administration's ETI policy will cost the typical pensioner \$43,298—not \$43,297 and not \$43,299, but \$43,298. Fantastic. And you would have thought that "the finest CPA's money can buy" would have gotten the figure to an even \$44,000.

Mr. Chairman, clearly, there is more to this bill than Republican concerns about ETI's. Labor Department policy prohibits the wild-eyed, irresponsible so-called social investing that has our Republican colleagues hyperventilating. If they are really concerned about the safety of the Nation's pensions, why have they just voted to slash the budget of the Nation's pension watchdog, the Labor Department's Pension and Welfare Benefits Administration.

Mr. Chairman, all the Labor Department has ruled is to permit private pension funds to make investments that produce benefits to American communities as long as the interests of the pension beneficiaries come first and risk and return are not sacrificed.

The Labor Department's only sin was in interpreting the pension law consistent with past Republican administrations.

H.R. 1594 is dangerous public policy. The chilling effect created by this bill

could effectively stop pension funds from considering the collateral benefits of investments.

This bill is a complete waste of the House's time.

It's dumb. Passage by this body would be dumber. Vote "No" on H.R. 1594.

Mr. FAWELL. Mr. Chairman, I yield myself 7 minutes.

(Mr. FAWELL asked and was given permission to revise and extend his remarks.)

Mr. FAWELL. Mr. Chairman, for the past 20 years, the Employment Retirement Income Security Act, known as ERISA, has protected the financial security of America's retirees, and during that time the Department of Labor has served as a guardian of ERISA's private pension investment standards, and that is known as the prudent man rule. Now, however, the Department has, in my view, threatened to abdicate its role as the Nation's pension watchdog by promoting and, indeed, hyping a peculiar and particular class of investments called economically targeted investments, or ETI's.

ETI's are investments in an array of socially beneficial projects, such as low-income housing construction, for instance, rather than those selected exclusively to provide a financially sound return for pensioners, as required under the prudent man rule.

□ 1330

In June 1994, as has been indicated, the Department issued what was called an interpretive bulletin which just plain promotes pension plan investment in these ETI's. Under this new policy, and it is that in my view, advanced by this bulletin, private pension plans may seek out an investment specifically for the benefits it creates for persons other than the plan's participants and beneficiaries.

Current pension law, on the other hand, mandates that private pension plans should invest and manage their assets for the exclusive benefit of the participants, the pensioners and their beneficiaries.

Thus, the Department, by contrast, would emphasize and promote and hype social programs and projects instead of protecting the best interests of the pensioners, as we see it.

In addition, in September 1994, the Department awarded the contract to Hamilton Security Advisory Services to come up with a clearinghouse. This clearinghouse obviously, because it will collect information and also promote ETI's, will become and can become an instrument for promoting and pressuring plans to invest in certain investments that are promoted and, of course, favored by the department. No mandates here, but the message is pretty clear from the regulator.

Moreover, the list of approved investment that the clearinghouse will produce will include imprudent investments, since the department has imposed no requirement that a project be

a prudent investment under the ERISA law before it is placed upon the list.

At the Employer-Employee Relations Subcommittee's June 15 hearing, David Ball, Assistant Secretary of Labor for Pension and Welfare Benefits Administration under President Bush, testified, and I quote:

It has been the Department's longstanding position that nonfinancial factors or incidental benefits cannot be allowed to take precedence, and I want to emphasize that word, precedence over providing retirement income to participants and beneficiaries.

That is not to say that there are not incidental benefits, obviously, in any particular investment. "The department, however, has strayed from this position, and by means of the Interpretive Bulletin and the clearinghouse is putting," and these are Mr. Ball's words, "inappropriate pressure on investment managers and subjecting them to political and social demands to invest in economically targeted investments."

H.R. 1594, as amended and reported by the committee, basically says three things:

First, it is inappropriate for the department, as the principal enforcer of private pension investment standards, to promote and hawk and hype special classes of investments. That is not your business.

Second, the bulletin is made null and void, not other bulletins, not other regs, but that bulletin.

Third, the legislation specifically prohibits the department from operating a special clearinghouse for ETI's. Thus, this bill, the Saxton bill, simply states that private pension investment law under ERISA should return to what it was before the ill-advised bulletin of June 1994 and the clearinghouse were foisted upon the employee benefits community. It is based, I believe, upon the obvious, if there is an economically targeted investment and it can be just as sound an investment as other private pension investments, which the department contends, then special promoting of ETI's by the department is not necessary, since the market will obviously direct investment capital to the ETI's without governmental cheerleading if they meet the standards of ERISA. You do not have to go out there and hype it up.

The department concedes in the bulletin that investments in ETI's require a longer time to generate significant investment returns, are less liquid, and require more expertise to evaluate. In short, ETI's are a more risky investment.

Others will speak to that.

Why, then, is the department straying so from its proper role as an investment watchdog and regulator and instead becoming a promoter? Because, like Willy Sutton, they know private pension funds are where the money is, and having the regulators promote ETI's is one way for politicians to get their hands on private pension funds to support social programs. But they overlook the fact that the \$3.5 trillion

of private pension funds in America is not the Government's money. It is retirement money of American's workers. It is marked in trust for their golden years. They are not tax funds, nor are we dealing with Social Security contributions of employers and employees, which, unfortunately, have long ago been hog-tied by Congress to be invested only in Government bonds.

It is not like Social Security, where we have to invest everything in Government bonds, which is lunacy. No, private pension funds are voluntarily contributed across America by employers and employees in various sums under many different pension plans out of a lifetime of hard-earned wages, and the last thing America's private pension funds need is social tinkering by the bureaucrats at the Department of Labor. Government should be told in no uncertain terms, "Keep your hands off private pensions," and that is precisely what the Saxton bill does.

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

Mr. Chairman, I rise in total opposition to this unnecessary bill—which is both an intrusion into the duty of the Department of Labor to provide guidance under the Employee Retirement Income Security Act and a blatant attempt to manage the investment policies of America's pension plans.

The level of paranoia evidenced by the flurry of "Dear Colleagues" and so-called economic updates issued by the bill's author is unprecedented. The Secretary of Labor sent out an interpretive bulletin because the Advisory Committee appointed by President Bush advised him to do so. Presidents Reagan and Bush supported economically targeted investments, both in public statements and in administrative actions that relaxed rules that were barriers to pension programs taking advantage of these investments.

Yet, the leadership has attacked this issue on the basis that agencies should not advocate.

Every agency should advocate for the policies set by the President and the Congress, and for what they believe to be in the best interests of the public.

Just as the Surgeon General should champion the ideas of safe sex and prevention of drug abuse, the Department of Labor is supposed to advocate for jobs and job creation. This is their responsibility and their duty.

Nobody objected when agency secretaries of Presidents Bush and Reagan advocated the interests of their agencies.

Maybe because those agency secretaries advocated for one segment of society, political insiders, that it was deemed appropriate.

But, now that President Clinton's appointees are advocating for the other segment of society, some of our friends on the other side of the aisle do not like it.

Whether good or bad, some in this House are seeking to derail any propos-

als advocated by the administration—even those that have been advocated by the Republicans who served during the 1980's. This is politics, pure and simple, and spiteful politics at that.

This does nothing to advance the interests of those we were elected to serve—rather it gets in the way of what is best for our people, and economically targeted investments can be if the prudent-made rule governs. And the bulletin makes that abundantly clear.

Economically targeted investments are good investments, if they are made in strict accord with the interpretive bulletin issued by Secretary Reich.

Because the investment manager must first find that the risk and return of the E.T.I. are at least equal to that of an alternative investment, the interests of the beneficiaries of the pension plan, are fully protected.

The prudent-man rule still governs—all that is addressed by this bulletin, is an acknowledgment of the law that the Labor Department has consistently held since the enactment of ERISA in 1974.

The investment manager can, if she or he so chooses, invest in a vehicle that will help the community—through better infrastructure, more housing, or more jobs.

What kinds of investments are we talking about?

Well, the definition of economically targeted investments, as found in this bill, "Is an investment that is selected for the economic benefit it creates, in addition to the investment return to the employee benefit plan investors." I want to reiterate that the economic benefit is in addition to the investment return to the employee benefit plan.

Clearly, the Labor Department is confirming something that is has always held—from the administration of Gerald Ford, when the ERISA law was signed, to the present day. There is a two-step process involved here.

First, the investment risk and return must be assessed.

Once it has been determined that the risk and probable return are equal to that probable for alternative investments, investment managers may consider the economic benefits of one investment as well as the other.

The proponents of this bill say that ETI's are inherently bad investments. If that is so, then they would not fulfill the primary requirement of the interpretive bulletin—that the risk return be at least equal to an alternative investment, and no investment manager would select an investment that clearly violated the prudent-man rule embodied in the law.

I believe, as my friend from Illinois has said, that we should let the market roar and stay out of the way of investment managers.

If they act prudently under the law, they will not choose bad investments. But, if their analysis is that two alternatives carry the same risk and would reap an equal return, then they should

be the ones who determine whether or not to consider the collateral benefits offered by a particular strategy. That is not the province of the Congress.

But, under this bill, that is exactly what the proponents would have us do—interfere in the market and in the investment strategies of people who know what they are doing. Let me give you an example.

In California, a public pension plan has consistently earned its beneficiaries an investment return of 19 percent or more, and has been responsible for the creation of over 3,000 new housing units since 1992. A major international union has, for more than 30 years, operated a public-private partnership creating over 5,500 construction trades jobs and over 15,000 jobs in all industries, while financing the construction of 35,000 residential units and 3.2 million square feet of commercial real estate.

Over the next 5 years, it is expected that this pension trust, working with the Federal Government and local partners, will create an additional 12,000 housing units in 30 cities across the country.

In all of this activity, the rate of return to the beneficiaries has been at least equal to the general performance of the market.

A northeastern State's public retirement system, investing through a semi-public venture, has provided over \$17.7 million in investment in 55 companies, creating over 5,000 jobs, receiving an average rate of return of 16 percent.

All of this while generating nearly \$10 million in additional tax revenues for the State.

Now, I don't know about you, but these sound like good investments to me—the kind that we should be encouraging—yet, some of our friends in this Congress are proposing interference with this process, simply because they believe there will be some mad rush by pension investors to gamble pension funds; untrue. Prudence will still govern. That doesn't change with the bulletin.

This bill would counteract and interfere with the decisions of the knowledgeable and conservative—let me repeat—the knowledgeable and conservative—investment advisors who run these pension plans and who made the investment decisions that gave those excellent results that I just cited.

I have contended since its introduction that this legislation is a solution looking for a problem. I see no reason why anyone should support it, except as lemmings they would follow their leader.

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

Mr. FAWELL. Mr. Chairman, I yield 6 minutes to the gentleman from New Jersey, Mr. JIM SAXTON, who has been a real tiger and who has seen the problems which are before us.

Mr. SAXTON. Mr. Chairman, let me first commend the gentleman for his

tireless efforts in bringing this bill to the floor. It is certainly something worthy of debate today. Let me say at the outset that while I certainly acknowledge and respect the differences we have in terms of the differences with our Democrat friends on this issue, this debate is certainly one that is worthy of taking place, and certainly is not, as one of the previous speakers mentioned, a waste of time.

This debate is about workers' savings, workers' savings for their retirement years. It is about \$3.5 trillion in savings that more than 36 million American workers put aside each day in the hope that it will be there, in the belief it will be there when they retire. That 36 million, I might remind the gentleman from the other side of the aisle, there are 80,000 of those 36 million in each of our districts, and they are counting on us to do the right thing. It is about factory workers, factory workers who sit in the lunchroom each day and talk about their plans for retirement and their retirement fund.

□ 1345

It is about a clerk in a department store who goes home and talks with his or her spouse in the evening about what they are going to do when they retire and about their retirement fund. It is about the parcel delivery person who works hard all day and hustles around town in that little brown truck, and goes home at night to think about what he or she is going to do with his or her retirement fund when the time comes.

And it is about the Clinton administration's plans to enter into an investment scheme which will severely erode the pension funds of these people. They are our friends and our constituents, and we have a duty here today to vote to protect their pension funds.

A waste of time? I do not think so. As a matter of fact, I think it would be a good use of time for Secretary Reich to write each of my 80,000 worker constituents a letter and say, "We have put into place policy that could cost your pension fund as much as, yes, \$43,200-some-odd dollars," whatever the number is. I think that would be a good use of time for Secretary Reich to do that.

They call it, here in Washington, DC, ETI's. That is a fancy beltway term. It means the use of Americans' retirement savings to make some risky social investments, causing pension funds to fail or earn less. We do not claim they earn less. Your Secretary of the Treasury claims they earn less.

As a matter of fact, Alicia Munnell from the Department of the Treasury says that pension funds that invest in ETI's historically earned 2 percent less than pension funds that have not invested in these risky social investments. That means, according to our calculations, based on her assumptions and her figures, that over 10 years these pension funds would lose \$90 billion and over 20 years \$520 billion, and

over 30 years \$2.2 trillion in losses. Tell the factory worker, tell the clerk in the department store, tell the folks that hustle around delivering parcels that this is what it means to their pension funds.

On an individual basis, look what it means to the individual as we project into the out years. We see a real gap, a difference between what they would have earned on their returns if they had been invested correctly and what they will if they are invested under Secretary Reich's plan.

Yes, at the end of 30 years the worker who is now 35 years old and retires when he is 65 years old would have \$43,000-plus less, a loss, in his pension fund or her pension fund because of this foolishness that is being carried out by the Clinton administration and the Secretary of the Treasury. Experience proves that the Clinton administration is on the wrong track, and I believe that we should stand together to look at some of those experiences as to why this is wrong.

For example, the Kansas Public Employees Retirement System, known as KPERS, has lost over \$390 million in that State due to social investing. KPERS lost \$65 million in one investment alone, the Home Savings Association. When that company went bankrupt, due to political pressure KPERS went further and invested an additional \$8 million in a local company, Christopher Steel. That company is now abandoned and the investment is a complete loss.

Similar disasters have been seen all over the country, including in States like Connecticut, Alaska, Missouri, and Minnesota, and others that we could go on and name. In Arkansas in 1985 President Clinton signed into law language which said this: "The State of Arkansas shall seek to invest not less than 5 percent nor more than 10 percent of their portfolio in socially related investments."

This was a target that was intended to mandate the investment of these funds, not to permit it. As I say to my friends on the other side of the aisle, ERISA clearly states that pension funds must be invested solely and exclusively for the exclusive purpose of providing benefits to the participants and the beneficiaries. It says nothing about social investments.

This is precisely why ERISA does not say fiduciaries must make decisions primarily. It does not say primarily in the interest or almost entirely to provide benefits for participants and beneficiaries. It says solely and exclusively. I am at a loss to know what parts of the words "solely and exclusively" the Clinton Labor Department does not understand.

Mr. MARTINEZ. Mr. Chairman, I yield 3 minutes to the gentleman from Texas, Mr. GENE GREEN.

(Mr. GENE GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Chairman, I thank my colleague on the committee for yielding me some time.

Mr. Chairman, I rise in opposition to H.R. 1594. I would like to ask the gentleman from New Jersey [Mr. SAXTON] some questions.

This bill comes at a time whose time has not come. The bill attacks something that is not existent. It is a straw man—or a straw person in inside-the-Beltway language—that is created by the Joint Economic Committee and talks about force. In fact, I just got this report today that in its conclusion it says by forcing pension fund managers.

Nowhere in the Department of Labor do they force pension fund managers to do anything. This bill was created to create a political issue and nothing else. H.R. 1594 repeals an Interpretive Bulletin that pension managers consider collateral benefits where the risk and return otherwise meet the prudent standard.

Last year the Department of Labor issued Interpretive Bulletin 94-1 stating that it was permissible for a pension fund to invest in economically targeted investments under limited conditions. This bulletin made it clear that a pension fund may consider ETI's only if the risk adjusted return was comparable to alternative investments. The pension fund could not invest in ETI's if the return were less or the risk greater than comparable alternatives. There is absolutely no force and no mandates in ETI's. That is what makes this committee report from the Joint Economic Committee not worth the paper it is printed on. If an investment meets the prudent standard, what is wrong with using American pension fund assets to invest in America and in American jobs?

This bulletin goes back to the Reagan administration. It is not something that President Clinton has created. The Department of Labor's position on ETI's is not new. Interpretive Bulletin 94-1 simply restates the Department's position for over 20 years spanning both Republican and Democratic administrations. In fact, the recommendation to issue the interpretive bulletin on ETI's was originally proposed by the ERISA Advisory Council, appointed by President Bush's administration.

In a letter to Congressman SAXTON, Ronald D. Watson, a member and later chairman of the ERISA Advisory Council, states:

The conclusion that ETI's can have a place in pension portfolios was reached by a cautious and instinctively conservative group of advisers under a Republican administration. It is being promoted by a Democratic administration which happens to agree with the conclusions.

The effects of H.R. 1594 would be devastating on pension managers. It clearly discourages and may effectively forbid consideration of collateral benefits by U.S. pension managers. To avoid potential liability, pension plans would

be reluctant to invest in American investments that have collateral benefits, even though they may have competitive risk adjusted returns and otherwise meet the standards of ERISA. The result would be increased pension plan investments in foreign investments that is already increasing.

In addition, this bill is one-sided, saying the Department of Labor must not encourage or promote ETI's. The bill is obviously an attempt to silence the Department of Labor. We need to make if they are going to be silenced on everything instead of just one thing.

Let us put partisan politics aside. It is irresponsible for Congress to discourage investment in America. I would rather them build housing in the United States than build housing overseas at the comparable investment.

Mr. FAWELL. Mr. Chairman, I yield 4 minutes to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I rise in support of H.R. 1594, and I hope we pass this legislation today. We need to protect our American workers' pension funds, and that is exactly what this bill does.

Right now American workers have more than \$3.5 trillion in private pension funds, and some view these savings as one way to fund various Government-favored programs. This kind of thinking led to disaster for a number of pension plans in the 1980's.

In my State of Kansas, the Kansas Public Employees Retirement System, known as KPERS, suffered gigantic losses resulting from an ill-fated program launched in the name of economic development in 1985. Back then some Kansas officials thought pension fund assets would be an ideal source of funds for stimulating economic development—the same notion currently being promoted by the administration and the Department of Labor. The idea caught on, and as a result, KPERS loaned \$467 million to more than 100 companies from its cash assets in a direct placement loan program aimed at stimulating the Kansas economy.

The investments made in the 1980's by KPERS would now be labeled as "economically targeted" and would probably get on the Labor Department's new clearinghouse list. This is why I believe we must stop the administration's efforts to impose a socially motivated criteria in deciding where to invest pension funds.

The loans made by KPERS to stimulate economic development have resulted in losses of more than \$138 million, which has been written off, and total losses could reach \$260 million, the estimated loss in 1991 when the Kansas Legislature began an investigation of these investments. KPERS is still involved in lawsuits as a result of the huge losses suffered by the pension funds in their attempt to direct investment to economic development. I do not want to see this happen across the country, and we must pass this bill to ensure that pension fund managers will

continue their prudent investment practices.

The irony here is that under current law, pension fund investment managers can already invest in anything which they believe will provide a good return to beneficiaries. Referred to as the "prudent man rule," current law requires that pension fund managers act with "the care, skill, prudence, and diligence * * * that a prudent man acting in a like capacity and familiar with such matters would use * * *".

If a good investment opportunity presents itself, a pension fund manager can commit funds to it. If it is a prudent investment which is likely to produce a good return for pension beneficiaries, a fund manager can invest in it now—without any direction by the Department of Labor or the White House.

Based on our Kansas experience, the action by the Clinton administration to direct pension funds to "economically targeted investments" is unwise at best. This legislation simply erases the administration's ability to direct pension fund investments. It does not discourage pension fund manager's from making investments in housing, infrastructure, or any other entity which is likely to benefit plan participants. But it does not encourage them either.

Current law has served us well in this area. History has shown that we begin to lose pension dollars, or experience diminished returns, when we try to make "politically correct" investments with our American worker's money. Support 1594.

Let us protect our Nation's pension funds. Support this legislation.

□ 1400

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

Mr. Chairman, I just want to take this minute to read something to the Members here and for the public's general consumption. I want to read something that was said by the President at a public meeting.

One of the values we are tying hardest to save in this country is self-reliance, taking care of our own. And what better example could there be than 15 building and construction trade unions taking one-half billion dollars of their hard-earned pension funds and investing that money to create more jobs for workers? This country will owe you all a debt of gratitude, and with initiatives like yours, we can rebuild America.

That was President Reagan before the Building Trades Association.

Mr. MARTINEZ. Mr. Chairman, I yield 3 minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Chairman, as a Member of this body, all too often, I have seen debates involve pressing problems and yet no real solutions, no meaningful answers. I am dumbfounded at this debate today, because we are dealing with no meaningful problem, and certainly just a sham of a solution.

Mr. Chairman, I have 3 minutes left, and I would yield to any Member of the

majority side in support of this bill that can show me in the interpretive bulletin where the language is that would diminish in any way, in any way, once scintilla, one little bit, the standards of risk or standards of return that would jeopardize the pension funds in the way that have been outlined.

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

Mr. POMEROY. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, now that the gentleman has asked, the definition of ETI's, which is the first time to my knowledge that ETI's have ever been legally defined in any of the regulations or in the law, states: Are defined as investments selected for economic benefits they create, in addition to investment return to the employee benefit investor.

Now, what my colleagues are doing here is hyping something that is not a part of the prudent man rule at all. That is, investments returns aside from those that will come to the participants and to the beneficiaries of the trust.

I do not mean to say that there cannot be incidental benefits to any investment, but you do not spend millions of dollars, as the DOL is concerned, coming up with a new definition and going out and hyping and promoting it and hawking it.

Mr. POMEROY. Reclaiming my time, I want to respond to the gentleman before my time lapses. I respect you and your work in ERISA, but I believe your answer is dead wrong.

First, the standards of risk and return; the prudent person standards must be met before any other collateral considerations can be considered. And far from being a new standard, the interpretive bulletin is merely an attempt to codify what had been individually granted advisory opinions over the past 15 years tracking administrations of both parties.

Mr. Chairman, the gentleman from Illinois [Mr. FAWELL] cannot show where in the text of the interpretive bulletin the standards have been relaxed. I used to serve on an investment board for the State of North Dakota. This is material I have worked with and that is why I resent so strongly the misinterpretations and mischaracterizations of the investment bulletin.

I will vote with my colleagues on the other side of the aisle this afternoon, as I sit here and listen to the debate, if they can show me where in the text we are doing anything relative to the prudent person standards, the guardians of risk and return, that has been pointed out. It cannot be done. This is nothing but legislation regarding a made-up problem.

Mr. FAWELL. Mr. Chairman, yield myself 30 seconds.

Mr. Chairman, referring to the interpretive bulletin, which to my knowledge was the very first time that there was an official interpretation of the prudent man rule, they take sections

403 and 404 and they say: Here, we are going to interpret that. And they interpret the ETI to mean that the very first thing that an investor ought to do is to look for the socially correct or politically correct investments.

Mr. Chairman, that is a new and novel policy; and then to spend millions of dollars to go out and hawk and hype that. That is not a watchdog, that is a courier.

Mr. MARTINEZ. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. TRAFICANT].

(Mr. TRAFICANT asked and was given permission to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Chairman, out of the approximate 4.6 trillion dollars' worth of U.S. pension funds to be invested, a maximum, they stretch at \$30 billion, has been placed toward these ETI's; less than 1 percent.

The current law states that pension plans cannot invest in these ETI's if, No. 1, the return is less, or No. 2, the risk is greater than other investment alternatives. So the law is clear.

Second of all, Ronald Reagan made a statement. He said, "It is time to get Government back to the old-fashioned way." He said, "Let private money rebuild America; not the taxpayers."

Ronald Reagan is further quoted as having stated exactly that Government money need not be invested in areas where private money can find a home and make a profit. And pension plan investment, where it can return profit to those in that pension, should be encouraged.

Mr. Chairman, I have listened to the debate and I think I have looked at many of the conservative issues that come out of this Congress. I have an amendment for this bill. The amendment is right to the point. America needs at least 4 million housing units to satisfy the needs of America's housing. All investment plans in housing are averaging anywhere from 15 to 30 percent greater than the yield of their expectations.

The Traficant amendment says: Nothing in this act shall be construed as prohibiting the Department of Labor from issuing advisory opinions regarding the legality of investments in the construction or renovation of affordable housing units.

I think we are going too far here if we, in fact, send out a signal that someone could be in violation of ERISA if they call and someone in the Department of Labor gives them information about housing. This makes no sense to me.

The Traficant amendment ensures there will be first-time home buyer homes available. I am not talking about financing the mortgages, taking a risk on the finance side of it. I am talking about making the investment in housing opportunities for American people.

What are we basically saying to this major marketplace in America, construction jobs? Hey, go ahead and build

the condominium in Mexico. There is a real shot for you. Go over to Europe and the new European economy and make investments over there.

The California Public Employee Retirement System funneled \$375 million into the construction of over 3,000 homes. Their return is 20 percent. New York City Employees Retirement System invested in the construction of 15,000 affordable housing units; return, 30 percent. AFL-CIO's Housing Investment Trust pools the funds of more than \$1.1 billion from 380 pension plans. The trust would rank first or second in America in its return if it were a publicly traded fixed-income fund.

Employees all over America, their money helping not only their employees and the pensioners, but also those who still pay into those pension funds from the active work force.

I do not understand the hype, but let me say this: I think I know where the leadership is coming from on the other side and it makes sense to ensure that private pension plans are not endangered by social service types of agendas.

But when you have a legitimate American need and private money can serve that need, on the same risk factor that is existing now, let me say this to the other side. Ronald Reagan made sense on this issue. If the smart application of pension money in America can be used to rebuild America, while stabilizing pension plans, any Congress that challenges that concept, in my opinion, is not progressive but takes us a step back.

Mr. Chairman, I am not going to argue all of these issues. The Traficant amendment will be very straightforward. If someone calls the Department of Labor, they will be able to give an advisory opinion on housing.

Mr. FAWELL. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Chairman, I want quickly to agree with the gentleman from Ohio [Mr. TRAFICANT] on the other side of the aisle. It is true. Ronald Reagan did make sense on this issue. I worked for Ronald Reagan in the White House and I know very well that no one believed more passionately in the free enterprise system and the private sector than did Ronald Reagan.

Ronald Reagan, unlike Robert Reich, understood the difference between government and free enterprise. Ronald Reagan did not have much difficulty answering the question, "Should the Government direct private pension funds in their investments?" The answer, of course, is no.

Private pension funds represent at least \$3.5 trillion in assets in America today. That is more than double the entire Federal budget. A lot of people would like to get their hands on this money for political purposes.

In 1988, Jesse Jackson put it in his Presidential campaign platform. He

wanted to have the Federal Government help with the investment of private pension funds by helping to steer them into politically correct investments.

Mr. Chairman, at a time when we are trying to reduce the size and scope of Federal Government, the liberal big spenders are obviously beside themselves. Where are they going to get the money they need to control life in America? What better place than private pension funds? There is so much money there, after all. It is double the amount than we have got in the whole Federal budget.

The whole idea behind ETI's, [Economically Targeted Investments] is that investments can be made with social goals, not economic goals in mind. That is the purpose of Robert Reich's infamous Bulletin 94-1 issued last year carrying out the campaign platform of Jesse Jackson in 1988.

It affects pension plans of all kinds, union pension funds, company pension plans, any private pension plan.

What it does is stand the law on its head. Let me quote from ERISA, the existing law that protects our private pension investments.

ERISA says pension fund managers must act, "solely in the interest of participants and beneficiaries." That is what the law says. "Solely in the interest of participants and beneficiaries."

"The exclusive purpose of providing benefits to participants and their beneficiaries." That is how pension fund managers must invest. "With the exclusive purpose of providing benefits to participants and their beneficiaries."

If one is trying to channel money to politically correct causes, is that not violating the law, the taking into account of another criterion? What Robert Reich has said in his bulletin is we can take something else into account.

All else being equal, he says fallaciously, you can take into account the social utility of the investments. Who determines this? Not the marketplace any longer. That is what Ronald Reagan thought should happen. The marketplace would determine what is a socially useful investment.

No, instead Robert Reich will help you determine this by putting together a list. And the Labor Department, at taxpayer expense, is going to have a list of Economically Targeted Investments. That is where we are going to encourage private pension money to go.

There is no element of coercion in this when the Federal Government investments your taxpayer money in a whole system of putting together a list of politically correct investments, and then puts out an order directing people to pay more attention to this issue, as Investors Business Daily told us Robert Reich did 1 month after issuing Bulletin 94-1? Of course not.

Stealing the hard-earned after-tax savings of working Americans for social experiments is taxation. Unfair and unwarranted taxation to be sure, but another tax grab.

Mr. Chairman, ETI stands for an "Extra Tax on Individuals." Let us not permit it.

Mr. MARTINEZ. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. SAWYER], my colleague on the committee.

Mr. SAWYER. Mr. Chairman, I appreciate the opportunity to rise today in strong opposition to this measure. Quite literally, as the gentleman from North Dakota [Mr. POMEROY] mentioned, this bill is a solution desperately thrashing about in search of a problem.

Mr. Chairman, there are problems we face with retirements. As a Nation we face a tremendous challenge, that of planning for the retirement of the post-war generation that has come to be known as the Baby Boomers. Ensuring the soundness of pension funds is a critical component of that effort.

Mr. Chairman, I am among the very first, at the leading edge of that population cohort and I recognize that a fundamental problem is that the boom generation is one that can broadly be characterized as one that has simply not learned to save.

As an age cohort, many have instead spent much of their disposal income elevating a notion of a minimal standard of living through current consumption, while simultaneously limiting their ability to secure it into the future.

We agree, all of us, that it has been important to encourage working Americans to save for their retirement and to encourage employers to set up sound and reliable retirement systems that will be liquid when they are needed, that include matching employer contributions.

□ 1415

Unfortunately, this bill does absolutely nothing to elevate that goal or either goal. In fact, this bill potentially puts into question a wide range of existing pension plan benefits. This bill would repeal a Department of Labor interpretive bulletin, ordered by the Bush administration Labor Department in response to private sector inquiry. The bulletin simply clarifies past interpretations of the ERISA Act with respect to many kinds of investments, including those which may add ancillary benefits to the broader economy.

In essence, the bulletin does not make any new rulings nor does it advocate for pension plan investment in ETI's or any other kind of specific investment. However, by repealing the bulletin, we leave the potential vacuum of ambiguity and potential confusion regarding pension plan investments and past rulings which may risk unnecessary litigation. All this uncertainty undermines the ability of pension plan managers to make the best investments for future retirees.

More importantly, what we really should be doing is debating realistic strategies for ensuring the stability of

and encouraging participation in sound pension plans. I am eager to work toward that goal.

Unfortunately, the bill does nothing along those lines. I would ask my colleagues on the other side if they would find it important to encourage that the fiduciary standards applicable to the ETI's be no different than the standards applicable to plan investments generally. If they, in fact, would agree with that, then they cannot disagree with the fundamental content of this ruling, which, in fact, calls upon investors to do precisely that. It is the same standards only with greater clarity that we have been working with for a long time, and I urge my colleagues to vote against it so that we can move on to the addressing real challenges of preparing for the next century.

Mr. FAWELL. Mr. Chairman, I yield 3½ minutes to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. Mr. Chairman, I rise in strong support of H.R. 1594, the Pension Protection Act of 1995. Let me start out by commending the gentleman from New Jersey [Mr. SAXTON] for his work on this important bill.

The reason we are here today is because President Clinton's Department of Labor has abdicated its responsibility as the Nation's pension watchdog. Last June, Secretary Reich issued an interpretative bulletin that allows pension managers to invest private pension funds in risky social ventures. He likes to call them ETI's, or economically targeted investments. I prefer to call them PTI's—politically targeted investments.

ETI's are chosen for the social benefits they generate to third parties instead of their safety and financial return to pensioners. Simply put, ETI's are nothing more than a code word for pork barrel projects in urban areas.

Secretary Reich has argued that his interpretative bulletin was needed to clarify the intent of ERISA because of confusion in the pension investment community. In reality, the intent of ERISA's investment standards have been understood by pension managers for over 20 years. They are very simple and very clear: When investing private pension funds, a pension manager's sole responsibility is to focus on the interest of his plan's participants and beneficiaries. Pension managers have avoided ETI's, it is because they are bad investments—not because they were confused by ERISA.

If ETI's were sound, pension managers would invest in them regardless of their so-called social benefits. It's that simple. Secretary Reich's promotion of ETI's leads me to the conclusion that either the Clinton administration doesn't believe in the free market, or it understands that these investments are too risky and ERISA's standards must be altered. If these investments were prudent investments, the free market, the pension managers, would already be there.

The President's advisors know that ETI's are risky. In fact, Alicia Munnell,

a current Assistant Secretary of the Treasury in the Clinton administration, their economist at Federal Reserve Bank, Boston, stated in 1983 that ETI's earn between 2 and 5 percent less than traditional pension fund investments. Now that may not sound like a big difference, but the numbers add up over time. For example, if just 5 percent of the Nation's private pension funds are invested in ETI's, pensioners would lose \$90 billion in retirement income over 10 years, \$520 billion in 20 years, and \$2.3 trillion in 30 years. This translates into over \$43,000 in direct losses to the average pensioner. I don't know about you, but I sure would be upset if the manager of my private pension decided to follow the lead of President Clinton.

Given the track record of ETI's, an interesting question comes to mind, why is the Clinton administration promoting these high-risk social investments? The answer is simple. Finding revenue for the President's social agenda is obviously more important to the Department of Labor than protecting the retirement income of millions of Americans. This is outrageous.

The Clinton administration's pension grab reminds me of the story of Willy Sutton. Willy Sutton, a famous bank robber when asked why do you rob banks, responded, "because that's where the money is." Faced with a Republican Congress committed to balancing the budget, President Clinton knows that he can't get money for his pie-in-the-sky-liberal programs, so he is going where the money is—private pension funds. Promoting ETIs may be good politics for a President who needs the support of big labor and inner city mayors to win reelection, but it's bad public policy.

This scheme has been tried before and the results have been devastating. Confronted with the need to cut spending and balance their budgets, several States have tapped into the pension funds of State employees to finance development projects. For example, the State of Connecticut invested \$25 million worth of State pension funds in Colt Manufacturing. Just 3 years later, Colt filed for bankruptcy and the State's pensioners saw their hopes of profit vanish. It is unlikely that they will ever see their money again. This is not the government's money at stake, it is the retirement funds of American workers.

H.R. 1594 stops the Clinton administration's stealth attack on private pensions. Under this bill, fiduciaries will still be able to invest in ETIs, as long as these investments are safe and generate good returns. BUT they won't have legal cover for bad investments that were made at the bequest of labor bosses and inner city politicians.

The promotion of ETIs is nothing less than embodying political correctness as public policy. It is simply wrong for the Congress to do anything other than reaffirm the commitment of pension managers to seek the highest

possible return on the investment of the retirement income of American workers and pensioners. To do any less would seriously undermine the confidence in pension investors. We cannot and should not give a green light to the irresponsible allocation of the finances of retirees. To do so would be a breach of our fiduciary responsibility to the American people.

Mr. Chairman, I urge my colleagues to support H.R. 1594 and stop the Clinton administration's pension grab before it is too late.

Do not compare pension assets with entrepreneurial capital.

Mr. MARTINEZ. Mr. Chairman, I yield 6 minutes to my colleague, the gentleman from New York [Mr. OWENS], a member of the Committee on Economic and Educational Opportunities.

(Mr. OWENS asked and was given permission to revise and extend his remarks.)

Mr. OWENS. Mr. Chairman, I thank the gentleman for yielding time to me.

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

Mr. OWENS. I yield to the gentleman from California.

Mr. MARTINEZ. Mr. Chairman, in response to the last speaker, the President is not going to make a decision on that investment. The Department of Labor is not going to make a decision on that investment. The investors will make the decision on that investment. The managers, the fiduciary managers, will make that decision, and they will do it based on the prudent man rule.

This is just a smokescreen, trying to make out that there is some big plot by the President to capture somebody's money and invest it in a foolish scheme. That is the farthest thing from the truth.

The interpretive bulletin makes that very clear.

Mr. OWENS. Mr. Chairman, I rise in strong opposition to this legislation.

There is a lesson in democracy which the taxpayers and the voters should look closely at here. Democracy is a deliberative, long-term process. You start with a great communicator like Ronald Reagan. Nobody is confused about what Ronald Reagan meant when he said pension funds should be invested in America to make jobs for people in America. He was talking particularly about the construction industry people, but there are numerous other situations where pension funds invested in America make jobs for Americans. They also create other benefits for Americans. At the same time, they are subject to the same standards as any other investments.

Over and over again, every document produced by the Federal Government, by Secretary Reich, everything says assuming everything else is equal, you must make certain first of all the standards are met. We have on the one hand Ronald Reagan initiating the idea, picked up by a number of other people, including Jesse Jackson. That

does not make it any more radical if Ronald Reagan said it first. Certainly, it is respectable and acceptable. George Bush goes further and creates a clearinghouse. He institutionalizes it a few steps further. Secretary Reich is only carrying it further and putting out a booklet that helps clarify a few things.

We have this deliberative process on the one hand, and on the other hand you have hysteria and panic being generated by a wolfpack that needs a rabbit to chase, and they have invented this one for reasons I am not quite certain of. But I suspect those reasons are to create an investment environment which is safe for some truly risky investments, for some overseas investments which are more risky and do not bear benefits for Americans.

What happened in the savings-and-loan situation? Americans are out of at least \$250 billion. The taxpayers have had to cough up at least \$250 billion, and that is a conservative estimate, as a result of investments made by the savings-and-loan industry. Where were these people who are now generating this hysteria? Were any of these investments made by the savings-and-loans associations which resulted in \$250 billion worth of losses to the American people? Where they ETI's?

If you find 1 percent for ETI's, I assure you you will have to do a lot of miraculous searching. Most of them were usual marketplace investments, applying the usual standards, no economically targeted investments. There is a target for the wolfpack to go chase.

You know, the hysteria of their argument sort of rises up from the page. You know, you can feel the sweat and saliva. Goebbels would be very proud of the kind of hysteria generated by the written statements made about this menace to America of economically targeted investments. Where were they when the real menace was there via the savings-and-loans' waste that has led to \$250 billion in losses of American taxpayer's money? Where were they when that was happening?

In an effort to create an issue where none exists, these Republican supporters of this measure are stretching the truth, to say the least.

One particularly bad example of this is a letter the gentleman from New Jersey [Mr. SAXTON] sent in May to a number of corporate chief executives. The letter is fully of inflammatory language and baseless allegations. The full letter appears in the minority views. I urge that all my colleagues take a look at that letter. The letter says more about what is going on here than most of what we will hear on the floor today.

The Council of Institutional Investors wrote the rhetoric in the letter of the gentleman from New Jersey [Mr. SAXTON], "Smacks of the pension equivalent of McCarthy era scare tactics." I agree. The letter, of course, repeats the big lie ETI's are unduly risky or pose a threat to fiscal safety, never mind ERISA has always provided that,

in order to be permissible under the law, ETI's must be prudent investments in terms of risk and return.

IB-94 reaffirms the Department of Labor's longstanding position that ETI's are only permissible if they provide the plan with a competitive risk-adjusted rate of return.

In his letter, the gentleman from New Jersey [Mr. SAXTON] also claims, without any support, "A number of companies and pension investors have felt subtle pressure from the Administration," to invest in ETI's.

In addition, the letter includes specious charges the Department of Labor engaged in "coercive behavior, intimidation and other nefarious schemes." The letter even refers to a Clinton quota roof. One of the most egregious falsehoods is the alleged plan of the Clinton administration to establish "compulsory ETI quotas." It is important to reiterate that IB-94-1 does not mandate ETI's nor does it in any way authorize investments in ETI's at a concessionary rate.

In fact, the Clinton administration is on record in opposition to mandated ETI's, including testimony before this committee and testimony before Vice Chairman SAXTON's Joint Economic Committee.

More recently, in another irresponsible attempt to unnecessarily frighten the current and future pensioners, the so-called economists at the Joint Economic Committee have concocted an incredible scenario about the potential impact of pension funds on ETI's. They issued a report claiming the Labor Department ETI investments possibly will cost pensioners \$43,000 over 30 years. No self-respecting mathematician, sophomore with arithmetic, would accept those assumptions made in that report.

Mr. FAWELL. Mr. Chairman, I yield 4 minutes to the gentleman from Rockford, IL [Mr. MANZULLO].

Mr. MANZULLO. Mr. Chairman, I thank my good friend, and he is my good friend, the vice chairman of the Joint Economic Committee, the gentleman from New Jersey [Mr. SAXTON], for his tremendous work on this timely and important legislation.

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

Mr. MANZULLO. I yield to the gentleman from New Jersey.

Mr. SAXTON. I just want to state for the record the previous speaker was in error in stating that George Bush, when he was President, created a clearinghouse for the purposes of promoting economically targeted investments. The fact of the matter is he did not. It was created pursuant to the election of Bill Clinton and the appointment of Robert Reich, and never under the Bush administration.

Mr. MANZULLO. Mr. Chairman, the Clinton administration is trying to allow \$3.7 trillion in pension money to be used for risky investments as opposed to sound investments. This means the hard-earned pension money

deposited by present and future pensioners is going to be used by politicians to fund pet projects that are very risky.

The Clinton administration wants American workers to bankroll its liberal social agenda. It is risky social investing by any other name, and whenever it has been tried before, it has delivered consistently substandard returns.

The American workers are being asked to exchange investments in blue chips for poker chips and thus jeopardize their entire retirement.

□ 1430

Just take a look at the ETI track record in the public pension system. In 1993 the State of Connecticut lost \$25 million from pension funds in risky investments. The Kansas public employees retirement system tried to use its funds for ETI's. It lost hundreds of millions of dollars so far. In Pennsylvania \$70 million in public school employees' and State employees' retirement funds were sunk into an instate Volkswagen plant which lost 57 percent of its value in 14 years. In Missouri an ETI adventure, and it is an adventure, lost \$5 million in retirement savings, and in the State of Arkansas, where President Clinton in 1985 signed a bill with a quota that between 5 and 10 percent of all pension funds must go on to ETI's, the Arkansas State auditor, Julia Hughes Jones, openly defied the Governor and said these are risky ventures, risky ventures indeed, building a sorority house on a campus with money that belongs to the teachers and the public workers of the State of Arkansas.

Mr. Chairman, the investment opportunities in this country are guided by something called sound and prudent investment, not a Federal crap game, and that is exactly what the President is trying to do. He is trying to find all kinds of moneys, wherever they are, and put our American workers' pensions, our future pensions, at risk.

Now, if we are not trying to change the standard by our bill, if we are simply saying, "Use the prudent-man rule," then the Democrats, our colleagues, should agree with this bill, they should vote yes for it, because this bill simply says under all circumstances whatsoever the prudent-man rule of investing will be done, and, therefore, we need a clear and definitive statement, we need legislation that protects the American workers in this country, that says once and for all our dollars will be invested only in sound, prudent investments and not in gambling investments.

Mr. MARTINEZ. Mr. Chairman, I yield for 4 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I rise in strong opposition to this unnecessary and ill-conceived bill. We face serious issues regarding national retirement policy. But today, we are not considering ways to strengthen private

pensions or how to ensure a secure retirement for our Nation's seniors. Instead, we are wasting time and energy on a bill to address a problem that does not exist.

Investment by pension fund managers in Economically Targeted Investments, or ETI's, is not the problem. This bill is a smokescreen. It is simply a way for Republican Members, quite frankly, to divert attention away from the real issues facing seniors, like Republican plans to make \$270 billion in cuts to Medicare, and it is not going to work.

Much attention has been focused on the Labor Department's interpretive bulletin issued in June 1994. This bulletin sought to answer a question asked for over 15 years by many pension fund managers.

These fund managers asked if they could consider factors in addition, I repeat in addition to the return to the plan when choosing among alternative investments. The Labor Department answered as it always has: pension fund investments must be based on the return to the plan. Only if the returns of different investments are comparable can fund managers give weight to other factors. So that investment, first, must pass muster; risk and return characteristics are first and foremost. The Labor Department's interpretive bulletin simply clarifies this policy in response to questions from pension fund managers. It does not, I repeat it does not, require investment in ETI's.

The bill before us today is a needless attack on ETIs. But that is not all. It is much worse. It would prohibit the Labor Department from even providing information about ETIs. It is a gag rule. The Department would not even be permitted to answer questions from well-intentioned pension fund managers seeking to comply with the law.

What will a fund manager do if he or she might be subject to a lawsuit for considering an investment's additional economic benefits and cannot consult the Labor Department in any way? That fund manager will steer funds away from many of the investments our country most needs to make—investments in our infrastructure, in our cities, and to provide badly-needed jobs.

Worse, this bill encourages pension plan managers to invest in foreign countries instead of the United States. It defies common sense to advocate policies that make it easier for pension plans to invest in Europe over America. Already, American pension funds are seeking to increase foreign investments.

Mr. Chairman, this bill amounts to a full employment plan for pension lawyers, that is what it is about. This Congress should be encouraging small business start ups, and investments in infrastructure and considering ways to make our senior's retirements more secure. This bill will do none of those things and amounts to a diversionary tactic to distract the American people

from the hundreds of billions of dollars in Medicare cuts proposed by the Republicans, I urge its defeat.

Mr. FAWELL. Mr. Chairman, I yield 3 minutes to the gentleman from Delaware [Mr. CASTLE], the former Governor of the State of Delaware.

Mr. CASTLE. Mr. Chairman, I thank the gentleman from Illinois [Mr. FAWELL], whose knowledge about ERISA is indeed encyclopedic, for yielding this time to me, and the gentleman from New Jersey, who sponsored this piece of legislation, and my feelings may not be as strong as some in this room, but I have a real-life experience that I would just like to relate to my colleagues.

I rise in very strong support of H.R. 1594 because our Nation's retirees' and our senior citizens' hard-earned pensions must not and cannot be jeopardized by the Department of Labor's promotion of riskier, politically targeted investments that do not take into account our Nation's laws governing the safety of our retirees' pension investments.

Now I probably did not know a lot about this issue, and, when I became Governor in 1985 of the State of Delaware, I received a call from Mr. Ernst Danneman, who had heard word that I was sort of interested in economically targeted investments, and I was. I had it in my mind that we could help with mortgages to the poor, that we could help keep jobs in the State of Delaware, that there were a number of things that we could perhaps do if we were able to use some of that money, and clearly it was a source of money at a time when we did not have a lot, and he came into my office, and he said, "MIKE, I'm not a politician," and it turns out he is a registered declined, does not give to political campaigns, never been involved in politics at all. He has run a business, and he ran our pension board. He was the man who was the head of the Board of Pension Trustees in the State of Delaware. And he said:

I've heard what you are thinking about in economically targeted investments, and I want to tell you it is absolutely wrong. It is the most difficult job in the world to manage pension funds correctly, to compete with other managed funds out there, to be able to return the top dollar to the individuals who should benefit from the top dollar, which is the retirees and the employees that will one day be the retirees.

He said, "You should not consider this under any circumstance," and he proved to me by showing examples that there are States and there are corporations which have tried to do this and it has not worked particularly well.

I took that to task, and for 8 years we never thought about it at all. We let our Board of Pension Trustees run our pension plan. We had, I think, two of those years the highest return of any public pension plan in the entire United States of America, all because we allowed these individuals to do it, and that money did regenerate into our economy because of course our retirees

and eventually those who were to retire were able to receive funds.

So, it worked extraordinarily well. It was a lesson well learned.

I called Mr. Danneman yesterday—I had not spoken to him in probably over a year or two—to talk to him about this saying I would like to present this story on the floor, and he said, "MIKE, absolutely," and he said a couple of things. He said, "One, the Board of Pension Trustees—and it doesn't make any difference if it is private or public, I might add—has a fiduciary duty to return as much money as possible." Then he said, "Investing dollars is a single-minded effort. You can't cure the world's problems on the side." I think that is a very weighty statement. He pointed out the social investing does not do as well, and I realize that this has it in some protection such as a prudent-man rule, and we are supported to be able to return an investment, but even in the private sector there can be pressure from a chairman who has a wrong concept, pressure from a board that has a wrong concept, perhaps somebody will read about what the Department of Labor is doing, and I really honestly believe that we should do everything in our power to keep the Department of Labor and Government out of our pension plans and let them run it correctly.

Mr. MARTINEZ. Mr. Chairman, I yield 5 minutes, 30 seconds to the gentleman from Montana [Mr. WILLIAMS], a member of the Committee on Economic and Educational Opportunities, and I ask him to yield to the gentleman from North Dakota [Mr. POMEROY] for 30 seconds.

Mr. WILLIAMS. Mr. Chairman, I yield to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Chairman, ever so briefly, from the I.B. issue let me read to my colleagues:

The fiduciary standards applicable to ETI's are no different than the standards applicable to planned investments generally.

I agree with everything the gentleman from Delaware just said about the importance, the critical nature, of fiduciary standards. It is just absolutely incorrect to characterize the I.B. as changing this fiduciary standard. It is not there.

Mr. WILLIAMS. Mr. Chairman, my colleagues, I was chairman of this subcommittee for a number of years in the House, so I recall with some precision the history of ETI's, economically targeted investments.

I remember that former President Ronald Reagan advocated the changes. He, in fact, actually advocated regulations that facilitated the use of ETI's, and I believe the entirety of the former President's statement has been made by someone who preceded me, so I do not want to restate the former President's entire position, but let me just remind my colleagues of this: Former President Reagan, in advocating regulations to create these ETI's, said this:

We have over in the Labor Department made some good definite changes in regulations. Those changes are going to free up billions of dollars in pension funds that can now be invested in home mortgages.

President Reagan's Labor Secretary back then, a fellow named Raymond Donovan, said, and I am quoting,

I tried to emphasize the importance of increased investments in home mortgages. More mortgage money and thus more construction, more jobs, a healthier economy; those are the goals of this administration that will benefit this country greatly in the months ahead.

And then later, following President Reagan, came good former President George Bush, and George Bush's Labor Secretary, as my colleagues will recall, was Elizabeth Dole, Secretary Dole, and she wrote to then Housing Secretary Jack Kemp that the Labor Department has worked with the building and construction trade unions to structure a program that allowed investment in housing construction, and under the Bush administration those investments with pension funds were encouraged.

Now along comes our next President, and he has suggested economically targeted investments through his Labor Secretary, Robert Reich. But now we have a new Congress, and a new Congress, if I may say, with an ideological bent to the far right, and so they are noticing that Labor Secretary Reich in a fairly recent speech said we are not only going to have these ETI's, as we have had them in the past, but we really ought to be trying to do some economic good in inner cities, Indian reservations, other places in this country that are not only economically in trouble, but, because they have economic despair, they are socially in trouble.

□ 1445

It was that hint from Secretary Reich that perhaps we ought to worry about people who have social difficulties that seems to have triggered this new Congress with their ideological bent to try to stop these ETI's, because now they say oh, they are not economically targeted investments, they are socially targeted investments.

Nothing, since I have been in this House this year, so unmask the new ideological fervor of the new majority than this bill. This bill is making a mountain out of a molehill. This bill is really a gnat buzzing around a nonproblem. But, when you are so definitely ideological as to rise up on your hind legs and resist any indication whatsoever that money might be used in a way that might help society take care of some of its social ills as well as its economic ills, then this type of a bill is the result. It is either that, or this new Congress is trying to embarrass the Clinton administration, a Democratic administration that is simply following the policies that were put in place, correctly, by two previous Republican administrations. Or, maybe the new majority is just trying to change the subject, which seems lately

to have fallen on Medicare and the cuts that come in Medicare.

So, Mr. Chairman, we are spending an entire day in this busy time of the year on a bill discussing whether or not the Clinton administration is trying to invest money in a way that will improve not only the economic climate in America, but the social climate as well.

Mr. FAWELL. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I would just point out very quickly that as the last speaker indicated, ETI's have been around for quite some time in the context of an investor, a pension fund manager coming to the Department of Labor during the Bush or Clinton administration and requesting an advisory opinion on an ETI. What is different in this administration is that \$1 million has been spent to create a group to promote ETI's; people have traveled around the country making speeches promoting ETI's, and in fact, people who are here to regulate pension funds and pension fund managers have knocked on people's doors and said gee, we think as regulators it would be a great idea for you to do ETI's. That, Mr. Chairman, is very, very different.

Mr. FAWELL. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I would just like to respond also to my friend from Montana [Mr. WILLIAMS] for just a moment. The gentleman acted like with the advent of the new Congress that ideology just was born in this House of Representatives. I might point out to him that the previous Congress was run by the ideological left, and I might say the ideological far left. So I am sure that any change that has occurred in this Congress must make him feel like we have moved to the far right.

I hope we have moved to the right. I hope we are not where we were a year ago. I do not think maybe we are as far out of step with the American public as his statements would seem to indicate.

Mr. Chairman, I have listened to the debate so far, and I have heard the numbers and the studies used, but I think the real issue here is this: The Clinton administration is not getting the money they want for their social welfare agenda, so they are attempting to force investors, in this case pension fund investors, to do the job. The American people are tired of writing checks for big government programs and projects that do not work.

The desire of the Republican-controlled 104th Congress to give the American people a balanced budget has significantly cut and will significantly cut, I hope, the funding for many of the Clinton administration's welfare state programs. This bill simply prohibits the Department of Labor or any other Federal agency from encouraging private pension funds from investing their recipients' hard-earned retirement

moneys into investments that produce benefits for the larger community as the goal, even if it might be unwise investment policy. Who decides what the community benefits are? The taxpayers, or some bureaucrat down at the Labor Department?

Mr. Chairman, this is Socialism 101. This whole concept flies in the face of the mandate set by the American people last November that they do not want big government interfering in decisions that are none of big government's business. If this legislation is not enacted, we are essentially missing the point. We want pension fund investors to make money for their funds. This is the first criteria. I urge a yes vote on H.R. 1594.

Mr. MARTINEZ. Mr. Chairman, I yield 6 minutes to the gentleman from New York [Mr. ENGEL], my colleague from the committee.

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

Mr. ENGEL. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I just want to respond to my friends and colleagues on the other side. If you have any doubt about the ideological fervor that is driving this legislation, listen to the words: Welfare state, and: The last Congress was the ideological left. I mean, come on. This is laughable. Only the ideological right would think that the last Congress, which could not pass Endangered Species, could not pass Clean Water, and passed the Clinton budget by one mere vote, was on the ideological left. It is clearly the far right that is driving a bill like this. This bill is utter, absolute nonsense, and is propelled by the far right.

Mr. ENGEL. Mr. Chairman, reclaiming my time, let me just say that our colleague from the other side of the aisle referred to those of us who oppose this legislation as being in favor of Socialism 101. Let me say that I think what we are hearing from much of the other side of the aisle, frankly, is Mean Spiritedness 101.

Mr. Chairman, we have been hearing this all Congress and I am sorry to say that this just seems to be part of the pattern on the Committee on Economic and Educational Opportunities. We have seen an anti-working people, anti-labor agenda from day one, from the start of this new Congress, from eliminating the word "Labor" from the old Committee on Education and Labor to refusing to consider a hike in the minimum wage, talking in fact about eliminating the minimum wage, talking about eliminating Davis-Bacon to protect working people, giving them a prevailing wage that has been in effect 60 years ago, and now this new Congress wants to eliminate it.

They want to eliminate OSHA protections for working people in this country to make sure that American workers have safety in the workplace.

They want to eliminate those regulations. We just passed legislation slashing the National Labor Relations Board, which monitors unfair labor practices. They want to eliminate that. So this does not surprise me. This is a pattern on the Republican side of being against working men and women of America, quite frankly.

While I have a lot of affection for some of the individuals who are sincerely pushing this bill, I think they are dead wrong on this bill. This so-called Pension protection Act is a contradiction in terms. It certainly does not protect pensions and it is bad legislation, and it would wreak havoc in Federal pension policy.

H.R. 1594 is a partisan bill. It is in search of a problem, and I think it should be soundly defeated. I do not know what it is. Perhaps it is an effort by our friends on the other side of the aisle to provide cover for their efforts to slash Medicare, but they have seized an opportunity to accuse the Clinton administration of an alleged pension grab. As far as I am concerned, they are baseless efforts. It is sad, and it is an upsetting departure from the bipartisanship that has traditionally prevailed on pension issues.

The collateral benefits of ETI's play a key role in stimulating local economic growth and stability and help to strengthen communities. Through ETI's, jobs are created, affordable housing is built for low and moderate income families, and infrastructure is modernized. ETI's benefit society without adversely affecting the rates of risk and return of private pension plans.

Now this policy, as has been mentioned by many of our colleagues, has enjoyed nearly unanimous support since the Reagan administration. The Labor Department under the Bush administration stated that ETI's, which target the local economy, are beneficial and should be preserved. So you have the Reagan administration supporting this, the Bush administration supporting this, and now that the Clinton administration supports it, some of our friends on the other side of the aisle see a golden opportunity to bash the President.

This is a continuation of policies that have prevailed on both Democratic and Republican administrations. So as far as I am concerned, it is a continuation, and it ought to be continued, because it is beneficial. Now, some of my friends want to turn back this progress and instead create chaos in the pension community.

This bill would only lead to confusion in the law and excess money spent on needless litigation rather than benefits. Responsible pension fund managers who make sound investments with apparently forbidden collateral benefits could now be liable if this bill passes.

The fear of litigation would also make it safer for a pension manager to select investments in foreign countries

rather than in the United States. The percentage of foreign investments by U.S. pension funds has steadily increased over the last 6 years. If this trend continues, more American jobs will be lost. This bill will result in pension fund managers choosing foreign investments instead of domestic investments. Domestic investments create American jobs, and we would avoid any implication that the collateral benefits of the investment were even considered.

At a time when we should be creating jobs and improving the standards of the American workers, our Republican friends have decided to engage in pure politics in the consideration of this bill. Accusing the administration of stealing pension funds from workers is not only false, it is downright irresponsible.

It is obvious from the introduction of this that our friends on the other side of the aisle are far more concerned with bashing Democrats and the President than promoting policy that is beneficial. The Secretary of Labor has stated that this bill would have a significant adverse effect on America's private sector funds, investments that are critical to the retirement income security of workers and retirees. So I do not think we ought to threaten private pension funds.

Instead of focusing on the security, health and welfare of working Americans, our friends have decided to eliminate ETI's, cut Medicare, cut education and training programs in order to play politics.

Mr. Chairman, I urge defeat of the so-called Pension Protection Act so that we can truly help the American worker.

Mr. FAWELL. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. STOCKMAN].

Mr. STOCKMAN. Mr. Chairman, in "Alice in Wonderland" they say it is curiouser and curiouser. Our friends on the other side are saying \$3.5 trillion is a gnat. Yes, I confess, I am a conservative. I think \$3 trillion is a lot of money.

Somehow, I think stealing it from working people is wrong. That is what it is. They stole everything out of the Social Security, and now they are wanting to steal it out of another big pie. They see this \$3.5 trillion. We have a social agenda, and we are going to use this money for our purposes. That is exactly what it is; it is stealing people's money. Nothing, nothing else matters in this Congress but to steal money.

This is people's pension money. Keep your hands off of people's retirement, keep your hands off the pension.

□ 1500

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

Mr. Chairman, nobody is stealing anybody's money. Like I said before, the investment managers are going to

make those decisions. They are going to make them in consultation with other people that have the expertise to know what they are doing. They have been doing it all along. This is rhetoric being tossed around on the floor here to create the illusion that Clinton is doing something wrong. The administration is doing what they should do, and the Department of Labor is doing what they should do.

Mr. Chairman, I yield 4 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, H.R. 1594 is a totally unnecessary bill.

Can someone tell me how does this bill protect pensions? Not by providing funds for the Department of Labor's pension and welfare benefits administration, that's for sure. In fact, this bill cuts funds for this office, which does protect workers' pensions against underfunding and fraud.

You may hear that this bill protects pensions by prohibiting the Department of Labor from promoting economically targeted investments, or ETI's. But how do ETI's place pensions at risk?

After all, we already have a law on the books, the Employment Retirement Income Security Act, better known as ERISA, that requires pension plan investors to act solely in the interest of their beneficiaries when making investment decisions. So if a pension fund does choose to invest in an ETI, it must put the financial interests of the pension beneficiaries first.

And, I ask, what's wrong with investing American workers' money in America's infrastructure; America's jobs; and America's economy. Since when is America a bad investment?

If this bill passes something very real will happen. Pension funds that have invested in local economic growth and in our communities will begin investing overseas. Because H.R. 1594 prohibits the Department of Labor from providing information on ETI's, and rescinds the bulletin which provides guidelines on ETI investments, it will be safer for pension funds to invest overseas, where there will be absolutely no confusion about the legality of the investment.

Every day, Mr. Chairman, American workers invest their time and skills for a better America. ETI's give them another opportunity to invest in this Nation. ETI's are safe American investments. Let's not pass H.R. 1594 and send American workers' pension funds overseas.

Mr. FAWELL. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. SALMON].

Mr. SALMON. Mr. Chairman, today we will be voting on the future of \$3½ trillion in private pension money that will finance the retirement of millions of working Americans.

Pension funds have been protected from politics and pet projects since 1974 when fund managers were bound by law to look only at the economic return on

their clients' investments. However, Secretary Reich and the Clinton administration now have other plans for this money.

The Clinton administration believes that it has found a way to divert a chunk of pension money into social projects that the American people would not support or fund with taxpayer dollars. They are doing this by allowing and encouraging fund managers to put their investor dollars into economically targeted investments—investments that are targeted solely for their social agenda.

Aside from being liberal social engineering, this scheme might sound reasonable, right? Well, what Secretary Reich is not telling the American people who depend on pensions, is that these ETI's are far riskier than traditional investments, and that the administration policy is a clear violation of the spirit of the laws set up to protect America's private pension system.

Pork-barrel spending on liberal social projects is bad enough in today's tough budgetary times. But, to do it behind the backs of the American people, with the money they have saved for their own future is just plain wrong.

We have an opportunity today to stop this raid of private pension funds, and to protect the retirement future of our Nation's workers.

I commend the gentleman from New Jersey [Mr. SAXTON] for his leadership on this issue, I strongly support H.R. 1594, and urge passage of this important bill.

Mr. MARTINEZ. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Chairman, I rise today in strong opposition to this bill.

But, this bill does one good thing.

This one piece of legislation shows bluntly and blatantly where this country is heading under the Gingrich Republicans.

Some people say that there is no difference between the Republicans and Democrats. Well, these pages of legislation show that there is a huge gulf between the two parties.

And, the Republicans wish to create an even bigger gulf between Americans of different economic means.

Look at this bill.

They talk about targeted investments—and cite examples like public housing.

They define these as "investments that are selected for the economic benefits they create" and—these are their words—"may be more accurately described as politically targeted investments."

You want to talk about targeted investments?

Fine. But, let me ask you:

What do you think happened last week during debate on the B-2 bomber?

The vote on the B-2 had as much to do with local jobs and economies as it did with national defense.

I even received a letter from something called the B-2 Industrial Base Team. They weren't concerned with just the defense-related merits of the B-2. They talked about the economic benefits. They wrote that the "conclusion of the (B-2) will have a severe impact on our industry in (your district)", it would mean "the loss of high technology jobs."

Now, there are many decent Members on both sides of the aisle who voted for the B-2, and may have done so for these kinds of economic reasons. And that's their right.

But, if you voted to continue the B-2, and if you are planning to vote to cancel ETI's, please realize that the economic benefits of the B-2 are the same kind of collateral effects that you think is so terrible when it occurs in the form of public housing or public infrastructure.

Let's not forget the fact that today we are talking about private pension plans—not public money.

And a time when public money is clearly drying up—isn't this all the more reason to give average Americans the chance to fight crime, to educate our children, to house and feed our families if they so choose? I believe it is.

Furthermore, I am deeply upset by the tone of the rhetoric surrounding this bill, and the suggestion that every time the Federal Government sends a dollar outside of D.C., it ends up on the streets of our inner-cities.

I've seen lots of streets in my community in Chicago. And they aren't exactly paved with gold. In some cases, they aren't even paved.

So, where does the money go?

Let's pick—oh, completely at random—Cobb County, GA for instance.

Now, part of Cobb County lies in the 6th District of Georgia, a district that is represented by Congressman NEWT GINGRICH.

And while the Speaker and his troops rally against these kinds of targeted investments, guess how many dollars are targeted to flow into Cobb County—already one of the Nation's wealthiest counties?

Well, in one recent fiscal year, close to \$3½ billion in federally funded projects.

So if you want to talk about targeted investments, the Speaker better draw a big bull's-eye around his district as well.

Finally, I am glad we are debating this bill because it shows that the Republicans never had a Contract With America. Nope. They had a contract with some of America.

They had a contract with the part of America that can afford to dole out the campaign contributions to make sure Government works for them, while other Americans confront gangs and drug dealers in the lobbies of their public housing complexes.

As this bill proves, the Gingrich Republicans not only take the pork and the perks for their districts, they send the pain and poverty somewhere else.

That is what this bill is all about.

Mr. FAWELL. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, I thank Mr. FAWELL, chairman of the subcommittee of jurisdiction, for yielding time to me and would also like to express to him my appreciation and that of my constituents for all of his hard work on pension issues.

In my opinion, this issue is fairly simple. The Federal Government should not engage in the business of encouraging a specific type of investment which jeopardizes pensions of Americans. Economically targeted investments, or ETI's are social investments in which the social good or benefit of the investment is considered more important than the financial benefit created for the pension participant. In other words, the Clinton administration wants to risk the retirement funds of workers to promote its own liberal social agenda. H.R. 1594 would void this practice. If one is concerned about the security of America's retirees, this investment principle is unacceptable.

As we know, the Employee Retirement Income Security Act [ERISA] is the statute which protects the investment interests of retirees. Under the act, the Department of Labor is to act as the guardian of pensions. ERISA requires that private pension funds be invested for the sole financial benefit of plan participants and beneficiaries. The Department, through its promotion of ETI's, strays from the fiduciary standards mandated through ERISA and abdicates its role as the entity charged with private pension guardianship.

This debate is not about the worth of social investing; it's about the failure of the Clinton administration to execute its duty and responsibility under the law to protect the retirement funds of millions of Americans. Investments are never a sure thing; however, social investing offers, traditionally, a higher risk with lower returns.

It's already a well-known fact that Americans do not save adequately for retirement. This fact has been confirmed by recent articles in several well-respected financial journals. Why, then, should we permit the Clinton administration to compound the problem by undermining the investments of those Americans who have put money away for retirement? There is \$3.5 trillion invested in private pension plans in the United States. When Americans set money aside for retirement, the least they should be able to expect is that the pension managers will follow ERISA fiduciary standards and make wise investments with financial performance as the sole criterion. We must ensure that this trust is not misplaced.

I urge all of my colleagues to support H.R. 1594, legislation aimed at protecting America's private pensions by prohibiting the Department of Labor from promoting economically targeted in-

vestments. Join me in rescuing the retirement fund of all Americans from the politically correct, but financially destructive designs of Bill Clinton and Robert Reich. After all, can you claim to stand for the American worker and at the same time advocate a risky investment strategy that undermines his or her retirement funds?

Mr. FAWELL. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. WELDON], a Congressman and also a doctor.

Mr. WELDON of Florida. Mr. Chairman, I thank the subcommittee Chair for recognizing me, and I thank him for the opportunity to speak out on this issue.

Mr. Chairman, I went home to my district in August, like most of us did, and, hopefully like most of us, I very much enjoyed going back home. I not only enjoyed going back home to enjoy the beautiful beaches and weather of the space coast area of Florida, as well as the environment there, but I also very much enjoyed going back so I called hear from my constituents as to what I need to be doing up here in Washington. Indeed, I frequently find that I get some very, very good advice and very good input when I go back home, and this time was no exception.

I went up to Kennedy Space Center to speak to the employees up there who have concerns about what is going to be happening in the future with NASA and what are the job prospects there. But I had a very, very pleasant surprise when I was up there at Kennedy. I was at the Orbital Processing Facility, the place where they take those shuttles and get them ready for the next flight.

There are a lot of union employees there at the OFF, and I got some questions about the NASA budget and what is going to be happening in the future. But I also got a lot of questions from those union guys about Economically Targeted Investments, how they did not want their union pension funds being exploited for political purposes by the Clinton administration. They had a lot of concern about their hard-earned dollars being protected.

I was very much pleased to be able to say that the gentleman from Illinois [Mr. FAWELL], the subcommittee Chair, has a piece of legislation that will protect their hard-earned dollars, to make sure that when they are ready to retire, that the money is there for them, and that those funds have not been siphoned off for political purposes; that their hard-earned money has not been invested by the quiche-Chardonnay liberal crowd into what they think is the best thing to be done with their money, but that their money has been invested in the place where it should be, a place where their hard-earned dollars will be protected for the future of themselves and their families.

Therefore, I rise in very, very strong support of this piece of legislation.

□ 1515

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

I keep hearing over and over again, the words force, forced use of this money. I keep hearing that these pension plans that one of my colleagues from the other side related to have had such a dismal failure. But the instances he was citing were all State pension plans that are not covered or subject to ERISA, which are null and void as far as this debate is concerned, but he used it anyway.

It seems to me that over and over again they are convincing themselves and have convinced themselves of something that just is not so. If we look at the interpretive bulletin, and as I related to it in the committee meeting when this bill was being heard in committee, and read portions of the bill over and over again or the interpretive bulletin that is, where the fiduciary responsibility is not deleted, where the prudent man rule is consistent in the interpretive bulletin about that fiduciary relationship. I guess the hangup comes when some people read something and interpret it so literally, that they do not understand the realities of life.

An example, Mr. Chairman: Shall discharge his duty with respect to the plan solely in the interest of participants and beneficiaries. That is all well and good for the person that is managing. That has not changed at all. That person managing will still have to do that. But the thing that is overlooked here is the fact there is no investment made by anybody that does not have beneficial return to both parties, the person receiving and the person investing.

There is no investment that has ever been made by any of these pension funds that has not materialized a benefit to the person that used that pension fund, whether to create jobs or to bring a return or to lower a bond rating of a particular factory, which was done in one instance, and collateral investments have been made and have proved to be very successful as long as the managers are allowed to do their job.

This bill will not. What it will give rise to is anybody that wants to disagree with any investment made by those particular managers, it will give rise to a suit brought about by somebody disgruntled about the kind of investment they will make. The encouraging of investments is a wonderful thing to be done because some people that are making these investments maybe have not thought of some types of investments that would return them even a greater return than what they have been used to investing in, and that should be a great boon to the people depending on this money for their pensions and the return on the money that is invested for their pensions. I think if Social Security had done this a long time ago, we would give a better

return to the beneficiaries of Social Security, but it has not.

Mr. GENE GREEN of Texas. Mr. Chairman, will the gentleman yield?

Mr. MARTINEZ. I yield to the gentleman from Texas.

Mr. GENE GREEN of Texas. Mr. Chairman, I just heard the earlier speaker talk about the quiche and chardonnay crowd. Mr. Chairman, and my colleague from California, I represent the beer and barbecue crowd, and they are concerned about their pensions.

I want to get this straight because I have heard today about how they are concerned about the pensions of those working folks. These are the same folks that are cutting job training, they want to abolish the minimum wage, they want to cut education funding, and now they are going to encourage pension plans to invest overseas so they will transfer those jobs overseas; is that correct?

Mr. MARTINEZ. Mr. Chairman, I would say that is correct.

Mr. GENE GREEN of Texas. Lord help us, I hope they do not get to privatize the space program; they will be building it in Taiwan.

Mr. MARTINEZ. Mr. Chairman, reclaiming my time, that is exactly what has happened. The pension fund money is being invested overseas rather than creating jobs here. Somebody on the other side of the water is getting the benefit of those jobs where we and our people, in such dire circumstances, should be getting the benefit of it.

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

Mr. FAWELL. Mr. Chairman, I yield myself such time as I may consume to attempt to, perhaps, reply to some of the, I think, rather outlandish comments that are now being made.

This legislation has in no way altered the basic ERISA law. And it certainly, insofar as domestic investments are concerned or foreign investments are concerned, absolutely no change has been made whatsoever. I think that is so very important to point out.

Mr. Chairman, I would also like to point out that the Committee on Investment of Employee Benefit Assets, and these are the professionals who are out there in the field, in fact, the entities that are a part of this particular committee represent 164 corporate pension plan sponsors totaling close to \$1 trillion. They support his legislation.

Why do responsible people, and I think we are basically responsible people, why are we supporting this? It does not take a rocket scientist to understand this legislation. It simply is saying to the Clinton administration that you should stop, because you have an obligation of trust as the watchdog for proper investments, you should stop hyping and promoting building clearinghouses, which has never been done before, at a cost of millions of dollars, and doing everything possible short of mandating. Of course, they are not about to do that, they are smart

enough not to; but, obviously, that is down the line. The President did it in Arkansas, put a quota. He will not put a quota here. But, look, why should we have all this hyping, all this promoting for a certain class of investments?

Now, Mr. Chairman, it has been mentioned many times with ETI's that they have not been called that in the past. They were never defined until the Clinton administration came along and defined them. Obviously, individuals, whether it is Mr. Reagan who was talking about a specific housing mode of investment, or others will make those kinds of queries. But never before has the Department of Labor gone out and said we are going to take a special class of investments and we are going to push them. We will try to convince the people who make these decisions, the fiduciaries and the managers of these plans.

We are the regulators. We walk into their office and say, how many ETI's do you have? Now, that is the fox guarding the chicken coop. They are supposed to be the watchdog, they are not supposed to be out there hyping.

Mr. Chairman, I suppose one could say we could have a clearinghouse showing junk bonds that could really sell. That is a nice special class of investment. One can make a lot of money in junk bonds, but most managers of pension plans do not invest in junk bonds. Why? Because there is the prudent man rule that has made it very, very clear that it is a sound conservative determination that they must make, and their sole purpose is to protect. And it goes back to common law, English law, that you protect the trust. The trustee's job is to protect the beneficiaries of the trust, whoever they may be, the worker, the pensioner or their children. And nobody is going to come in there and try to fiddle and tinker with it, and we have social tinkering now at a mass scale. That is the difference.

Mr. Reagan never suggested that. Mr. Kemp never suggested that. Mr. Reich suggested that, he is from Harvard and his elite views. And he was smart enough to know you cannot just push it across with a mandate. But, as I said in my opening comments, this is like Willie Sutton; they know where the money is. There is \$3.5 trillion. Most public pensions are not in very good condition. Look at all your States, your teacher pension funds and so forth and so on. Thank goodness we were smart enough in Congress to have a thrift pension that basically is under the same kinds of requirements as in ERISA.

Now, maybe we should volunteer to have our pensions utilized for socially correct or politically correct investments, but that is what we are talking about here. We are simply suggesting that we should go back to the status quo. We do not need a clearinghouse run by some private entity that is in the securities business, basically, to

try to peddle the concept of economically targeted investments. It just is not necessary. That is going way out.

When the interpretive bulletin came out in June of last year, people looked at it and gulped. For the first time, at least as far as I know, legally speaking, it was written what an economically targeted investment actually is. And I have read that definition, and right away it says investments selected for economic benefits they create in addition to what goes to the beneficiaries. Hey, what are we centering on? What are we interested in? We are interested in those economic benefits that we can get for third parties.

Now, Mr. Chairman, I agree with the gentleman from California that there is not an investment ever made that there are not incidental benefits. But we do not make an investment for the incidental benefits, and that is what the Department of Labor is doing. And I do not think we would want to let them do that when we think of our trust. If that is some right wing conservative nutty idea, then I plead guilty. But I think we should look long and hard at what has been done here and hopefully not spend too much time criticizing on ideologies. I think it is a good sound provision.

I think what the gentleman from New Jersey [Mr. SAXTON] has done, has nipped in the bud the concepts that Mr. Reich wants to inflict upon the laboring people of this country. I know that Government's record is lousy, lousy, lousy when we look at the Social Security fund. And the rule is what, from Congress on high. We say we can only invest for instance in Government bonds. What type of a pension plan is that? What type of a fiduciary would say that? Only Congress would say that. How we are going to let Congress start monkeying around.

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

Mr. MARTINEZ. Mr. Chairman, yield myself the balance of my time.

Mr. Chairman, let me try to sum up here.

If we read the interpretive bulletin, it says those requirements of the prudent man rule shall prevail. The interpretive bulletin has not changed in law, contrary to what the gentleman from Illinois [Mr. FAWELL] says. What he just reiterated a minute ago about ridiculous statements, there is nothing more ridiculous than saying that all the pension investors agree with this bill. The Pension Rights Center is a group representing millions of pension beneficiaries with over \$1 trillion in assets, and they oppose H.R. 1594. More than that, Mr. SAXTON was written a letter by the Council of Institutional Investors in which the first paragraph, describing \$800 billion on behalf of beneficiaries, was a very polite paragraph. But they get down to the nitty-gritty of it in the important paragraph, and it says, unfortunately, we believe H.R. 1594 may unwittingly create precisely the kind of encroachments on

ERISA's critical investment standards it is thought to prevent by creating exactly the kind of political pressure you indicate is inappropriate.

The legislation imposes special constraints on some types of investments not politically favored by supporters of the bill.

□ 1530

Mr. FAWELL. Mr. Chairman, yield 4½ minutes to the esteemed gentleman from New Jersey [Mr. SAXTON], the basic creator of this legislation.

Mr. SAXTON. Mr. Chairman, I thank the gentleman for yielding time to me.

First let me say that the gentleman from Texas, Mr. STEVE STOCKMAN, has been a tremendous help on this bill. His name should have appeared as a co-sponsor, and did not through some oversight. But I want to thank him and make known that he has been a tremendous help on the bill.

Let me just say, Mr. Chairman, that this bill does three things: It negates the interpretive bulletin that has been talked about so much here today; it does away with the clearinghouse that was created by the Clinton-Reich effort; and it stops other Federal spending on efforts to move forward with this flawed concept. In other words, it returns the situation to the status that it enjoyed exactly during the Bush and Reagan administrations. Nothing has been changed with the law, nothing has been changed with the administration. It just rolls back what was done by Secretary Reich and President Clinton.

We have heard a lot about issues that have very little to do with this bill today. We have heard about the flow of capital to foreign countries, which we will talk a little bit more about later. We have heard about political motives. We have heard about cutting job training and other programs. My goodness, we even heard about the B-2. These issues have little, if anything, to do with the substance of what this administration has done.

There are two issues that are of importance in this entire debate. One is, what does it do to the rate of return on investments made with private pension moneys, the moneys of America's workers? The rate of return is something we all need to pay a great deal of attention to. It is our responsibility, if the overwhelming weight of evidence shows clearly that the rate of return significantly diminished in those pension funds that engage in ETI's.

Alicia Munnell, who is with the Department of Labor and has been nominated to be a member of the Council of Economic Advisers in the administration, concludes that a 2-percentage point difference will be felt by pension funds that invest in ETI's. Olivia Mitchell of the Wharton School concludes exactly the same thing. Some academics that dealt in the world of finance, Mar & Nofziger-Lowe, conclude that as much as 210 basis points or 2.1 percent less in returns can be expected in ETI's, so there is no debate, in my

opinion at least, about the effect in investing in these socially risk investments.

The other issue is whether or not this increases risk. I think it was best summed up in a recent article in Business Week by Alina Burgh, President Clinton's top pension regulator, when she admitted "The ambitious nature of this project is difficult because it is a radical notion."

It is a radical notion, as it is pursued by this administration. That is why I think, without exception, Members of this House should vote to say, "Stop and look at this situation, roll back the interpretive bulletin." The pension community backs our bill. The Committee of Investment and Employee Benefits Assets, people who know and deal in these issues every day, and which represents 164 corporate pension plan sponsors who are responsible for investing and management of \$900 million in ERISA-governed pension assets on behalf of 12 million participants, back this bill.

The Association of Private Pension Funds and Welfare Plans, the APPWP, say, "We share Representative SAXTON's opinion and yours"—this is addressed to Mr. FAWELL—"that ERISA's fiduciary standards will not be interpreted in a manner that will allow the value of benefits of plan participants and beneficiaries to be jeopardized."

We do not want to jeopardize other people's money. They have saved it for their retirement: The factory worker, the clerk in the department store, the person that delivers parcels. All these folks are concerned, and we should be as well. Vote to support this bill.

Mr. STARK. Mr. Chairman, I believe most people on both sides of the aisle know why we are spending the time of the House on this issue. This is nothing more than a cynical maneuver by the Republicans to give themselves some cover with the elderly for the massive cuts they are planning to make in Medicare and Medicaid.

We have heard the Republicans charge that the Clinton administration is raiding private pensions to fund the liberal social welfare programs that were rejected by the voters last November. And we have heard how the valiant Republicans are going to come charging in on their white horses to slay this misty Clinton dragon by passing H.R. 1594 and rescue the fair elderly from this dreadful attack on their pensions.

But we all know what is really going on. The Republicans are, as we speak, making plans for massive cuts in Medicare and Medicaid that will cause extensive harm to millions of senior citizens, both in their pocketbooks and in the quality of their health care.

Let me tell you a little bit about what the Republicans have in store for the elderly. The House Republicans' budget resolution would require us to cut \$270 billion out of the Medicare program over the next 7 years. This is a huge cut—the program would be 25 percent smaller in 2002 under this plan than it would be under current law.

What this means for the elderly is that Medicare premiums and deductibles will go up,

while benefits will go down. The Republican cuts will reduce seniors' access to health care and require new co-payments for services such as lab tests, home health care, and skilled nursing facilities.

On average, Social Security recipients will pay \$3,500 more out of their own pockets for medical care over the next 7 years if the Republican Medicare proposals are passed. In the year 2002 alone, average costs for each senior will rise by \$1,060. Seniors in my area of California would pay \$1,466 more on average for health care by 2002—or a total increase of \$4,783 over the next 7 years.

Seniors on Medicare have an average income of about \$18,000 apiece—how can they possibly pay more than \$1,000 more per person for their medical care? About 83 percent of Medicare benefits go to seniors with income below \$25,000. Medicare cuts of the size proposed represent a massive tax hike on middle and lower income seniors.

Lower-income seniors, especially those fortunate enough to need extended nursing home care, will be hit again by the additional huge cuts proposed in the Medicaid program. Almost two-thirds of Medicaid spending goes to senior citizens, largely for seniors in nursing homes who have already used up their own resources to pay for medical care. Turning Medicaid into a block grant program, as some Republicans have proposed, and cutting it by as much as \$182 billion over the next 7 years will make it impossible to continue current levels of support for low-income seniors—at a time when needs will be rising dramatically because of Medicare cuts. A costly extended illness can happen to anyone—and these cuts would remove the Medicaid safety net for seniors who need extended nursing care.

We still don't have the full details of the Republicans' plans to cut Medicaid and Medicare. The proposals we've seen so far don't generate enough savings to meet their budget targets, but they are bad enough. For example, in the Supplementary Medical Insurance (Part B) part of Medicare—which is financially sound and does not require cuts to maintain its solvency—the Republicans may be planning to double the deductible that Medicare patients have to pay before Medicare reimburses them for their doctors' bills. And then after doubling the deductible, they plan to index it—just to make sure it goes up every year thereafter. At the same time, the Republicans plan to increase the premiums that Medicare enrollees must pay. And if that isn't enough, they may also want to make patients pay a higher share of costs of laboratory services, home health care services, and skilled nursing facilities.

And so the bottom line is, Medicare patients will be paying more up front for their coverage, and when they get sick and actually use medical services they'll pay more for that too. And if they use up all their resources and still need nursing home care, the Medicaid program will no longer be there to provide a safety net.

Now you understand why the Republicans need some protection, some way of conjuring seniors into believing that the Republicans are protecting their retirements, even as they eviscerate the Medicare and Medicaid programs. Today's charade is part of that effort.

The Republican bill under consideration focuses on a minor Labor Department regulation which lets pension fund managers consider ancillary benefits when making investment de-

isions. These are known as Economically Targeted Investments, or ETI's.

For decades, there has been strong bipartisan support for requiring pension funds to seek the best possible financial returns for the sake of their beneficiaries. The Employee Retirement Income Security Act [ERISA] imposes that fiduciary duty on managers on the Nation's private pension plan assets of \$4.5 trillion.

Early on, however, pension managers raised the question whether, in choosing between two investments with equally promising financial prospects, they could favor the investment with collateral benefits to their group or community, such as whether an investment creates jobs in the local community or stimulates small business development or even whether to pass up an investment because the money would go abroad. In a series of letters to pension funds seeking clarification on this issue, the Department of Labor made two points. First, investments failing to make competitive returns could not be chosen. But, second, among investments with competitive returns, pension managers would not violate their fiduciary responsibility by giving consideration to collateral benefits.

This interpretation of ERISA is nonpartisan. It originated more than 20 years ago and has been endorsed by the Carter, Reagan, Bush and Clinton administrations. However, it was not widely known, even among pension professionals, since it only existed in a series of individual letters. Following a recommendation by the Bush administration's outside advisors on ERISA, the Labor Department put out an interpretive bulletin last year which restated the guidelines issued not only by Democratic administrations but also by the Reagan and Bush administrations.

In response, the Republicans began accusing the Clinton administration of plotting to hijack America's pension assets to fund its liberal social agenda. As time has passed, their claims have grown wilder. Last week, Congressman SAXTON, the chief sponsor of H.R. 1594, issued a preposterous study. First, it claims that the interpretive bulletins issued June 23, 1994 was a stealthy response to the Republican takeover of Congress in January 1995.

No less absurdly, it claims that ETI's would reduce pension assets by an average of \$43,000 per beneficiary over a 30-year span. That phony calculation comes from, first, assuming the pension funds consistently sacrifice 2 percent a year in financial returns on ETI's, blatantly against the law; and second, that pension funds will grow 12 percent per year for 30 years reaching \$2,075,000 per recipient. Because of ETI's, there would be only \$2,032,000 apiece.

In fact, just as in health care and Social Security, the Clinton administration is working to defend the elderly:

The policy to permit economically targeted investments does not cost the elderly one red cent in pension benefits, since the rules require that the risks and returns of ETI's must be the same as for other investments.

The current interpretation of the law is identical to the policy adopted under previous Presidents, including both President Reagan and President Bush.

The ERISA rules require that all investments have competitive rates of return and risk but only permit the additional consideration of collateral benefits.

The legislation proposed by Vice Chairman SAXTON is not just a solution in search of a nonproblem, it is pernicious. It would create a thought police for pension fund managers. In effect, the Saxton bill says to fund managers: "Don't let us catch you considering anything in your investment decision that may benefit your country or your fellow citizens. If we catch you thinking about anything but the fund's bottom line, you're in trouble."

What else does the vice chairman's bill say to pension managers?

It says you can protect yourself by putting your funds in Wall Street but don't even think about putting them in a small business in your own community.

It says you can invest in a multinational firm that plans to close factories and ship jobs abroad, but don't even think about investing in an American company to help create jobs here.

It says you can invest in a foreign company that will compete with the United States but don't even think about using your funds to help an American company compete.

It is ironic that Representative SAXTON would sponsor a bill to eviscerate the ETI regulations when his own State of New Jersey has two very effective ETI programs.

In New Jersey, the State Investment Council directs the investment of about \$34 billion of assets for the State public employees pension funds. The following is a statement of the council's policy:

The Council has determined that investing for the benefit of fund beneficiaries need not exclude investments in New Jersey or those which advance other social goals. In 1984 the Council codified a list of Social Investment rules for the State Division of Investment that includes reviewing all reasonable investment proposals presented by New Jersey corporations and giving preference to New Jersey investments if other terms are equal.

Is the vice chairman going to go back to New Jersey this weekend and demand that the State pension funds be prohibited from giving preference to New Jersey investments if other terms are equal?

There is another program the council initiated in 1986:

Under the program, the Division determines a market rate for mortgages once a month and creates an open window to buy identical New Jersey mortgages from banks at this rate. In fiscal year 1992, one million dollars of New Jersey mortgages were purchased. The open window can prevent temporary capital gaps from developing if New Jersey suffers a temporary shortage of secondary mortgage funds.

Is the vice chairman going to go home this weekend and demand that the State pension funds stop buying New Jersey mortgages and only purchase mortgages from other States?

Mr. Speaker, in summary, there is no truth, not even a kernel, to the Republican charges—the ERISA rules are very clear that ETI's are permissible only when they do not involve any sacrifice of return to plan beneficiaries. The interpretive bulletin on ETI's is no threat to private pension funds—Ronald Reagan didn't think so when he was President and nonpartisan experts do not think so today.

But the Republicans, who are desperate for any cover to protect themselves from the growing wrath of the seniors, have latched on to this bulletin and have shamelessly invented whatever distortion necessary to create an

imaginary threat to private pension plans—a wispy dragon which they will slay by passing H.R. 1594.

Responsible Members of Congress should have no part of this charade. If the Republicans want to make billions of dollars in cuts in Medicare and Medicaid, they should do it in the open without diversions or smokescreens and they should accept the responsibility. I urge you to vote against H.R. 1594.

Mr. PETRI. Mr. Chairman, I rise in support of this legislation to defend our Nation's pension plans from the liberal social agenda of the Clinton administration.

With the Republicans in control of the Congress, the Clinton administration has had a difficult time funding its liberal programs.

As a way around this, the President's Department of Labor has been encouraging pension fund managers to invest in politically correct projects.

In effect, the President is using America's savings as his own piggy bank, and in doing so, he is putting his political goals ahead of protecting our Nation's pensioners.

This policy puts \$3.8 trillion of private pension plan assets at risk.

Should we have Government bureaucrats picking which investments are better than others?

I don't think so.

This bill is intended to put an end to this backdoor money grab.

However, there is a related but equally important issue.

Pension plans now contain more than half of our economy's investment capital.

Since fund managers have a responsibility to invest their holdings prudently, they tend to be extremely risk-averse and invest only in large, well established companies.

With their fiduciary responsibilities in mind, fund managers are understandably reluctant to invest in growth companies and venture markets.

These markets are comprised to small companies, whose success is vital to our Nation's economy.

While these markets are riskier, their rate of return generally out performs other investments.

However, as a result of risk-averse fund management, I doubt that there will be enough capital channeled to these economically important investments.

We have to try to enable fund managers with fiduciary responsibilities to invest a portion of their assets in these riskier ventures.

There should be ways to do this while safeguarding our Nation's pension plans.

Of course, this is different than investing in ETI's.

Investments in venture markets are focused on economic benefits, while ETI's are focused on social and political goals.

Mr. PACKARD. Mr. Chairman, today we take up economically targeted investments [ETI's]. Those who support ETI's represent they are safe, prudent ways to encourage investments in low-income housing, infrastructure, and business.

However, nothing could be further from the truth. ETI's are simply a backdoor for the Clinton administration to finance liberal social programs, and for the Department of Labor to sneak around laws that direct pension fund managers to invest solely for the financial benefit of plan participants.

This pursuit of ETI's is frightening. It is dangerous to the security of private pension savings. The overriding concern for pension investors must be fiscal soundness not liberal, social programs that could cost a 35-year-old worker \$43,298 in pension income by the time he or she retires at the age of 65.

Mr. Speaker, as a cosponsor of H.R. 1594, I strongly urge all of my colleagues to support this measure, restoring law and fiscal responsibility within the Department of Labor.

The CHAIRMAN. All time for general debate has expired.

The committee amendment in the nature of a substitute printed in the bill shall be considered under the 5-minute rule by sections, and pursuant to the rule, each section shall be considered as having been read.

Pursuant to the order of the House of today, the Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment made in order by the resolution. The Chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall not be less than 15 minutes.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SENSE OF THE CONGRESS.

It is the sense of the Congress that it is inappropriate for the Department of Labor, as the principal enforcer of fiduciary standards in connection with employee pension benefit plans and employee welfare benefit plans (as defined in paragraphs (1) and (2) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (2))), to take any action to promote or otherwise encourage economically targeted investments.

Mr. FAWELL. Mr. Chairman, I ask unanimous consent that the remainder of the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 2. PROHIBITIONS ON DEPARTMENT OF LABOR REGARDING ECONOMICALLY TARGETED INVESTMENTS.

(a) IN GENERAL.—Interpretive Bulletin 94-1, issued by the Secretary of Labor on June 23, 1994 (59 Fed. Reg. 32606; 29 C.F.R. 2509.94-1), is null and void and shall have no force or effect. The provisions of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) shall be interpreted and enforced without regard to such Interpretive Bulletin.

(b) RESTRICTIONS ON DEPARTMENT OF LABOR REGULATIONS.—The Secretary of Labor may not issue any rule, regulation, or interpretive bulletin which promotes or otherwise encourages

economically targeted investments as a specified class of investments.

(c) RESTRICTIONS OF ACTIVITIES OF THE DEPARTMENT OF LABOR.—No officer or employee of the Department of Labor may travel, lecture, or otherwise expend resources available to such Department for the purpose of promoting, directly or indirectly, economically targeted investments.

(d) ECONOMICALLY TARGETED INVESTMENT DEFINED.—For purposes of this section, the term "economically targeted investment" has the meaning given such term in Interpretive Bulletin 94-1, as issued by the Secretary of Labor on June 23, 1994 (59 Fed. Reg. 32606; 29 C.F.R. 2509.94-1).

SEC. 3. PROHIBITION ON FEDERAL AGENCIES AGAINST ESTABLISHING OR MAINTAINING ANY CLEARINGHOUSE OR OTHER DATABASE RELATING TO ECONOMICALLY TARGETED INVESTMENTS.

(a) IN GENERAL.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 et seq.) is amended by adding at the end the following new section:

"PROHIBITION ON FEDERAL AGENCIES AGAINST ESTABLISHING OR MAINTAINING ANY CLEARINGHOUSE OR OTHER DATABASE RELATING TO ECONOMICALLY TARGETED INVESTMENTS

"SEC. 516. (a) IN GENERAL.—No agency or instrumentality of the Federal Government may establish or maintain, or contract with (or otherwise provide assistance to) any other party to establish or maintain, any clearinghouse, database, or other listing—

"(1) for the purpose of making available to employee benefit plans information on economically targeted investments,

"(2) for the purpose of encouraging, or providing assistance to, employee benefit plans or any other party related to an employee benefit plan to undertake or evaluate economically targeted investments, or

"(3) for the purpose of identifying economically targeted investments with respect to which such agency or instrumentality will withhold from undertaking enforcement actions relating to employee benefit plans under any otherwise applicable authority of such agency or instrumentality.

"(b) ECONOMICALLY TARGETED INVESTMENT DEFINED.—For purposes of this section, the term 'economically targeted investment' has the meaning given such term in Interpretive Bulletin 94-1, as issued by the Secretary on June 23, 1994 (59 Fed. Reg. 32606; 29 C.F.R. 2509.94-1)."

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by inserting at the end of the items relating to part 5 of subtitle B of title I the following new item:

"Sec. 516. Prohibition on Federal agencies against establishing or maintaining any clearinghouse or other database relating to economically targeted investments."

SEC. 4. TERMINATION OF CONTRACTS.

The head of each agency and instrumentality of the Government of the United States shall immediately take such actions as are necessary and appropriate to terminate any contract or other arrangement entered into by such agency or instrumentality which is in violation of the requirements of the provisions of this Act or the amendments made thereby.

SEC. 5. EFFECTIVE DATE.

The preceding provisions of this Act (and the amendments made thereby) shall take effect on the date of the enactment of this Act.

The CHAIRMAN. Are there amendments to the bill?

AMENDMENT OFFERED BY MR. GENE GREEN OF TEXAS

Mr. GENE GREEN of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GENE GREEN of Texas: Insert after section 4 the following new section (redesignating section 5 as section 6):

SEC. 5. PROTECTION OF DOMESTIC INVESTMENTS.

Nothing in this Act shall be construed as prohibiting the investment by an employee benefit plan (within the meaning of paragraph (3) of section 3 of the Employee Retirement Income Security Act of 1974) in domestic investments, as distinguished from foreign investments.

Mr. GENE GREEN of Texas. Mr. Chairman, as we heard earlier in the debate on H.R. 1594, this is a bill that is unneeded, because there have been no mandates, but this amendment, if we are going to pass an unneeded bill, would make sure for those investment managers that it is clarified.

The amendment that we are considering seeks to accomplish one simple action. This amendment ensures that domestic investments are not prohibited under H.R. 1594. It ensures that American pension managers will not be afraid to invest in America and in American jobs. The amendment was read and it is in the RECORD, so all we are saying is that nothing in this amendment shall be construed as prohibiting the investment by an employee benefit plan in domestic investments, as distinguished from foreign investments.

Mr. Chairman, I am vested in a private pension plan. I am sure when I am 65 it is not going to provide as much as I would like, but I am one of those people who invested in it. And I do not want them to take chances with my money. I want to make sure they maximize the investment so I have as much as I can when I am 65.

However, I also want to make sure and I want them to have the encouragement to invest in the United States, instead of going overseas. My concern in this bill, if given a choice with the same risk, if this bill passes, someone who is a prudent investment manager may say, "I can get 15 percent in building houses somewhere overseas and maybe 15 percent in the city of Houston," they will go overseas because of the restrictions of this bill. I want to make sure that that is not the question. I want them to build those houses in Houston, TX, or Cleveland, OH, or anywhere else if the risk is the same as going overseas. That is why we need to adopt this amendment.

H.R. 1594 repeals an interpretive bulletin that says that pension managers may consider collateral benefits where the risk and return otherwise meet the prudent standard. In doing so, H.R. 1594 clearly discourages and may effectively forbid the consideration of collateral benefits by U.S. fund managers.

In fact, this bill, if read the way it could be interpreted, could ban pension fund investments in mortgage pools, such as those guaranteed by the Federal National Mortgage Association, holding the trustees legally liable if they authorize such investments, so we would hope they would encourage in-

vestments in mortgages in the United States.

To avoid that potential liability, pension plans may be reluctant to invest in these American investments that have collateral benefits. Everything has a collateral benefit, Mr. Chairman. When the State of Connecticut, and I notice the other side did not mention that, invested in a firearms industry, because that is a major job producer in Connecticut, I am glad they did; but I notice in their talking and discussing about it, they did not talk about that investment. They talked about some other investments that did not pan out.

I wish I could say that every investment all of us individually or as fund managers invested in was good. Some pay a higher percentage because they have a higher risk. That is what we want, is to take a little higher risk, but for higher benefits for those of us who are the ones who are going to benefit from it.

For 20 years pension fund managers have been building up solid portfolios in these economically targeted investments that diversify their holdings and provide a competitive rate of return. They create those jobs locally and incur no unusual investment risk. My amendment provides once and for all that nothing in H.R. 1594 prohibits that employee benefit plan from investing domestically.

As it is, pension plans have been increasingly investing overseas, and as Members will see from this chart, U.S. pension funds are increasing from 3.7 percent in 1989 to 8 percent in 1994. It is projected to go to 12 percent foreign investment in 1999.

What I do not want us to do is to encourage that by passing this bill. That is roughly \$800 billion of our money that is being invested overseas when it could be invested here at the same rate of return. Let us make it clear, if this bill is enacted, a pension fund manager, faced with two choices of equivalent investment, one in the United States and one abroad, the safe course would be to invest abroad, because of 1594. Let us correct that by passing this amendment.

The failure of this amendment today would only encourage litigation, cost more for those of us who are vested in these pension plans, and call into question whether we are going to invest in creating American jobs in our country. This bill would throw a legal shadow over a decision to invest in a hometown or State, but would not affect a pension fund if it is doing the same thing in foreign securities or foreign countries. It is irresponsible for this Congress to talk about Social Security when Social Security cannot invest in anything but Government bonds.

If we want to do it, let the majority come up and say "We are going to do that," but let us invest our pension fund in our country at a competitive rate. Let us keep American investment here at home. Let us vote yes to create

more jobs, and vote for the Green amendment.

Mr. FAWELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I feel like President Reagan when he said, "Now, there you go again." There is absolutely nothing in this legislation that proscribes collateral benefits one bit. There is nothing in this bill that prevents pension plans from investing domestically or in foreign investments, nothing whatsoever. ETI's are still left standing, assuming, of course, as the folks on the other side of the aisle have consistently said, that the prudent man rule lives. Certainly the prudent man rule does live.

There is only one question that is ever asked of an investment under the prudent man rule and under the ERISA laws. That is, is that something that is a solid investment for the people who are the beneficiaries of that trust fund? A lot of housing, for instance, programs are quite acceptable, obviously, under ERISA. The whole concept of this fantastically successful program, which has raised \$3.5 trillion for the workers of America, is that the Federal Government is not micromanaging and dictating where the investments have to go.

This legislation obviously, coming along somehow heralding and trumpeting the fact that collateral benefits are something that are in some way proscribed, says "Well, we are going to have to amend the prudent man rule. We are going to have to start now having Congress mandate where the investments will go."

There is not a person here who is not, of course, deeply in favor of investments from pension plans all over America going into domestic investments, and obviously, that is occurring. That is where most of them go, obviously. However, is there any one of us who is going to say, "You cannot invest globally?" Do we want to start saying, "We are going to direct you," the fiduciaries, "where you are going to invest?" If we just give a little bit of thought about that, I do not think any one of us wants to believe that that is what we would want to do.

□ 1545

Remember, this bill simply is putting us back to where we have always been in America, but without that clearinghouse and without the interpretive bulletin of June 1994. Otherwise, it is exactly the same with the proscription in this bill that says to the Department of Labor, do not go out hyping and promoting in regard to a special class of investments called ETI's. It makes it very, very clear that you can have advisory opinions about specific investments. If someone wants to write to the Department of Labor and ask in their opinion is this a good investment, the Department of Labor can give that opinion.

But this is an absolutely unnecessary amendment and it can only do harm,

because here it comes, folks, the avalanche of people in Congress who know how best to direct the fiduciaries of America as to where their funds shall go. We will unfurl the flag that we are doing it for domestic purposes because of the fact that I suppose some evil people sneak out a global investment. Heavens, how terrible that would be.

This amendment is an absolutely terrible one. We just have not given the thought to it that we should. In effect, you are amending the prudent man rule.

Obviously that should not be done.

Mr. TRAFICANT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we are talking about perception here. Does the Congress of the United States want the perception to exist that we want to make sure, if you look at the words, that nothing in this bill shall be construed to prohibit pension plans from investing in domestic as opposed to foreign investments? That is the substance of the Green amendment. It makes no significant change in the ultimate goals of the legislative initiative.

But do we want the American investment community thinking, my God, if we are going to make a call to the Department of Labor, we could be in some way violating the law, and we better be careful about trying to develop some understanding about the legal consequences of, in fact, investing these pension funds in America?

We are talking about perception. To me, this is unbelievable. ERISA, as consistently interpreted by Department of Labor and the courts, allows pension plans to consider the collateral economic benefits of a potential investment, provided that potential investment has a comparable risk-adjusted return to other potential investments and is otherwise consistent.

This bill, then, would call into question the ability of pension plans to consider collateral benefits. As a result, pension plans may be reluctant to invest in domestic investments that have collateral domestic economic benefits, even though they may have competitive risk-adjusted returns that otherwise meet standards of ERISA.

In any regard, the result because of perception could be increased pension plan investment in foreign investments. Is that the goal we are after here?

I am not an attorney. All I know is this: U.S. pension plan funds increased from 3.7 percent in 1989 overseas to 8 percent in 1994. They are projected to hit over 12 percent in 1999. What is the goal of America's private pension plan money here?

Is the Congress of the United States saying we do not want the perception that you can invest in domestic activities even though the risk is no greater? The Green amendment does not in fact turn back the clock on your legislation.

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

Mr. TRAFICANT. I am not going to yield at this point.

I have listened to this entire debate. I do not take offense with the sponsor of the legislation. I think anybody that is trying to ensure that we do not have a social program agenda with private pension plans, that makes sense to me, but we are beginning to debate perceptions and we are going to start chasing the American pension plan dollars overseas. It has increased fourfold over the last 5 years.

My God, here we are cutting money in this country. We are saying we cannot be the parent for all, we cannot provide all the money in America, and I am agreeing with some of that conservative logic. But what I do not agree with is where the private sector should be incentivized to invest in markets in America where their chances of success are fair and reasonable. That leveraged incentivized sort of government programming makes sense to me.

To oppose this Green amendment is simply like saying, "Look, we take a tarnished look at what the Democrats are trying to do to this bill." The Democrats are going to oppose your bill. Democrats believe if it is not broke, do not fix it.

Now, maybe there is some people in the Department of Labor who are going too far, and maybe there will be some social agenda over there that does not meet what the approval of decent investments, but let me tell you something. When you look at the savings and loan debacle, you were not looking at economically targeted investment types of abuse, you were looking at the money abuse of those pension funds. They were putting them in their friends' accounts. They were swinging with the money.

Now what do I know? I am just a sheriff, in my former public life here, and all I am saying is, look, any perception that will lead to more offshore investment of America's pension funds to me is a no-brainer here. You should be accepting the Green amendment and should not be arguing it.

The CHAIRMAN pro tempore (Mr. MCINNIS). The time of the gentleman from Ohio [Mr. TRAFICANT] has expired.

(By unanimous consent, Mr. TRAFICANT was allowed to proceed for 1 additional minute.)

Mr. TRAFICANT. Mr. Chairman, I am glad to yield to the gentleman from Illinois [Mr. FAWELL], the distinguished subcommittee chair whom I respect very much, if he still wants to engage me in some debate here.

Mr. FAWELL. Mr. Chairman, I only wanted to point out that all of those industrial figures to which the gentleman made reference to, of course, that all has occurred and it has got nothing to do with this legislation.

Second, I want to emphasize the fact that there is no prohibition in our legislation as to collateral benefits. That is to say, an investment is not deemed to be violative of the prudent man rule just because there are some incidental

benefits that come from an investment. Indeed, every investment does have that. All that the prudent man rule says is that you shall concentrate upon the very first order of business.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio [Mr. TRAFICANT] has again expired.

(By unanimous consent, Mr. TRAFICANT was allowed to proceed for 2 additional minutes.)

Mr. TRAFICANT. Mr. Chairman, I would like to respond to that.

Mr. FAWELL. If the gentleman would yield further, all we are trying to do is change that emphasis. We are not changing the substantive law. And once we start getting into the point of suggesting that, for instance, investments in infrastructure, nothing herein contained should be deemed to make that illegal, then the implication is, the negative implication is that others, for instance, do not rate as high and the implication also is that you do not even have to follow the prudent man rule in order to be able to have a domestic—

Mr. TRAFICANT. Reclaiming my time so I can respond a little bit. I have great admiration and respect for the gentleman from Illinois [Mr. FAWELL].

I do not think you on the House floor want to in any way promote pension funds going overseas. I know you do not want to do that. I am concerned about the perception that is what is coming out of the Congress of the United States of America. Unless you disagree with this, and unless I need a shrink on this legislation, I want to just ask a question: Is in fact the sponsor, the gentleman from Texas, Mr. GENE GREEN, saying that all he wants to do is ensure that this bill does prohibit pension plans from investing in domestic as opposed to foreign? That is the substance of this amendment. We are making it into something other than what it really is.

I do not want anybody to frivolously and flippantly mess around with my pension account or my constituents'. But, by God, when there is a reasonable investment with the same collateral risk and rewards in America, I do want the U.S. pension plans to find the domestic market, period. I will say that on the floor.

Here is what I am saying to the gentleman. We are projecting in the next 5 years to exactly triple U.S. pension plan investment overseas. Is that what the Members of the Congress of the United States want? I am beginning to believe it is, because I cannot see jobs, I cannot see investment, I see 4 million housing units, rental units needed, people trying to find first-time homes, and we are going to give the perception, stay away from domestic investment. And if you call Department of Labor, watch you do not get in trouble. Beam me up.

Mr. SAXTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would say to the subcommittee chairman, the gentleman from Illinois [Mr. FAWELL], do not be so distraught over this amendment because whether it passes or not, it has no effect, because the bill does not do what the proponents claim that the perception is.

I would just like to make the observation that the opponents of this bill are very clearly anxious to avoid the key issue, the underperformance of ETI's. That is what this bill is all about, and this amendment has nothing whatsoever to do with the issues that are of concern to those of us who have worked so hard for a year to get this bill in the place that it is today.

All of the amendments from the other side, those to come, seem destined to distract attention away from the fact that ETI assets offer lower yields and more risk. That is what this is all about. The bill has nothing whatsoever to do with foreign investment or domestic investment.

Would anybody who is watching this debate think that those of us on this side of the aisle would be foolish enough to restrict domestic investment? Do they think that you would be foolish enough to read the language and really think that is true? It is fallacious, and your amendment is fallacious, as well, and you know it.

Frankly, I am a little bit surprised that we are having this debate here today. Let me talk a little bit about how fallacious your amendment is. The amendment starts with the assumption that an ETI investment and alternative investments offer exactly, that is your words, the same risk-adjusted return.

I would suspect that you would agree with me that at some point you cannot determine what is exactly the same rate of return and exactly the same risk. The Nobel laureate James M. Buchanan, in his book "Cost and Choices," makes that very point. There is no such thing in the world of economics as exactly the same rate of return and exactly the same risk, so this amendment on its face begins with an assumption that is not possible, according to the learned James Buchanan.

I would also point out that your argument is fallacious for another reason, and that is that the charts we have before us talk about the outflow of capital beginning in 1989 and continuing into years beyond 1995. Why, this bill was not even thought of until 1994. Yet beginning in 1989, 5 full years earlier than the bill was conceived, you claim that somehow the perception was created 5 years before the bill was conceived that made all this happen.

Mr. Chairman, it is an attempt to confuse. This amendment has nothing to do whatsoever with the main issues that we are talking about here today, the protection of the rate of return and the minimization of risk in private pension plans.

□ 1600

I would make one other point, and that is that as I look at these charts, 1989 and 1990 were certainly watershed years. We had the largest tax increase that year in the history of our country. Then we had another one that trumped it in 1993, making it more difficult to do business in this country, making it more difficult, with the votes of all of my colleagues over there, to make a profit in this country.

My, it is not strange that pension fund managers would invest off shore. Is it not strange? So I say to the gentleman on the other side of the aisle, he is not fooling anyone. This has nothing to do with the substance of the bill. The bill does not speak to this in any way. The bill does not restrict domestic investment in any way. No one would be foolish enough to advance such a notion, except perhaps the author of this amendment.

So I guess I would plead with the gentleman from the other side of the aisle, please, let us get on with the business of the day. If the gentleman wants to talk about whether or not the rate of return in ETI's is less, it is 2 percent less or 3 percent less or whatever it is, or how much it hurts private pension plans, that is fine. We can talk about that. That is what this bill is about.

Or if the gentleman wants to talk about how much additional risk is created by virtue of investing in socially motivated risky investments, we can talk about that.

Mr. Chairman, this amendment has nothing to do with the substance of this bill whatsoever. It is an attempt, and I think a poorly disguised attempt, to cloud the issue.

Ms. VELÁZQUEZ. Mr. Chairman, I move to strike the requisite number of words.

I rise in strong support of the Green amendment to H.R. 1594.

This amendment simply states that nothing in this bill will prevent pension plan funds from investing in domestic ventures. Frankly, I can't see why anyone would oppose an amendment that simply reaffirms our commitment to job creation in this country.

Our country is quickly becoming a two-class society, and the No. 1 cause of this, is the lack of job creation. As companies in our communities close down and relocate in search of lower wages, what will take their place? At best we are replacing these good-paying blue collar jobs with minimum-wage, part-time positions. We are just not creating enough good-paying jobs in the United States. Every effort must be made to encourage economic growth in our struggling communities across this country. Mr. GREEN's amendment simply wants to make sure that we continue this commitment.

How can my colleagues expect districts like mine, which are in desperate need of a viable economic base, to develop good paying jobs if we are not

willing to make a minimal commitment to domestic investment. If we continue to favor investment abroad over investment in our country because of cheap labor and lower costs, communities like mine will slide further down the list of priorities, receiving less and less. As domestic investment dwindles, pension funds will use their limited resources more and more in the suburbs, and will continue to shortchange our cities.

In my own district there is potential for growth through a variety of business opportunities. But if we are not willing to encourage domestic investments, we may be sacrificing the next Microsoft or Motorola, before it even gets started.

I call on my colleagues to support this amendment. What type of message would we be sending to investors across this country if we are not willing to adopt a simple amendment that encourages domestic investment. I yield back the balance of my time.

Mr. GENE GREEN of Texas. Mr. Chairman, will the gentlewoman yield?

Ms. VELÁZQUEZ. I yield to the gentleman from Texas.

Mr. GENE GREEN of Texas. Mr. Chairman, let me address some of the concerns that the gentlewoman from New York [Ms. VELÁZQUEZ] has raised and the other side has raised.

Mr. Chairman, they talk about the amendment, but let me read it for the Members of the House who may not be on the floor who are watching this.

Nothing in this Act shall be construed as prohibiting the investment by an employee benefit plan, within the meaning of paragraph 3 of the ERISA, in domestic investments as distinguished for foreign investments.

I do not understand why they are so worked up in opposing it, unless that is their concern. Granted, they are stretching to pass this bill. They are stretching to say that people invested foreign because of the 1990 tax bill. I did not read their lips in 1990, and I hope I did not this year. But by stretching to oppose this amendment, by using that, all we are saying is that when you are comparing apples to apples, let us do it domestically. That is all this amendment asks for.

Mr. Chairman, my colleagues can come up with any other interpretation. Frankly, I do not understand why they are opposing the amendment, but I appreciate the support of the gentlewoman from New York [Ms. VELÁZQUEZ].

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, now we are seeing one of those tragedies unveiled on the floor of the House that happens so many times. If my colleagues want to hoodwink the American public, if they want to confuse the American public, if they want to confuse their fellow colleagues, just say that we are going to send money overseas or we are going to invest overseas or we are going to send

business overseas, and everybody and their brother in the country will rise up in righteous indignation.

Mr. Chairman, the fact is that this bill has nothing to do whatsoever with whether any more investment is sent overseas is or is not sent overseas. It has nothing to do with that whatsoever.

A socially poor investment overseas is just as bad as a socially risky investment in the United States, and particularly when we are talking about somebody else's money. We are not talking about our money. We are talking about Federal Government money. We are talking about a retiree's money. We are talking about the money of someone who is going to retire.

Mr. Chairman, let us not confuse the issue with somehow or other believing that this legislation will increase or decrease any investment overseas. It has nothing to do with that.

Mr. CLAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the sponsor of the bill indicated that the purpose of this legislation is concerned with underperformance of ETIs. The majority cited in their report that they were concerned about higher risk and lower return from social investing by public pension funds.

The GAO has said that the risk for social investment, if that is what we want to refer to it as, for ETI's, is no greater than the risk for other investments. We have got to keep in mind, it is very important for us to note, that the public pension funds that they are referring to are not required to take the substantial protections that we require of the private pension funds under ERISA. So that is no argument as to why we should do anything with ETI, and especially to encourage investments in overseas places.

Mr. Chairman, I support this very important clarifying amendment that is offered by the gentleman from Texas, Mr. GENE GREEN. This amendment will ensure that the bill will not further the already startling trend of overseas investments of our U.S. pension funds.

Why are we affirmatively discouraging investments in America? ERISA, as consistently interpreted by the Department of Labor and the courts, allows pension plan managers to consider the collateral economic benefits of a potential investment, provided, first, that the potential investment has a comparable risk-adjusted return to other potential investments, and second, that it is otherwise consistent with the standards of ERISA.

This is all that the Labor Department's interpretative bulletin says. Nonetheless, the original version of H.R. 1594 effectively forbids any consideration of collateral benefits. The Fawell substitutes before us now only modestly improves its predecessor and it calls into serious question the ability of pension to consider collateral benefits. The partisan hysteria surren-

dering the bill only adds to its chilling effect.

Mr. Chairman, as a result of this bill, pension plan managers would be very reluctant to make investments that bear collateral domestic benefits. To placate the underlying spirit of this cynical and partisan bill, the so-called prudent man likely will avoid otherwise attractive and lawful domestic investments like the plague. Any prudent man reading this legislation knows that pension managers will direct greater investment overseas, in turn, endangering more American jobs.

Mr. Chairman, I urge my colleagues to support the Green amendment.

Mr. KNOLLENBERG. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. KNOLLENBERG. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, I would like to address this matter of the GAO report that the previous speaker alluded to. As everyone knows, there are dozens of examples of ETI's that can be studied and reported on. The GAO happened to select the seven best ETI's that were available for them to report on.

Even given the dismal record of ETI's, it is conceivable that in a few cases that there can be five cases which can be expected to match market returns, and that was the case with the seven examples that were studied.

When the remainder of ETI's are studied, the performance of ETI's is not so rosy, and the pattern we have been talking about all afternoon comes right back. Returns are down and risk is up. Because of the limited data set, the GAO report even acknowledges and they say this in their report: "These results cannot be generalized to other pension plans."

Mr. Chairman, I thank the gentleman for yielding.

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

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Green amendment and in strong support of American jobs. Let me understand this bill the way that it is written now. Pension funds collected from American workers are often invested in American corporations doing business abroad or foreign corporations in other countries.

These pension dollars, these pension fund dollars, are attracted to low wages in other countries, are attracted oftentimes to weak environmental laws in other countries and nonexistent worker safety laws in those countries.

These dollars taken from American workers are invested in these companies, American or foreign companies, doing business abroad because they see great profits in these businesses doing business in Mexico, or doing business in Taiwan, or doing business in low-wage countries.

Mr. Chairman, the problem with that is that the end of that, the complete circle, is that those companies, often American companies doing business in other countries, manufacturing in other countries, those businesses then taken those same jobs from American workers.

I have money taken out of my wages into a pension; that money is invested in another country, often an American business or foreign business; that comes back and takes my job away.

Some pension fund managers, as the gentleman from Texas [Mr. GENE GREEN] asserts, would like to consider that issue; that if we are going to invest in pension funds around the world, that that money not come back and steal American jobs. I do not know how in this Chamber my friends on the other side of the aisle can explain to American workers that we sent their money overseas so that it could come back and take our jobs.

The interesting thing, I have heard my friends on the other side of the aisle, many of them, not so much the ones in this debate, rail about the evils of NAFTA, which I agreed with them on; the evils of GATT, the evils of extending NAFTA to Chile; the evils of the Mexican bail out. They were right about that.

Now they want to allow these pension dollars to go abroad and be invested in companies doing business in countries where they do not pay very much, where they have weakened environmental laws and nonexistent labor laws and it comes back and steals Americans jobs.

You cannot have it both ways. If you think those trade agreements are bad, as most of them have been, they you do not want our pension dollars subsidizing jobs in other countries so they can come back and take our jobs as American workers.

I say to my colleagues to go back to their district this weekend and explain to them, if they vote "no" on the Green amendment, and explain to them how they said go ahead and invest my pension dollars in enterprises in other lands that turned around and took my job.

Mr. Chairman, I do not think that my colleagues want do to that. I ask for a "yes" vote on the Green amendment.

Mr. GENE GREEN of Texas. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Texas.

Mr. GENE GREEN of Texas. Mr. Chairman, we talked about the concern about investing overseas and the opposition to the amendment. I have a hard time figuring out why they will not just accept it.

□ 1615

But granted, investment overseas would cause, in this amendment, if we do not take this amendment, it may increase it.

Let me talk about, in the National Journal in June of this year, they

talked about the challenge to pension fund trustees, and let me just quote, "The congressional Republicans, by turning ETI's into an ideological issue, are casting a chill over pension fund investments that could strengthen the homegrown economies of the States, cities and towns the pensioners grew up in and, indeed, that they continue to depend on for their broader, long-term security".

Mr. BROWN of Ohio. Pensions, under the gentleman's amendment, pension fund managers are going to be able to have leeway to make these decisions? Correct?

Mr. GENE GREEN of Texas. We are not changing that by this amendment. I am concerned the whole bill may cause pension fund managers to say, "We do not want to invest in riskier investment in inner-city Cleveland or inner-city Houston, but we can invest in inner-city Lebanon. Maybe we ought to build housing in Lebanon, not inner-city Houston, because we can get a greater return over there." I do not want to scare those pension fund managers off from U.S. investments by this bill. I am concerned by seeing some of the letters that raise concerns about this bill.

Again, the article was in the National Journal saying just what the gentleman's argument was. We have workers here who pay into a pension. We do not want any mandates on ETI's, and I would be up here like a lot of Members opposing it if they said, "No, we want you to put it back into the inner-city investments that are shaky." If those investments pay a decent rate of return for their risk, then why should they not?

Mr. MARTINEZ. Mr. Chairman, I move to strike the requisite number of words.

(Mr. MARTINEZ asked and was given permission to revise and extend his remarks.)

Mr. MARTINEZ. Mr. Chairman, I guess what it really boils down to is some of my friends on the other side of the aisle prefer foreign investments with these pension funds rather than investments here in America.

I heard earlier the idea hoodwink, and social.

I guess they have a problem with social. It must translate to them as communism anytime you try to do some social good in our country. But as far as hoodwinking, they are the ones trying to hoodwink the American people.

The fact is the investments have been going overseas and abroad in recent years simply because people are afraid to make those kinds of decisions of investments here because of some run-in with the Federal Government and the ERISA, but let me tell you the other side has taken a twist on an old song that used to go something like this, for those of you that are old enough to remember it, "Eliminate the negative, accentuate the positive." What they have done is elaborate the negative as to not accentuate the positive.

Let me give you an example of the collateral kind of investment that was made in a company that you all are very well aware of here in the United States. A pension plan purchased a block of stock in a corporation, thereby increased its cash flow and its cash position, and the equity in that company, and that allowed the company to borrow funds at a lower rate so they could expand the factory and create more jobs. You wonder who that company was? That was General Motors, and what is good enough for General Motors is good enough for America, I have always said, and good enough for me.

When you talk about, and continue to be talked about on the other side, about investing in underperforming investments, let me tell you now, even with the interpretive bulletin, even with the law as it is now, that would be breaking the law if they did it knowingly. The trouble with any investment you make, you never know how it is going to turn out. You investigate it and hope it will do the best it possibly can for the beneficiaries. Something can always go wrong.

Wake up and open your eyes. We are living in a depressed economy in this country. There are places in this country right now that are living in depression-like conditions. These places need relief. They need investment here in the United States that will return profit here in the United States, not send it abroad.

Mr. GENE GREEN of Texas. Mr. Chairman, will the gentleman yield?

Mr. MARTINEZ. I yield to the gentleman from Texas.

Mr. GENE GREEN of Texas. Mr. Chairman, I thank my colleague, the gentleman from California, not only for his leadership on this bill, but also for yielding to me, and again for the benefit of the Members, let me again read the amendment for the Members who have not had a chance to look at it: "Nothing in this act shall be construed as prohibiting the investment by employee benefit plans within the meaning of paragraph 3 of section 3 of the ERISA in domestic investments as distinguished from foreign investments."

Let me also go to read the infamous, I guess, 94.1 interpretive bulletin: The fiduciary standards applicable to ETI's are no different than the applicable to plan investments generally. "Therefore, if the above requirements are met, the selection of the ETI or the engaging in an investment course of action intended to result in the selection of an ETI will not violate it." We are talking about the same investment standards, and again, for the people, who are trying to pass this bill, Mr. Chairman, to say that they are not encouraging overseas investments, again, why should they not accept the amendment if they are more concerned about investing again in Lebanon, PA, than in Lebanon, the country?

Mr. DORNAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and my colleagues, this argument that overseas pension investment is going to drain capital from the United States reflects, I believe, a fundamental lack of understanding about economics. In fact, in 1994, the last year for which we have pension data, the net flow of capital into the United States amounted to about \$150 billion.

It is very misleading to argue that the international investments of pension funds drain capital from the United States when the facts show a large capital inflow to our U.S. economy. The pension data cited creates the impression that capital is being drained from the United States when the official data clearly shows the big picture is one of a net investment in the United States.

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

Mr. DORNAN. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, I would like to thank the gentleman from California for bringing up this very important point. As a matter of fact, as the gentleman from California well knows, this publication, called "Economic Indicators," which is put out by the Council of Economic Advisors, who, incidentally, are appointed by the President, and prepared for the Joint Economic Committee, verifies that exact fact. As a matter of fact, it is kind of interesting to look at the history, and these charts give just the opposite impression.

This year, as the gentleman pointed out, \$151 billion more in capital flowed into this country from pension funds and other sources than flowed out, \$150 billion net income to us.

Let me just go back and give you some perspective on this. In 1990, it was \$92 billion more flowed into the country than out; in 1991, it was down to \$7 billion more flowed in than flowed out; and then we began to rebuild the next year, it was \$61 billion; the next year, \$99 billion; and this year, \$150 billion more came across our borders, coming in, than went out.

Again, the proponents of these charts for this amendment are once again trying to confuse this situation by saying more capital, and these charts certainly give the impression that you are saying more capital is flowing out than flowing in; quite the opposite is, in fact, the case.

Mrs. MINK of Hawaii. Mr. Chairman, I move to strike the requisite number of words.

Mr. GENE GREEN of Texas. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK of Hawaii. I yield to the gentleman from Texas.

Mr. GENE GREEN of Texas. To my colleague from Hawaii, I thank the gentlewoman for yielding.

The issue just came up, and I am glad it was brought up, concerning the

amount of investment in our country as compared to the amount of outflow in investment. I share the concern.

The United States is the greatest country in the world to invest in, and that is why people will come here. But why should we discourage our own investment managers or pension managers to go overseas?

We might want to consider, it was announced today or yesterday, the investment in the Rockefeller Center by some foreign nationals who are now deciding it was not such a great investment, but I agree, we have a great investment climate here. Why should we not have American workers creating their own American jobs instead of encouraging, by not adopting this amendment, what may be happening in this bill?

Again, I urge an "aye" vote on the Green amendment.

Mrs. MINK of Hawaii. Mr. Chairman, reclaiming my time, I would like to say that there is such a disparity in the arguments that have been made on the legislation that is pending, and for that reason I rise in strong support of the Green amendment, with the hope that it will clarify some of the arguments that have been made with respect to this bill. I rise in strong opposition to H.R. 1594, because I think it erroneously interprets the bulletin that is referred to as 94-1.

The supporters of this legislation contend that the bulletin IB-94-1 that the Labor Department issued promotes these economically targeted investments at the expense of the pension beneficiaries, and as the gentleman from Texas [Mr. GENE GREEN] said, with the possible interpretation that the moneys could go to foreign investments rather than investing in the future of our own country. The interpretive bulletin issued by the Labor Department says nothing of the kind. It does not change the fiduciary responsibility one iota, and therefore it seems to me that this legislation is entirely unwarranted and unnecessary. The interpretive bulletin put out by the Labor Department does not change the primary fiduciary responsibility, which is to assure the safety of the investments of these pension funds.

What it does say is that in looking toward the investments that are permitted, that the trustees and so forth who are making these decisions ought to consider the additional benefit that could be accrued to communities if investments were placed in the communities with reference to housing projects and projects of that kind.

Further, contrary to what has been said on the floor this afternoon by the supporters of this legislation, the Labor Department bulletin 94-1 does not supplant ERISA at all. The bulletin does not put the goal of promoting and encouraging the application of ERISA to these economically targeted investments above the fiduciary's first commitment to the participants and the beneficiaries of the benefit plan.

So it seems to me that the bulletin has to be looked at in the context in which it exists over previous administrations and over this administration, and I believe you will see that it fully complies with the intent and the spirit of the letter of the law as expressed in ERISA. Fundamentally, what this disagreement seems to be between the Republicans and the Democrats on our side is whether these pension funds should be invested at all in projects that are located in our communities that could upgrade the infrastructure, meet some of the pressing needs of various aspects of our communities, and in that context, the Green amendment is vital, and it should be adopted, because what it says is that in the investments that are made of our pension funds, we ought to pay attention to the needs of this country, of the domestic needs of this country, and in doing so I believe it also goes to the heart of our objection to this pending legislation, and that is to negate the importance of economically targeted investments which have an ancillary social benefit to our communities.

These investments that are being made in our communities are economically targeted and without any jeopardy whatsoever to the employees, to the pension plans, to their annuities, and afford no additional risk. So it seems to me we are debating a piece of legislation here that makes an egregious accusation against this administration, nullifies the policies of two previous administrations and does tremendous social harm and disadvantage to our local communities.

For that reason, I support the Green amendment and urge that H.R. 1594 be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas, Mr. GENE GREEN.

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

RECORDED VOTE

Mr. GENE GREEN of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 192, noes 217, not voting 25, as follows:

[Roll No. 649]

AYES—192

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)

Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks

Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Edwards
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Forbes
Fox
Frank (MA)
Frost

Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kingston
Klecza
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara

Matsui
McCarthy
McHale
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Montgomery
Murtha
Nadler
Neal
Neumann
Ney
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Riggs
Rivers
Roemer
Ros-Lehtinen
Rose

Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—217

Allard
Archer
Army
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combust
Cooley
Cox
Crane
Crapo
Creameans
Cubin
Cunningham
Davis
Deal
DeLay
Dickey
Doolittle

Dornan
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)

Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Norwood
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce

Quillen	Shadegg	Tiahrt
Quinn	Shaw	Torkildsen
Radanovich	Shays	Upton
Ramstad	Shuster	Vucanovich
Regula	Skeen	Walker
Roberts	Smith (MI)	Walsh
Rogers	Smith (TX)	Wamp
Rohrabacher	Smith (WA)	Watts (OK)
Roth	Solomon	Weldon (FL)
Roukema	Souder	Weller
Royce	Spence	White
Salmon	Stearns	Whitfield
Sanford	Stockman	Wicker
Saxton	Stump	Young (AK)
Scarborough	Talent	Young (FL)
Schaefer	Tate	Zeliff
Schiff	Taylor (NC)	Zimmer
Seastrand	Thomas	
Sensenbrenner	Thornberry	

NOT VOTING—25

Ackerman	Jefferson	Rush
Buyer	Lantos	Sisisky
Coburn	Lipinski	Torricelli
de la Garza	McDermott	Tucker
Durbin	Menendez	Waldholtz
Fields (LA)	Moakley	Williams
Ford	Mollohan	Wolf
Furse	Parker	
Hall (OH)	Reynolds	

□ 1651

Mr. STOCKMAN and Mr. MANZULLO changed their vote from "aye" to "no."

Mr. KINGSTON and Mr. MURTHA changed their vote from "no" to "aye." So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PAYNE OF NEW JERSEY

Mr. PAYNE of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PAYNE of New Jersey: Insert after section 4 the following new section (redesignating section 5 as section 6):

SEC. 5. PROTECTION OF INVESTMENTS IN INFRASTRUCTURE IMPROVEMENTS

Nothing in this Act shall be construed as prohibiting the investment by an employee benefit plan (within the meaning of paragraph (3) of section 3 of the Employee Retirement Income Security Act of 1974) in infrastructure improvements.

Mr. PAYNE of New Jersey. Mr. Chairman, I have an amendment at the desk. Mr. Chairman, today we are here to target the working people in this country again, this time in the ability of the pension funds to make investments that take collateral benefits into consideration when plan fiduciaries are making investment decisions with pension contributions.

Economically targeted investments are any investments or assets that earn competitive risk-adjusted rates of return while also producing collateral benefits such as infrastructure revitalization, economic development, and job creation. To be sure, these components are integrally linked, because when there are jobs available, more money circulates back into the economy and stimulates economic growth.

My amendment simply states that employee benefit plans cannot be prohibited from considering infrastructure improvement and revitalization as part of their investment decisions.

I have sat here on many occasions this session listening to many of my

colleagues talk about getting Government out of the lives of the people and today we are sitting here considering a bill that would immobilize the investment decisions of many pension plans. We also hear on one hand proclamations from the majority that individuals must be more personally responsible, but then on the other hand we remove the incentives that promote personal responsibility like job creation, and that's what 1594 does.

My amendment today would free the hands of plan fiduciaries because they would be allowed to consider infrastructure improvement as part of their decisionmaking process.

By providing billions of dollars for investment in American companies and infrastructure, ETI's serves as an economic catalyst while still offering competitive investment returns to pension plan participants and retirees.

Since I know everyone here is interested in the long-term economic health of our Nation and its retirement system, I urge my colleagues to support my amendment.

□ 1700

Mr. SAXTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would just like once again to make the observation that the opponents of this bill seem to be very anxious to avoid the key issue, and that issue is the underperformance of economically targeted investments. All of the amendments from the other side seem designed to distract attention away from the fact that ETI assets offer lower yields and more risk than normal investments. Thus, ETI's are especially inappropriate for pension investment.

Once again, I believe the amendment of my friend from New Jersey [Mr. PAYNE] is totally unnecessary. There is nothing whatsoever in the bill that prohibits or in any way inhibits pension fund managers from investing their funds for the purposes stated in the gentleman's amendment. Therefore, I think the amendment is unnecessary and I believe intended to cloud the issue.

To the issue of ETI's and their underperformance, I would point once again to four studies done to demonstrate this quite conclusively. The first one was done by Alicia Munnell, an employee of the Department of Labor nominated to the Council of Economic Advisors by the President, who concludes in a study and report that she has done that there is a differential of about a negative two points, 2 percentage points in the rate of return, on ETI's. Olivia Mitchell of the Wharton School comes to exactly the same conclusion, that ETI's underperform by about 2 percentage points. Marr, Nofsinger, and Low has a study showing it is worse than that, that ETI's underperform by 2.1 percent.

So in the interest of moving this process forward, and in the interest of protecting the rates of return for pri-

vate pension participants and in the interest of keeping risk low, I would suggest that this amendment is unnecessary and that all Members should vote no.

Mr. MARTINEZ. Mr. Chairman, I rise in support of the Payne amendment.

Mr. Chairman, I will not take 5 minutes. I will try to be very brief because it is the same old thing. Collateral benefits, if you took the strictest interpretation of the fiduciary relationship, a pension manager would not be able to invest in collateral investments.

Under this law, it puts even a greater cloud to that kind of investment, not necessarily abroad, but here. The fact is that these are good investments. I cited earlier the case of GM. That was a collateral investment that returned not only to the company itself, but benefit to the employees of that company and especially those that it created jobs for, and it created certainly a great benefit to the beneficiaries of the pension fund.

That had to be approved by the Department of Labor and was approved by the Department of Labor, and not under Clinton's administration. But you keep bringing up this idea that somehow or another the Clinton administration is doing something different than what previous administrations have done, and therefore a need for this.

I think there are two things that have the other side hung up. The word "social," social programs, that somehow some of them equate to something nefarious or something that is not good, because it equates to socialism or something else, because it benefits somebody in a depressed neighborhood or such. That is the farthest thing from the truth.

The other thing is this idea of the fiduciary relationship or fiduciary responsibility that says the funds must be invested only for the benefit of the pension fund or the beneficiaries of that pension fund. If you really think about that for an instance, that is just taking it a little bit too literally. The fact is there is no investment made anywhere, anyplace, that somebody who is receiving the benefit of that investment does not receive a benefit, sometimes very great benefits, as in the case of GM.

I think the Payne amendment, trying to protect those kinds of collateral economic investments, is a very good one that is necessary to continue the kinds of work that have been successful, not the examples of the ones that have been unsuccessful. So many of the instances where they have been unsuccessful, the people actually violated the law in doing it, and still the law was there to try to protect against it and it did not. There is nothing in life that is so guaranteed that there is not going to be something that goes wrong once in a while. But you take a few instances and elaborate that to the greatest extent you possibly can to make the case you wanted to make for

something totally unjustified, and in this case this is the case with this bill. I recommend the acceptance of the Payne amendment. At least it makes the bill a little more practical in regard to collateral investments.

Mr. PAYNE of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. MARTINEZ. I yield to the gentleman from New Jersey.

Mr. PAYNE of New Jersey. Mr. Chairman, the gentleman is absolutely right. The plan fiduciaries cannot even consider the investment also unless all things are equal. That is what makes this so scary. 1594 leaves a lot of ambiguity about the ability of plan fiduciaries to make these kinds of investments. I only seek to clarify, so that infrastructure improvements can be considered. ETIs are still subject to the prudent man standard as they have always been. So I would urge once again that my colleagues support this amendment.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all I want to emphasize again the bill does not prohibit pension plans investment in ETIs of any kind. So it does not matter what it is. The bill does not prevent you from investing in those ETIs.

However, if you accept this amendment, then you create a negative implication for all other ETIs that we do not mention in the law. So every other ETI not mentioned in the law then becomes suspect. So if we are going to effectively prohibit any promotion of ETIs, either directly or by inference, then the bill cannot include specific reference to any particular type of plan investment.

The bill does not change the legal status of ETIs, so pension plans can continue to invest in infrastructure improvements if they want to, but it surely is inappropriate for Congress to be passing judgment on any particular type of pension plan investment. ERISA clearly and properly leaves it to the plan manager and the fiduciaries to determine whether an investment is prudent for that plan.

So let us not have a negative impact on ETIs simply because we single one out. Let us make very sure that we do not get in the business of determining as a Congress what are good or what are bad investments. That is up to the manager, as I indicated, and the fiduciaries, to determine, not us.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. PAYNE].

The amendment was rejected.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 6, insert after line 2 the following (and redesignate section 5 as section 6 accordingly):

SEC. 5. AUTHORITY OF DEPARTMENT OF LABOR WITH RESPECT TO INVESTMENTS IN THE CONSTRUCTION OR RENOVATION OF AFFORDABLE HOUSING UNITS.

Nothing in this Act (or the amendments made thereby) shall be construed as prohibiting the Department of Labor from issuing advisory opinions regarding the legality of investments in the construction or renovation of affordable housing units.

Mr. TRAFICANT. Mr. Chairman, I am not standing on the floor today saying the Republicans want to ship pension plan investment overseas, nor am I standing on the floor today saying that the Republicans want to send jobs overseas. These previous amendments talked about specific activities, such as nothing in the bill shall be construed as prohibiting pension plans from investment in infrastructure improvements.

The Traficant amendment does not in fact deal with a provision of the bill that would prohibit pension plan investment in housing. But I would like to have the attention of the other side of the aisle. My amendment deals with an advisory opinion on housing being given to someone who may invest or want to invest in the housing in the United States of America.

Let me say this: We need 4 million rental units minimum just to meet demand. I am not talking simply about low income housing here. I am talking about affordable housing, first-time home buyers. And the Traficant amendment says nothing in this act shall be construed as prohibiting the Department of Labor from issuing advisory opinions.

It does not say that investors have to invest in American housing or not. But it says nothing in the bill shall be construed as prohibiting the Department of Labor from interacting with a reasonable concern from some pension account who may want to invest in American housing.

Now, look, that is a significant difference here. I voted to roll back regulations in this country that have overburdened our economy and shipped jobs overseas. I think we have gone too far when a dog urinates in a parking lot and that it is deemed a wetland. But mine does not deal with the issue of investing in housing; it does deal with who has more information than the Department of Labor on, in fact, American domestic housing needs?

If a pension plan out there wants to make an investment in housing, in a development in Dallas, in a condominium for senior citizens in Colorado, and they want information, nothing in this bill should be construed as in fact prohibiting the Department of Labor from giving them an opinion relative to that concern.

This is a reasonable amendment here, unless the Congress of the United States is saying look, do not worry about housing, the Congress of the United States and taxpayers are going to take care of housing. I am talking about a specific need. I am talking

about an advisory opinion. I am not talking about a limitation that the bill speaks to on housing.

My amendment is not ill-intended. I do not think that we can afford to have fiduciaries guessing if they will get sued each time they are interested in investing in constructing housing in this country.

This is a reasonable amendment, and let me say this: The California Public Employees Retirement System funneled \$375 million into construction of 32 first-time home buyer homes. The yields have already exceeded 20 percent return more than originally anticipated. The New York City Employees Retirement System invested in the construction of 15,000 affordable housing units. It is enjoying a return nearly 30 percent higher than its fixed income portfolio.

Housing investment trusts of AFL-CIO, \$1.1 billion from 380 pension plans. If this trust was in fact publicly traded as a fixed income fund, it would rank as either No. 1 or No. 2 in the United States of America.

Folks, the taxpayer cannot afford all this housing. Mine deals with an advisory opinion to take some of the nebulous gray area out of some investment planner who would in fact call the Department of Labor seeking information.

Now, I think this is a reasonable amendment. It does not require a whole lot of animosity here or fanfare.

Mr. Chairman, I would ask for this reasonable amendment to be approved.

Mr. SAXTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would just make the observation that the opponents of the bill seem to be very anxious to avoid the key issue, the underperformance of ETIs. All of the amendments from the other side seem to be destined to distract attention away from the fact that ETI assets offer lower yields and more risk than normal investments; thus, ETIs are especially inappropriate for pension fund investments.

The bill as it stands does not in any way prohibit the Department of Labor from issuing advisory opinions.

□ 1715

Nor does it prohibit the Department of Labor, nor did it discourage domestic investment, nor did it encourage foreign investment, nor does it do any of the other things that these amendments purport that it does. This is just an attempt to divert attention away from the key issues. Those are the underperformance of ETIs and the additional risks posed by ETIs. I ask all Members to vote against this amendment.

Mr. FAWELL. Mr. Chairman, I move to strike the last word in opposition to the amendment.

If I can have the attention of my good friend from Ohio, I know that there is no better man in this Congress when he jumps on an issue to articulate his views. I think it is important

that we make it clear that in the report language there is a statement that I think addresses precisely the point that the gentleman is understandably bringing forth. That is, and I quote: Nothing in the bill is intended to affect the ability of the DOL to issue advisory opinions, information letters, typical releases, prohibited transaction exemptions, or other pronouncements interpreting and applying ERISA fiduciary responsibility rules—and this is the important part—to particular factual situations or exempting specific transactions from the prohibited transaction provisions.

We did not want it understood that when we were objecting to a specification of a broad class of investments, which is what ETI's are, that this did not mean that when someone, as for instance Jack Kemp, when he made the request to Secretary Dole for a specific advisory opinion, that is quite possible. We have made it, I think, very, very clear in the report language that it is possible. I would hope on that basis the gentleman would withdraw his amendment, because I think you can rest assured that in a circumstance where a specific investor wants to find out where his particular investment stands in the viewpoint of the DOL, he can get that advisory opinion.

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

Mr. FAWELL. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, the gentleman is not opposed to advisory opinions, but the legislative debate here today dealt with offshore investment of pension plan money, dealt with infrastructure; and the legislative history can be construed in many, many different ways.

I think ETI's applied to housing at times can be a little bit partisan here. Housing may not necessarily be an economically targeted investment in this country. I believe that it should be not in the report language but it should be part and parcel to the bill itself that treats such investment with such return on its merit.

Mr. FAWELL. Mr. Chairman, reclaiming my time, I would hope the gentleman would not do that, because, again, now he has in statutory form all the negative implications to others who might be seeking letters of opinion.

We want to make it very clear that any time someone has an economically targeted investment, and they believe that the adjusted returns are sufficient to justify that, and if there is any question, and a lot of your fiduciaries will have those questions, that they feel free that they can propound these requests for advisory opinions.

I think the amendment has the unfortunate consequence of putting in jeopardy all of those others unless we start specifying for every one. It has always been a power of the Department of Labor to issue specific advisory opinions. In fact, when President

Reagan first spoke on the subject, it was on housing. It was a request for a specific opinion from the Department of Labor, which he was able to get. And we have made it clear that that is not being altered, should not be altered at all.

So I think there could be unintended consequences here, when it is, let us say, in other areas, in infrastructure or whatever, because they do not have specific statutory language, then you raise that negative implication.

Mr. TRAFICANT. Mr. Chairman, if the gentleman will continue to yield, taking that argument, if I were to accept that argument, why do we not just have, and I could rework my amendment to say that on the advisory opinion listed on a broad base in the report language that it shall be in fact incorporated in the text of the bill and take away such dubious nature and vagueness that would be involved and leave it not with just housing then but to satisfy some of the concerns people may have on this side? Take your report language that you say speaks to that intent and take that report language on the basis of our dialog here and incorporate it into the form of an amendment that in fact puts it into the text of the bill, not just the report language. If the gentleman will do that, I will withdraw my amendment, resubmit it in its general form, which would in fact incorporate the gentleman's report language into the text of the bill.

Mr. FAWELL. Well, all I can say is that the report language is one thing. It is full and complete, and the gentleman is talking about a major lifting of language and inserting it in the bill.

I do not think I could agree to that, but I can assure that what the gentleman are thinking about, individual factual opinions on a specific investment that is what we are talking about.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FAWELL] has expired.

(By unanimous consent, Mr. FAWELL was allowed to proceed for 1 additional minute.)

Mr. FAWELL. Mr. Chairman, we do not want this construed to mean that there can be just generalized opinions. So I think it is something that ought to remain in the report language. And I repeat, I think if what the gentleman has is centered only upon housing, then all other ETI's would, I think, have a negative intention.

Mr. TRAFICANT. Mr. Chairman, if the gentleman will continue to yield, what I was saying is it would incorporate his language in the report language, not with its specificity towards housing but its general nature into the text of the bill. See, this side of the aisle is believing that if what the gentleman is saying cannot be affirmed by putting into the bill, then how strong is the intent of it listed in the report language?

So if in fact the bill itself would clarify that which is in the report lan-

guage, what would be the major hurdle for us to handle? I can understand the gentleman saying housing would give the negative impact on something else or vice versa. But if we are saying the general intention of his report language being incorporated into the bill, how would it affect the gentleman's intentions?

Mr. MARTINEZ. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Well, there is the crux of the whole thing, and no one said it better than the distinguished gentleman from Illinois. He said report language is one thing, law is another. Report language has no force in law but law does prevail. If we go to section 2, paragraphs B and C, we will see where those two paragraphs actually preclude the Department of Labor from doing its job, of giving a definition on a particular project. They combine the two, and especially paragraph C, no officer or employee of the Department of Labor may travel, lecture or otherwise expend resources available to the Department for the purposes of promoting—and get this, because this is the key—directly or indirectly economically targeted investments.

So if a person writes in or calls or wants to find out about a targeted investment or something that might be considered a targeted investment, if they were to give an interpretation, somebody in the Department could take this language and make the definition: Well, I am directly and indirectly advising this person on it, so somebody could construe it is promoting that targeted investment.

The bill is badly written. Now, they may have wanted in that paragraph C to restrict them from traveling and lecturing and otherwise expending resources, but I doubt very much that they really wanted to handcuff them from being able to give an opinion on a particular project, but that is what they do, in effect. That has been the crux of the whole thing.

Mr. Chairman, the legislative bulletin did nothing like that except make it clear to people what they would be getting into and what were the definitions of the law. I would support it for all the reasons that the gentleman from Ohio has stated: the tremendous need for housing in this country. The fact is that most real estate investments wisely done, wisely built are great money makers.

I know a lot of people in this Congress itself that have made investments towards retirement in real estate. I certainly have because I know it is a serious return on your money. Regardless, under this legislation the way it is written now, they will not be allowed to make those kinds of investments or at least interpret for an individual whether that investment would be a legitimate investment or not.

That is why I think it is paramount we adopt at least the amendment of the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent to withdraw the pending amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. FAWELL. Reserving the right to object, Mr. Chairman, I am not quite sure what is happening here.

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

Mr. FAWELL. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, I plan to offer an amendment in its general form that would say nothing in the act shall be construed as prohibiting the Department of Labor from issuing advisory opinions regarding the legality of investments, period. That would in fact incorporate the intent of the report language into the text of the bill showing that we are concerned about one specific aspect which may, in fact, limit another. I am prepared to withdraw on the strength of the gentleman's intent and would simply reinforce his report language into the bill in general terms.

Mr. FAWELL. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

PARLIAMENTARY INQUIRY

Mr. TRAFICANT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. Mr. Chairman, is this an open rule or is it not?

The CHAIRMAN. It is.

Mr. TRAFICANT. Mr. Chairman, after this vote is evidently taken, I can reoffer another amendment, or is that precluded by some aspect of the rule?

The CHAIRMAN. An amendment otherwise in order may be offered.

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent, again, to withdraw the pending amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

□ 1730

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 6, insert after line 2 the following (and redesignate section 5 as section 6 accordingly):

SEC. 5. AUTHORITY OF DEPARTMENT OF LABOR WITH RESPECT TO INVESTMENTS.

Nothing in this Act (or the amendments made thereby) shall be construed as prohibiting the Department of Labor from issuing advisory opinions regarding the legality of investments.

Mr. TRAFICANT. I would like to explain this, Mr. Chairman, because I believe the gentleman only has a partial draft.

Mr. Chairman, there are two discussions here on the House floor occurring simultaneously. The Democrats are saying that we do not trust the intent of the legislative initiative. The Democrats are saying that the bill is not needed if we look at the law. The Republicans are saying, "We have handled your intentions. We have no intent to screw anybody, give anybody the shaft, but we are taking care of that in the report language."

We agree that we do not want to ship money overseas, we agree that we do not want to prohibit investments in infrastructure, we agree that we do not want to, in fact, stop with at least giving advisory opinions on some of these things. But if we, in fact, highlight one, then the myriad of others brings an evil connotation, that Darth Vader is going to come in and take away our freedom.

What this amendment says is this takes the intent of the legislation that is listed in some report language and puts that general intent right into the text of the bill and clarifies it. It says,

Authority of the Department of Labor with respect to investments: Nothing in this act shall be construed as prohibiting the Department of Labor from issuing advisory opinions regarding the legality of investments.

If that is what I have heard the gentleman state, then this basically reinforces the intent of the report language.

I would like to have the attention of the majority side here, because I think I am talking to Peoria, IL. I think we can come to some understanding on this. If what the gentleman from Illinois was saying is: Look, we have no problem with your amendment, TRAFICANT, the only thing is it is already listed, because you are dealing with advisory opinions, and we are not trying to kill advisory opinions; but we do not want to highlight housing, because if we say yes to housing it will give the connotation that all these other things are in fact prohibited or they cannot give opinions on them, because they are not listed.

Therefore, what we do is, in general terms, take the intent of your report language, put it in the bill, so if somebody wants to call the Department of Labor about infrastructure investments, they are going to get an advisory opinion. If they want to call about American versus foreign investment or want some materials, they can get an opinion.

My amendment deals with the advisory opinion of the Department of Labor. My amendment attempts to, in fact, incorporate the text of the bill. My amendment clarifies, rather than leaves open a vague or nebulous connotation on either side, depending on what partisan flag people are flying here.

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

Mr. TRAFICANT. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, this is a good example, I think, of people try-

ing to, in good faith, have an understanding. The ERISA law is very arcane. It is important to understand that the DOL does issue advisory opinions, but they do not issue advisory opinions that can tell a fiduciary that the particular transaction is or is not legal. They do not give an opinion on the legality. The fiduciary will have personal liability, if indeed it turns out that a particular investment did not meet the various standards of the prudent man rule and all the case law that goes with it. So that what the gentleman is setting forth here is not what is in the report language.

The report language was very carefully drawn to be able to continue the opinions which over the years the Department of Labor does give in reference to prohibited transactions, in matters such as that. However, I repeat, it is not so easy that they can just simply say, "Mr. TRAFICANT, in regard to your particular private pension plan and your desired investment over here, we can tell you it is legal or it is not legal."

Therefore, I cannot agree to this amendment. I wish we could have gotten together sooner.

Mr. TRAFICANT. Reclaiming my time, I think what is bothering the gentleman is the words, "the legality of investments." Is that the gentleman's concern?

Mr. FAWELL. Certainly in regard to the word "legality."

The CHAIRMAN. The time of the gentleman from Ohio [Mr. TRAFICANT] has expired.

(By unanimous consent, Mr. TRAFICANT was allowed to proceed for 2 additional minutes.)

Mr. TRAFICANT. Mr. Chairman, nothing in this act shall be construed as prohibiting the Department of Labor from issuing advisory opinions regarding investments.

Mr. FAWELL. Unfortunately, and I do not mean to be troublesome here, if the gentleman will continue to yield.

Mr. TRAFICANT. Reclaiming my time, I am going to ask a direct question: What would the intent of the Traficant amendment be that is germane, that would be so much different from the intent of the gentleman's report language? Could the gentleman specify?

Mr. FAWELL. The report language is very careful to refer to those kinds of activities by the Department of Labor in regard to technical releases, prohibited transactions, exemptions, in any number of areas. I cannot say that I am such an expert on the subject that I can fully give an explanation.

Mr. TRAFICANT. Reclaiming my time, though, with the gentleman's report language in its specificity, would not, in fact, the specificity of the report language completely delineate the intent of incorporating this general amendment into the text of the bill, to establish the gentleman's intent? How in God's name, after the report language is listed in the bill, could this

general type of an amendment dealing with intent be so impacted?

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

Mr. TRAFICANT. I yield to the gentleman from California.

Mr. MARTINEZ. Mr. Chairman, it would seem to me that the intent here is not to have that part of the report language play any effect on what the Department of Labor does, because I know the gentleman from Illinois [Mr. FAWELL] has been here long enough to understand that the report language does not carry any force in law, but that the law prevails over what is written in the report language.

That being the case, we have opened Pandora's box to the Department of Labor being able to issue these opinions and legislative bulletins to individuals who request them on what the status of an investment is that they would make, whether it would be in keeping with the fiduciary relationship that they have or not, and that is what they are trying to prohibit in this whole piece of legislation. What the gentleman has done is asked them to put their money where their mouth is, and they will not do it.

Mr. TRAFICANT. Yes.

Mr. MARTINEZ. Mr. Chairman, I move to strike the requisite number of words.

As I was saying, the gentleman has asked them to put their money where their mouth is and they have refused to do it, which shows the clear intent of this legislation and why this legislation is not necessary. They are going to do it because they have the votes, but it is not necessarily going to be right.

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

Mr. MARTINEZ. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, to our distinguished ranking member, if, in fact, the Traficant amendment removes the legality of, and leaving it general, would not the general aspect of the Traficant amendment in the bill be further clarified and fortified by the support language of the report?

Mr. MARTINEZ. What the gentleman has done in essence in his amendment is negated the need for my neutrality amendment which I was going to offer later, and my amendment would allow the Department of Labor to offer these interpretations and opinions, which is their duty and responsibility.

What the gentleman actually has done is summed it up in a more clear way so it would be more universal to all of the problems that arise when people are trying to make these kinds of decisions, but do not want to be in violation of any law or in violation of ERISA. What the gentleman has done, what they have tried to do in their legislation, created the inability of the Department of Labor to promote or to actually go out and try to push, as they say they would do, which I do not believe, but the gentleman has pre-

vented them from doing that in this legislation. But he has still allowed them to carry out their duties, their functions, and their responsibilities.

Mr. TRAFICANT. If the gentleman will continue to yield, the managers of the bill said "Look, we are not against this advisory opinion on housing, but if we specify housing, bang, you are going to give a connotation to this everything else." Now you come back and say "Look, you are changing the tone of this by the inclusion of the words 'advisory opinion on the legality of.'" If, in fact, "the legality of" is removed, would it not, in fact, give the general focus and intent of the bill's report language clarified in the text of the bill and then fortified by the support language of the report? In other words, what I am saying is I can understand the gentleman's position on "the legality of," and it does deal now with the specific set of legal parameters. That I can understand.

However, with that removed, even though that is not the pending amendment, I cannot in any form or fashion understand a continued debate on this issue.

Mr. MARTINEZ. Taking back my time, Mr. Chairman, what I think the gentleman has done is accomplished a great deal in his amendment. I am not sure that they will accept it, but the fact is that if we do this, without that specific legality language in there, we eliminate a whole lot of problems for a whole lot of people, including them. The thing is that I still believe that this legislation is erroneous in its concept, in its assumptions, and they have taken in a few isolated instances where there have been pension funds invested improperly and tried to run that into a whole new concept and find problems with the interpretive bulletin.

If they find problems with that, this is something that allows the Department of Labor to do what they intended to do with the interpretive bulletin but still allows them do it in a way that makes them happy, with the department remaining neutral in its promotion of ETI's.

Mr. FAWELL. Mr. Chairman, I rise to oppose the amendment. I am not sure just what it is now.

Mr. Chairman, as it is right now, I gather we are saying that nothing in the act shall be construed as prohibiting the Department of Labor from issuing advisory opinions. That is obviously so wide open, or advisory opinions regarding the legality of investments, and I am not sure which one it is, but I gather it is the latter regarding the legality of investments. That is a power that the DOL does not have right now.

I would not want to accept it at this point. It may be that down the road we could work out some language. If the gentleman took that off, then we just open it up to any advisory opinion that might be involved. I think that I cannot accept what is before me right now. I would regretfully have to oppose the

amendment. I would hope we could have a meeting of the minds. I do not think that it is necessary when we have specific factual situations. There is a pretty well-recognized route whereby the DOL has this ability to get informational letters, technical releases, prohibited transactions, exemptions. But I am not going to wade around in that law at this hour of the day here on the floor, when I say to the gentleman from Ohio, who is a good friend of mine, I just would not want to try to do it right now.

I will say to him, I will do everything I can to see that his concerns are taken care of if he feels that that report language is not sufficient, if and when it does come into a conference committee, but this is not the right time. I do not feel, based on my knowledge of all of the aspects of that terribly arcane statute known as ERISA, that I would want to just say at this point that I could accept this amendment.

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

Mr. FAWELL. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Nothing in this act is intended to affect the ability of the Department of Labor to issue advisory opinions, information letters, technical releases, prohibited transactions, exemptions, or other pronouncements interpreting and applying ERISA's fiduciary responsibility rules to particular factual situations, or exempting specific transactions from the prohibited transaction provisions of ERISA (pursuant to 29 U.S.C. §§1106, 1108).

Mr. TRAFICANT. Mr. Chairman, I have a report, together with minority and additional views. I want to read the language.

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

Mr. TRAFICANT. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, I gather this is a direct copy of the language to which I made reference.

Mr. TRAFICANT. Word for word. It would be incorporated into the text of the bill.

Mr. FAWELL. We can accept that, Mr. Chairman.

Mr. TRAFICANT. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

□ 1745

AMENDMENT OFFERED BY MR. HINCHEY

Mr. HINCHEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HINCHEY: Insert after section 4 the following new section (re-designating section 5 as section 6):

SECTION 5. PROTECTION OF DOMESTIC INVESTMENTS.

Nothing in this Act shall be construed as prohibiting the investment by an employee benefit plan (within the meaning of paragraph (3) of section 3 of the Employee Retirement Income Security Act of 1974) in domestic investments, as distinguished from foreign investments. The Secretary of Labor shall take such actions as are necessary to encourage domestic investments by pension plans to the extent that such investments are in conformity with the requirements of the Employee Retirement Income Security Act of 1974.

Mr. FAWELL. Mr. Chairman, I reserve a point of order. We have no copy of this amendment and I have no knowledge of what the contents are.

The CHAIRMAN. The gentleman reserves a point of order.

Mr. HINCHEY. Mr. Chairman, this country has a major problem. It has a major domestic investment deficit. The domestic investment deficit has been established to be as high as \$1 trillion a year. That is the primary reason why we are seeing a decline in the standard of living of the American people, why we are seeing a decline in job opportunities, and why we are seeing a decline in the purchasing power of American working men and women. The investment deficit needs to be corrected. Unfortunately this Congress is going to the opposite direction. The majority party in the House of Representatives, not content with slashing and burning every domestic investment program that this country has, exacerbating the economic difficulties of the Nation, they are not content with that, now what they want to do by this bill is to place in jeopardy every investment trustee who would consider making an investment in a domestic program that has some positive social consequences.

Already the problem of investment in these pension plans is causing us difficulty in that it is siphoning funds that ought to be invested here in the United States to be invested outside of our country overseas.

We have heard some talk about ETI's. The ETI's, targeted investment, amount to only about \$30 billion. Juxtaposed against that is the fact we have \$150 billion out of pension funds invested overseas now. If the bill in chief passes without the proper amendments, that problem is going to be made immeasurably worse. We will see pension trustees fearful of being challenged on their investments here in this country, domestic investments that have positive social consequences. I am talking about things like housing, first home mortgage buyers, medical clinics, basic infrastructure. They will be cowed by the language in the bill in chief from making those kinds of investments and they will find it much easier to target those investments overseas where they are not so constrained by the language in this bill.

What I am seeking to do here basically is to take the language in the

amendment that was offered by the gentleman from Texas, Mr. GENE GREEN, some time ago and modify that amendment to say as follows:

The Secretary of Labor shall take such actions as are necessary to encourage domestic investments by pension plans to the extent that such investments are in conformity with the requirements of the Employee Retirement Income Security Act of 1974.

The language in this amendment is perfectly consistent with the provisions of ERISA, perfectly in tune with the protections that are enshrined in the law currently with ERISA.

We have been told that there is nothing in the bill that prevents these kind of ETI investments currently being made, that the bill does not prevent that. I am skeptical about that and I think that that skepticism was reflected by a large number of the Members of this House by a vote that was had here earlier this afternoon.

Nevertheless, whether or not that is the intention, unquestionably that is the effect. The effect of this bill, if it passes, the bill in chief, will be to send a message to every pension trustee, telling them that if they want to invest in their home community, if they want to put money into housing in their town, if they want to put money into improving the water supply distribution system in their community, if they want to improve the sewage treatment plant and clean up the water supplies in their area, if they want to provide medical facilities for the people in their towns, in their communities, they had better think twice about doing it because those investments are socially sound and they have positive social value. This bill, the bill in chief, would impinge upon their ability to do that and it would have the effect of taking that money and investing it overseas.

If it is true, as the sponsors of the bill have told us, that they have no intention of siphoning money that ought to be invested domestically and having that money invested overseas, if it is true that what they have said, that they have no intention of taking money from these targeted investments in needed domestic improvements, if that is true, if they do not want to make it difficult to do that, then what I am trying to do is make it easier for them. All they have to do is accept this language, and the language here in the amendment is perfectly consistent with all the safety provisions in ERISA and I think consistent with what I have heard from some of the people on the other side of the aisle.

Mr. SAXTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would once again make the observation that the opponents of the bill are extremely anxious to avoid the real issues here and, of course, those issues are the underperformance of ETI's. ETI's simply do not have the kind of return that pension plans that invest in non-ETI's

have. This administration has people residing in it who are in responsible places who know these issues, who claim that, as we do, that the ETI-type investments generally promote or have associated with them rates of return that are approximately 2 percent less than non-ETI types of pension fund investments. So all of the amendments from the other side to date have been designed to detract attention away from the fact that ETI assets offer lower yields and more risk than normal investments. Thus ETI's are especially inappropriate for pension fund investments.

I hesitate, but I guess somebody ought to point out here that in addition to that, the major thrust of our bill is to take away from the Department of Labor the authority, or the position that they are currently in, to advocate for any type of investment. That is what the clearinghouse is all about. It is set up to advocate for a special class of investments. This amendment would advocate for another special class of investments.

Let me just point out that I think any responsible pension fund manager in the United States of America, given two investments that look like they are approximately of equal caliber, one being domestic and one being foreign, I would certainly hope that any responsible person finding themselves in that position, with American workers' money entrusted to them, would make the domestic investment. But we are certainly not going to accept an investment that once again puts in the lap of the Department of Labor the responsibility of advocating for this new special type of investment.

Let me point out also that it is also the responsibility of the pension fund manager, pursuant to the ERISA law, to act solely and completely in the best interest of the participants in the pension plan. Most pension fund investors, as you have seen by your own charts and by your own data that you have brought out, from time to time find it necessary to diversify and on some occasions they make investments in foreign types of investments that happen to have a rate of return that they believe is in the best interest of the participants in the plan.

So it is not in the purview of the Department of Labor to intervene in these instances. It is in the purview of the responsibility of the pension fund manager to make those kinds of decisions. That is part of the free enterprise system and it is not for Secretary Reich or his employees or anybody else to meddle in those types of decisions. Your amendment, sir, gives Secretary Reich not only the right but the responsibility to carry out those kinds of incentives.

The second point I would like to make with regard to the position that you present has to do with the net flow of capital into and out of the United States. I pointed this out before. This publication which is put out by Council

of Economic Advisors called Economic Indicators points out very clearly that there is a net flow of \$151 billion in the most recent year reported, 1994, into the United States of America. It has been so increasingly over the last 5 or 6 years, bottoming out with only \$7 billion in 1991 and once again we are back up to \$151 billion.

So the fact of the matter is that the net flow of assets, of capital assets, is into the United States, not out of the United States as the gentleman would try to confuse some members of the public by bringing forth this amendment.

I think that once again these amendments are a series of amendments which are designed to divert attention away from the real issues here. The real issues are in keeping with the intent and the literal language of the ERISA law which requires pension fund managers to act solely and completely for the best benefit of the participants in the pension plan. The underperformance of ETI's by virtue of a full 2 percent and the additional risk posed by ETI's and the decisions thereby made by pension fund managers with regard to ETI's are certainly not in keeping with the spirit or the letter of the law.

Mr. MARTINEZ. Mr. Chairman, I rise in support of the amendment.

The gentleman who just spoke would like Members to believe that all ETI's are bad investments. That is not true. We have illustrated and we have given examples of ETI's that are very successful and very profitable for the pension beneficiaries.

The gentleman is saying over and over again that that is the issue. That is not the issue, because the real issue is whether or not those that were bad investments were advisable under the law or permissible under the law. They were neither permissible nor advisable under the law, and that has not changed in anything done by the interpretive bulletin, but he chooses to ignore that and keep coming back to the same rhetoric.

The fact is that the majority here wants to mismanage the Department of Labor. In fact in this new Congress they want to mismanage every part of the Government, including the administrative branch, and we will probably next get into the judicial branch. I do not think that is the answer.

The gentleman from New York [Mr. HINCHEY] is to be commended for his amendment, and I will tell why. I would have offered a stronger amendment. I would have offered an amendment that says that no American worker's pension fund that he earned here in the United States could be invested in any foreign investment because, as earlier was said by the gentleman from Ohio [Mr. BROWN], those dollars go abroad in investments there that create products that come back to steal our markets, and to create jobs and economy over there to rob people of jobs here.

I would have said the gentleman's amendment is a very weak amendment

really, because my amendment would have said no American pension dollars from American workers could be expended anywhere else, in any foreign country; it had to be expended here for investment here, to realize our economic benefit rather than that of someone abroad.

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

Mr. MARTINEZ. I yield to the gentleman from New York.

Mr. HINCHEY. Mr. Chairman, I would just like to point out to the ranking minority member something that he knows, and that of course is that we knew that a stronger amendment would not stand any chance of passage or being accepted by the other side of the aisle. It was our hope that this amendment, as moderate as it is, and as in keeping with ERISA as it is and all the protections and provisions of ERISA as it is, would be accepted. But they are apparently so zealous in their desire to prevent pension funds from being invested in domestic programs, so desirous of seeing that money, if it has to go overseas rather than being invested here in this country, that they are even opposing this very moderate amendment.

□ 1800

Mr. MARTINEZ. Reclaiming my time, I agree with the gentleman that this is a reasonable amendment as it is offered, but there have been several reasonable amendments that have been offered; none of them accepted. The intent of this legislation should be clear to everyone.

Mr. KNOLLENBERG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been sitting here, obviously, as many of us have, listening to the debate and there seems to be a recurring theme that comes from the other side of the aisle.

I do not challenge their honesty and integrity about bringing forth the argument. I have heard the words used over there "hung up" or "ambiguous." There is an ambiguity about what we are saying. There is a misunderstanding.

Mr. Chairman, I have misunderstood some of the direction over here as well, but there is one thing that we have to keep coming back to. This is repetitious. You have heard it before. Nothing like singing the same thing over and over. But the Saxton bill does not prohibit investing in ETI's. There is no prohibition or language or sentence or phrase that refers to that.

The only thing that I can tell my colleagues, though, is that the DOL, the Department of Labor interpretive bulletin does promote investments in ETI's and that is where I think the hangup or the problem is.

If my colleagues want some proof of the fact that they are promoting it, think about this for just a little bit. They are spending, the administration is spending \$1 million to establish a

clearinghouse to produce, I heard, a variety of things. I heard a list, which is probably is. But it is a somewhat sanctioned grouping of names of investments that are satisfactory, all of which happen to be ETI's. That is No. 1.

No. 2, they are sending the Assistant Secretary around who is actively promoting and I understand spending 10 percent of her time promoting ETI's. That is proactive.

No. 3, there has been talk, and not just talk, but indications of inappropriate pressure that have been put on the pension managers.

Let me tell my colleagues something about pension managers. They are not blocks of wood. They do assess, they analyze, they scrutinize, they weigh, and look at what is best for their pension beneficiaries. It might be an investment in Lebanon, IN, or Lebanon, PA, or it may be overseas, but it may be in the heart of their own hometown. They look at all sides of the equation; not just one.

Mr. Chairman, I remind my colleagues that one of the reasons that ETI's do have to be scrutinized more closely is because the Department of Labor itself has acknowledged, my friends on the other side of the aisle want to call them social investments. Fine, but these ETI's, I will call them ETI's, I have called them PTI's, politically targeted investments, but the ETI's are less liquid. They require more expertise to evaluate. They require a longer period of time to generate significant investment returns.

Mr. Chairman, I am not a pension investment manager. I think I am average in terms of those kinds of things. But if those were the words that I read, it would have a great deal of impact on what I would do in terms of investing, even as an individual. And pension managers, as I say, are not blocks of wood. They do weigh all of this.

The problem of this bill is that it addresses the promotion of ETI's. And, frankly, that is something that is very contrary to its charge as the Nation's pension watchdog. So, I am just suggesting that if there is some confusion or misunderstanding, it has to be, I believe, over that very issue. That the Saxton bill does not preclude investment in any of those arenas, any of those areas.

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

Mr. KNOLLENBERG. I yield to the gentleman from New York.

Mr. HINCHEY. Mr. Chairman, I am glad that the gentleman from Michigan [Mr. KNOLLENBERG] is attempting to clear that up for us, because that is exactly what we are trying to do here.

It has been said, for example, that these ETI's are bad investments. As a matter of fact, ETI's in California and New York are actually performing better than the market. So, they can be very, very profitable investments indeed.

But we are not trying to force anyone into anything. We are not trying to say

that anyone should go into an ETI or anything of that nature. All this amendment says is to the extent that it is possible, the Secretary of Labor shall take whatever action he deems necessary, consistent with the protections and provisions of ERISA, to try to ensure that these funds are invested domestically; that they are invested here in this country and the needs of this country, so that we can create jobs for our people and increase their standards of living and increase their buying power, which has been shrinking for the better part of 20 years. That is all this amendment says. Just invest the money here in this country domestically.

Mr. KNOLLENBERG. Mr. Chairman, reclaiming my time, those are good, solid suggestions about what you want to do, but here is what bothers me a great deal.

The CHAIRMAN (Mr. EMERSON). The time of the gentleman from Michigan [Mr. KNOLLENBERG] has expired.

(By unanimous consent, Mr. KNOLLENBERG was allowed to proceed for 2 additional minutes.)

Mr. KNOLLENBERG. Mr. Chairman, I want to look at this aspect of it since, in the judgment of the gentleman from New York [Mr. HINCHEY], the Department of Labor's directive does not preclude investment in ETI's, and since the bill of the gentleman from New Jersey [Mr. SAXTON] does not preclude or prohibit or in any way challenge the investment in ETI's, why is there any need for an amendment?

Mr. HINCHEY. Mr. Chairman, if the gentleman would continue to yield, I think it is very clear. We want the investment trustees to have as much latitude as possible to act in the context of their lights in the best interests of the people they represent in their pension system.

We want them to do it insofar as it is consistent with all the protections and provisions in the law in a way that is going to promote economic growth and development in this country, because that too is in the best interest of the pensioners, potential pensioners, the investors in that pension system.

To the extent that we can grow this economy and marshal our investment in ways that produce growth and create income, we are benefiting everyone in the economy. That is what we are trying to do with this amendment, because it is not clear in the bill that that would be allowed.

Contrarily, if I may, the bill indicates that the trustees, if they do that in a way that is socially just, they will be imperiled.

Mr. KNOLLENBERG. Mr. Chairman, reclaiming my time, we do not need the amendment, because we have not precluded investment in any domestic activity.

The CHAIRMAN. Does the gentleman from Illinois [Mr. FAWELL] insist upon his point of order? He had reserved a point of order.

Mr. FAWELL. Mr. Chairman, I withdraw my reservation of a point of order on the amendment.

Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise, briefly, in opposition to the amendment. There is just one point that I think I can add that might be of help. It seems to me that we have come full circle now. We have legislation which was introduced which basically was aimed at proscribing the Department of Labor from being able to go out and promote and hype, spend millions of dollars toward being able to have a clearinghouse, et cetera, et cetera, to encourage ETI's.

We did not outlaw ETI's, but we simply said that they are a part of the investment area, but nobody has to do it, especially the entity which is the regulator and is supposed to be the watchdog for proper investments. That is not appropriate for the Department of Labor to be doing that.

Mr. Chairman, now what do we get here? We now say that the Secretary of Labor shall take such actions as are necessary, anything in his discretion, to encourage domestic investments, which means obviously of course ETI's, which may have the main emphasis of social investments. And he can, if it is in his discretion, it could be with affirmative action, it could be goals, timetables, it could be quotas, the whole shooting match.

Well, I will give the gentleman from New York [Mr. HINCHEY] credit. I do not want to take up a whole lot of time, but to me, the gentleman has surpassed the basic problem that this bill is here to try to rectify. Mr. Chairman, I think that it is not a very good amendment and should be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. HINCHEY]. The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HINCHEY. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentleman from New York [Mr. HINCHEY] will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN. Are there further amendments?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MARTINEZ

Mr. MARTINEZ. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. MARTINEZ: Strike all after the enacting clause and insert the following:

SECTION 1. SENSE OF THE CONGRESS.

It is the sense of the Congress that the Department of Labor, as the principal enforcer of fiduciary standards in connection with employee pension benefit plans and em-

ployee welfare benefit plans (as defined in paragraphs (1) and (2) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1), (2))), should remain neutral regarding economically targeted investments.

SEC. 2. PROHIBITIONS ON DEPARTMENT OF LABOR REGARDING ECONOMICALLY TARGETED INVESTMENTS.

(a) IN GENERAL.—Interpretive Bulletin 94-1, issued by the Secretary of Labor on June 23, 1994 (59 Fed. Reg. 32606; 29 C.F.R. 2509.94-1), shall be interpreted so as to neither advocate nor discourage economically targeted investments.

(b) RESTRICTIONS ON DEPARTMENT OF LABOR REGULATIONS.—The Secretary of Labor may not issue any rule, regulation, or interpretive bulletin which promotes or otherwise encourages, or which discourages, economically targeted investments as a specified class of investments.

(c) RESTRICTIONS ON ACTIVITIES OF THE DEPARTMENT OF LABOR.—No officer or employee of the Department of Labor may travel, lecture, or otherwise expend resources available to such Department for the purpose of promoting or discouraging, directly or indirectly, economically targeted investments.

(d) CONTINUED AUTHORITY OF SECRETARY.—Nothing in this section shall be construed to preclude the Secretary of Labor from offering advice in response to requests as to the appropriateness under the Employee Retirement Income Security Act of 1974 of particular investments or investment strategies.

(e) ECONOMICALLY TARGETED INVESTMENT DEFINED.—For purposes of this section, the term "economically targeted investment" has the meaning given such term in Interpretive Bulletin 94-1, as issued by the Secretary of Labor on June 23, 1994 (59 Fed. Reg. 32606; 29 C.F.R. 2509.94-1).

SEC. 3. EFFECTIVE DATE.

The preceding provisions of this Act shall take effect on the date of the enactment of this Act.

Mr. MARTINEZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MARTINEZ. Mr. Chairman, my amendment is an amendment in the nature of a substitute to the bill and is designed to achieve complete neutrality on the part of the Department of Labor, much as the bill that we are considering now says it claims to do or claims that it wants to do.

Mr. Chairman, my bill clearly states that the interpretive bulletin is not to be interpreted as either encouraging or discouraging investments in ETI's. Further, it prevents the Department from taking a position either in favor of ETI's or against them as a matter of investment strategy.

It does preserve the requirement that the Department of labor respond to specific inquiries from investment managers and employee benefit plans with respect to any investment strategy, solely in order to ensure that the opinions of legality under ERISA may continue to be rendered as they have been since ERISA was first implemented a generation ago.

Finally, my amendment in the nature of a substitute prohibits expenditures by the Department of Labor

which are made with the purpose of either discouraging or encouraging investments in ETI's.

Mr. Chairman, I urge the adoption of this amendment, because it truly is a neutrality amendment; one that answers any of the reasons given for the bill in the first place. Yet, my amendment has the benefit of ensuring that the investment community is able to take whatever action it deems necessary with respect to investment strategies.

Under the bill as brought to the floor today, I am advised that this is not the case. The bill we are presented with will result in litigation by any party disgruntled with any investment for the sole reason that the investment can have a collateral benefit.

My amendment ensures that the investment manager is the one who considers the investment, not an outsider, and that the investment manager is not subject to "Monday morning quarterbacking" with respect to those decisions.

Mr. Chairman, I offer this amendment in the hopes that it would be accepted. I do not fool myself. I am fully prepared for what will ensue.

Mr. SAXON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, once again we have another in a series of amendments that is intended to divert attention from the underlying issue under consideration here, and that is the underperformance of ETI.

Mr. Chairman, ETI's historically have been shown to produce rates of return that are approximately 2 percent less than other good pension fund investments, and that is at a substantially higher risk.

I further oppose this amendment because in my opinion the substitute amendment's attempt to ensure DOL neutrality is unnecessary, since the bill simply makes clear that the law is as it was before the Department of Labor's decision to promote ETI's took place.

Under the bill as it currently stands, we negate the interpretive bulletin that Secretary Reich issued more than a year ago, which is the subject of a great deal of debate and has been ever since. We do away with the clearinghouse that was set up to promote economically targeted investments, because we believe that for the most part they are investments that should be viewed with a great deal of skepticism.

Third, we stop the sending of any Federal moneys to encourage ETI's through the Department of Labor or any other Federal department.

Mr. Chairman, this amendment is totally unnecessary, and I believe is intended to divert attention away from the real issues, which are the economics of how pension funds are invested.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. MARTINEZ].

The amendment in the nature of a substitute was rejected.

AMENDMENT IN THE NATURE OF A SUBSTITUTE
OFFERED BY MR. ANDREWS

Mr. ANDREWS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. ANDREWS: Strike all after the enacting clause and insert the following:

SECTION 1. SENATE OF THE CONGRESS.

It is the sense of the Congress that the Department of Labor should apply the same fiduciary standards to economically targeted investments (as defined in Interpretive Bulletin 94-1, issued by the Secretary of Labor on June 23, 1994 (59 Fed. Reg. 32606, 29 C.F.R. 2509.94-1)) as are applicable to investments by pension plans generally under the Employee Retirement Income Security Act of 1974.

SEC. 2. EFFECT OF INTERPRETIVE BULLETIN 94-1.

Interpretive Bulletin 94-1 (referred to in section 1) shall be null and void to the extent it is construed to authorize investments which are in violation of the Employee Retirement Income Security Act of 1974.

SEC. 3. PROHIBITION ON FEDERAL AGENCIES AGAINST ESTABLISHING OR MAINTAINING ANY CLEARINGHOUSE OR OTHER DATABASE RELATING TO ECONOMICALLY TARGETED INVESTMENTS.

(a) IN GENERAL.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 et seq.) is amended by adding at the end the following new section:

"PROHIBITION ON FEDERAL AGENCIES AGAINST ESTABLISHING OR MAINTAINING ANY CLEARINGHOUSE OR OTHER DATABASE RELATING TO ECONOMICALLY TARGETED INVESTMENTS

"SEC. 516. (a) IN GENERAL.—No agency or instrumentality of the Federal Government may establish or maintain, or contract with (or otherwise provide assistance to) any other party to establish or maintain, any clearinghouse, database, or other listing—

"(1) for the purpose of making available to employee benefit plans information on economically targeted investments,

"(2) for the purpose of encouraging, or providing assistance to, employee benefit plans or any other party related to an employee benefit plan to undertake or evaluate economically targeted investments, or

"(3) for the purpose of identifying economically targeted investments with respect to which such agency or instrumentality will withhold from undertaking enforcement actions relating to employee benefit plans under any otherwise applicable authority of such agency or instrumentality.

"(b) ECONOMICALLY TARGETED INVESTMENT DEFINED.—For purposes of this section, the term 'economically targeted investment' has the meaning given such term in Interpretive Bulletin 94-1, as issued by the Secretary on June 23, 1994 (59 Fed. Reg. 32606; 29 C.F.R. 2509.94-01)."

(b) CLERICAL AMENDMENT.—The table of contents in section I of such Act is amended by inserting at the end of the items relating to part 5 of subtitle B of title I the following new item.

"Sec. 516. Prohibition on Federal agencies against establishing or maintaining any clearinghouse or other database relating to economically targeted investments."

SEC. 4. TERMINATION OF CONTRACTS.

The head of each agency and instrumentality of the Government of the United States shall immediately take such actions as are necessary and appropriate to terminate any

contract or other arrangement entered into by such agency or instrumentality which is in violation of the requirements of the provisions of this Act or the amendments made thereby.

SEC. 5. EFFECTIVE DATE.

The preceding provisions of this Act (and the amendments made thereby) shall take effect on the date of the enactment of this Act.

Mr. ANDREWS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FAWELL. Mr. Chairman, I reserve a point of order on the amendment. I am not aware of just what this amendment is all about.

The CHAIRMAN. The gentleman from Illinois [Mr. FAWELL] reserves a point of order on the amendment.

The gentleman from New Jersey [Mr. ANDREWS] is recognized for 5 minutes.

□ 1815

Mr. ANDREWS. Mr. Chairman, there are some severe problems with America's pension system as we meet here tonight. There are employees of private companies and pensioners of private companies who are legitimately worried that they may not have a pension someday because of the failure of many American businesses and the extent to which the Private Pension Guarantee Benefit Corporation is thinly capitalized. There is a very real risk if we do not do something about that problem that many Americans may not have the pension check on which they depended. There are Americans who used to work for governments or school districts or who work for government or school districts today who are legitimately worried about their pensions because it has become the practice of some governments at the State and local level around America to borrow from that pension fund or not put enough in in order to meet short-term budgetary or political objectives. That is a real problem that deserves our attention.

Tonight as we consider this legislation, however, neither of those problems receives any attention, and instead I rather think that we are looking at a bill that in good faith presents a solution in search of a problem by talking about economically targeted investments. Nevertheless, my friends on the majority side have raised some real and viable questions about economically targeted investments or ETI's. My substitute amendment attempts to address each of those legitimate points and place the Secretary of Labor exactly where he belongs, with respect to economically targeted investments or any kind of decision by pension fund managers. It places the Secretary of Labor out of the picture because the Secretary of Labor, absent his regulatory duties under ERISA, has

no business, none, meddling in the decisions of pension managers across the country.

We have heard that people are concerned about spending a million dollars of taxpayer money on a clearinghouse to deal with the ETI's. So I am concerned about that. So my substitute abolishes the clearinghouse and permits the expenditure of nothing on it.

We have heard that people are concerned about this bill or the pronouncements of the Secretary of Labor creating a standard of review other than the traditional prudent man standard for ETI's. I am concerned about that, too. So my amendment expressly provides that the prudent man rule will remain the only measure under which investments will be evaluated under the ERISA law. It says the prudent man standard and only the prudent man standard.

Here is the difference between my substitute and the bill that is before us: My substitute says that the Secretary of Labor shall not promote ETI's, but neither shall detract from ETI's. My amendment says the Secretary of Labor shall not promote investments in U.S. savings bonds nor shall be detract from investments in U.S. savings bonds or the stock of IBM or any other potential investment. My amendment says that the Secretary of Labor has no rightful place meddling in the investment decisions of our pension funds.

My amendment, I would think, in many ways is a quintessential conservative amendment in that it says the Federal Government simply has on place injecting itself in the decisions of investment managers of the pension funds of our country.

So to summarize, Mr. Chairman, wish that we had brought to the floor tonight legislation that would address the underfunding of the Private Benefit Guarantee Corporation, the Pension Benefit Guarantee Corporation that put the pensions of many Americans at risk. I wish we had brought to the floor tonight an amendment I offered in committee that would have provided public employees with the right of review if their Governor and the State legislature decides to play budget fiscal politics with their pension and make it subject to some review under ERISA.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(By unanimous consent, Mr. ANDREWS was allowed to proceed for 2 additional minutes.)

Mr. ANDREWS. We have not addressed either of those issues. Instead we brought forward this proposal, and I read its intent as a wholesome and good-faith one that says that the Secretary of Labor has no business meddling in the investment decisions of investment managers. I agree. So what we simply say is that he should be neutral with respect to all such investments and stay out.

We hear the proponents of this bill saying that we should not spend \$1 million of taxpayers' money on a clearinghouse. I agree. So my substitute strikes the authority to do that.

The difference between my amendment and the pending bill is simply this: I say that we should not take a position at all on ETI's, that the position of the Secretary of Labor ought to be that is a decision that the investment fund managers ought to make under the prudent man and only under the prudent man rule.

The CHAIRMAN. The gentleman from Illinois reserved a point of order. Does he insist on it?

Mr. FAWELL. No; I do not reserve the point of order.

Mr. SAXTON. Mr. Chairman, I move to strike the last word. I would like to thank my colleague from New Jersey for a very clear statement as to say how he feels about the current situation.

As I was saying, Mr. Chairman, I would like to commend the gentleman from New Jersey for his very articulate recognition of the situation, and I might say that although we cannot accept his amendment, he does move in the right direction, and we appreciate the fact that for the first time we have an amendment that at least recognizes that there is a problem with the way the Department of Labor is doing business.

I wish that we could accept the gentleman's amendment. However, he simply does not go far enough. What we are trying to do with the bill as it stands is to go back to the situation that existed during the Carter years and the Reagan years and the Bush years, where essentially what the gentleman has suggested occurred, and that was that the Department of Labor did not take a position relative to the ETI's unless they were requested to do so by somebody, some pension fund manager who wanted the Department of Labor's interpretation as to the appropriateness of an investment. So we negate the interpretive bulletin. We do away with the clearinghouse, and we stop the expenditure of any Federal moneys to in any way promote ETI's.

The gentleman's amendment, while it is certainly well thought out, according to the information I have here, expresses the sense of Congress that it is inappropriate for the Department of Labor to promote ETI's and that is nice. However, we prefer to have this carry the effect of law, and that is what the bill, as it currently stands, does.

In addition to that, the gentleman's amendment also renders the interpretive bulletin null and void, but he weakens that statement by saying only to the extent that is construed to violate ERISA. I am not quite sure at this hour how to interpret exactly what that does or what it is intended to do, so I think the bill, as it currently stands, is absolutely clear. It goes to the points that the gentleman made in

his very articulate explanation of his amendment. It negates the interpretive bulletin. It does away with the clearinghouse, as it currently stands, and it stops the expenditures of money to advocate for a particular class of investment.

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

Mr. SAXTON. I yield to the gentleman from Pennsylvania, the chairman of the full committee.

Mr. GOODLING. Mr. Chairman, my major concern with this substitute is the point the gentleman mentioned. 94-1 shall be null and void to the extent it is construed in violation of ERISA. My fear is that, and I have many, many wonderful attorney friends but they are all very busy at the present time, my fear is that we are going to give them much more business than they can ever handle, and it may be a long, long time until we go through the court process to find out what is construed in violation of ERISA means, and that would be my major concern with the substitute.

Mr. CLAY. Mr. Chairman, I move to strike the requisite number of words.

(Mr. CLAY asked and was given permission to revise and extend his remarks.)

Mr. CLAY. Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, I support this amendment.

This is the amendment that my Republican colleagues should have reported out of the committee had the leadership not been determined to placate the sponsor of the bill, and to satisfy their own desire to demagog on this issue.

Democrats and Republicans who want to continue the tradition of bipartisan pension policy should support this amendment.

From the moment that the sponsor of the bill surfaced with his legislation, the Republican leadership of the Opportunities Committee knew full well that the original Saxton bill would have been an absolute disaster. It basically dropped a nuclear bomb on 15 years of bipartisan pension policy.

Unfortunately, Representative FAWELL was allowed to make only modest improvements in the original bill. If the Saxton bill is a hydrogen bomb, obliterating everything in its path, the Fawell bill is a neutron bomb. It leaves standing all past Labor Department administrative opinions on ETI's, but obliterates every other mention of the term. It keeps intact the vague, overbroad GAG order on Labor Department personnel. It repeals interpretive bulletin 94-1, even though everyone agrees that bulletin simply restates 15 years of bipartisan interpretation of ERISA.

The purpose of the Andrews amendment is to take the committee Republicans at their word that their overriding objective is to require the Labor Department to acknowledge the prudent man rule and to remain neutral

on ETI's. This bears repeating: Mr. ANDREWS has taken our colleagues at their word about their intended goal.

The Andrews amendment gives them neutrality. As long as ERISA is satisfied, ETI's are to rise or fall on their own merits. No help from the Labor Department. No promotion of ETI's. No clearinghouse.

The Andrews amendment establishes as the overarching policy that the Labor Department is to apply ERISA's strict fiduciary standards to ETI's in the same manner that they are applied to plan investment generally. ERISA comes first. Beneficiaries come first. The application of the prudent man rules comes first.

If you support the fiduciary standards of ERISA.

If you support the prudent man rule.

If you support giving private sector pension managers the maximum flexibility allowed under ERISA to consider investments, free of any political pressure, then support the Andrews amendment.

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

Mr. CLAY. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Chairman, I would like to respond, if I could, to the two points raised about concern about the substitute.

First of all, with respect to whether or not the substitute prohibits the Secretary of Labor from promoting ETI's or simply declares that to be the sense of the Congress, in fact, the amendment does prohibit, in section 3, specifically prohibits the Secretary of Labor from entering into any contract or taking any step which does so. So it is simply not a sense of Congress.

Second, with respect to the chairman's concern about creating employment for attorneys, which is a truly valid concern, I would suggest that that really is something, with all due respect, it is a red herring for this reason: My amendment says that if the bulletin is construed to be null and void because it violates ERISA, my understanding is that an investment which runs afoul of the prudent man standard is, in fact, a violation of ERISA as ERISA has been interpreted. So, therefore, this incorporates by reference the prudent man standard that is applied, for years, since 1974, the year ERISA was first enacted. I believe, should litigation be brought to interpret this section, it would be quickly resolved, and it would be very clearly resolved that to the extent that this interpretive bulletin authorizes or permits an investment decision outside the scope of the prudent man rule, it is illegal and not permitted.

Mr. CLAY. Mr. Chairman, this amendment establishes the overarching policy that the Labor Department is to apply ERISA's strict fiduciary standards to ETI's in the same manner they are applied to plan investments generally.

ERISA comes first. Beneficiaries come first. The application of the pru-

dent man rule comes first. If you support the fiduciary standards of ERISA, if you support the prudent man rule, if you support giving private sector pension managers maximum flexibility allowed under ERISA, free of any political pressure, then you have to support the Andrews amendment, and I urge my colleagues to do just that.

Mr. FAWELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to oppose the amendment. I think it is a move in the right direction, I believe, in the short chance I have had to review it. It is woefully weak in regard to a very important element, and that is proscribing the right of the Department of Labor to continue to promote and hype in regard to ETI's.

What we had in section 1 were where we clearly said this is inappropriate, that language is gone, and as I read even insofar as section 3 and section 2 of the amendment. The prohibitions against promotion, et cetera, are gone.

The amendment certainly renders this very confusing interpretive bulletin null and void, but as has been indicated by several, only to the extent it is construed to violate ERISA. Our bill really did not live or die on that basis or even make that claim. What we said is the interpretive bulletin is a very outlandish effort to start promoting what the Department of Labor set forth as a definition of ETI's, and it was that to which we made, of course, major objection. To introduce this language about whether it does or does not violate ERISA, I agree with the statement made by Chairman GOODLING, we will have a lot of lawyers arguing how many angels can dance on the end of a pin as a result of that.

I think that although this is a movement in the right direction, we have a very clear bill that has to go through an awful lot of rigorous examination, and for that reason, with the utmost respect for the gentleman who has proffered this amendment, I certainly must oppose it.

□ 1830

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

Mr. FAWELL. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Chairman, I hear that my friend, the gentleman from Illinois [Mr. FAWELL], is making two objections. I would like to try to meet them.

With respect to the effect of Interpretive Bulletin 94-1, in the appropriate procedural manner, Mr. Chairman, I would offer to change that section to say the following:

Interpretive Bulletin 94-1 referred to in section 1 shall be null and void, period, because that is the intent of this section.

Second, with respect to the gentleman's concern about the—

Mr. FAWELL. Reclaiming my time, if I may say, "Except to the extent—"

Mr. ANDREWS. Well, why do we not strike that? I would offer to strike it.

Second, let me say this to the gentleman, that to the extent that he is concerned about a prohibition against the promotion of ETI's by the Government, let me just read to him section 3. It will be section 516(a).

No agency or instrumentality of the Federal Government may establish, or maintain, or contract with or otherwise provide assistance to any other party to establish or maintain any clearinghouse data base or any other listing, sub 2, for the purpose of encouraging or providing assistance to employee benefit plans or any other part relating to an employee benefit plan to undertake or evaluate economically targeted investments.

That seems pretty clear to me is a prohibition against promotion. I would be curious if the gentleman can explain to me why it is not.

Mr. FAWELL. As I have indicated, first of all in section 1 the gentleman has entirely removed the very clear statement that any promotion is inappropriate on behalf of the Department of Labor.

In reference to the other sections of the bill, frankly the gentleman had here a complete new bill of seven or eight pages, and I have not had the chance to go fully through it, but I have noted that at least statements where we have said that we had prescriptions in regard to promotion, it seemed to me the gentleman had left those out. In fact in section 2 I am informed that those proscriptions have been pretty well deleted.

Mr. ANDREWS. If the gentleman would yield, that is certainly not our intent, not my understanding. I do not know of any broader proscription we could include.

Mr. FAWELL. It does appear in section 2 that is the case. I am not absolutely sure in regard to section 3, but we have an excellent bill. It is too bad something like this was not introduced in committee. The gentleman is a member of the committee, and we certainly would have considered it, but nevertheless I have a great deal of respect for the gentleman, and I know he put some work into it. I appreciate that.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from New Jersey [Mr. ANDREWS].

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

RECORDED VOTE

Mr. ANDREWS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment in the nature of a substitute offered by the gentleman from New Jersey [Mr. ANDREWS] will be postponed.

The point of no quorum is considered withdrawn.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the order of the House of today, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: the amendment offered by the gentleman from New York [Mr. HINCHEY]; the amendment in the nature of a substitute offered by [Mr. ANDREWS].

AMENDMENT OFFERED BY MR. HINCHEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York [Mr. HINCHEY] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 15-minute vote followed by a possible 5-minute vote.

The vote was taken by electronic device, and there were—ayes 179, noes 234, now voting 21, as follows:

[Roll No. 650]

AYES—179

Andrews	Flake	McKinney
Baesler	Foglietta	McNulty
Baldacci	Forbes	Meehan
Barcia	Ford	Meek
Barrett (WI)	Fox	Mfume
Becerra	Frank (MA)	Miller (CA)
Beilenson	Frost	Mineta
Bentsen	Furse	Minge
Berman	Gejdenson	Mink
Bevill	Gephardt	Moran
Bishop	Gibbons	Murtha
Bonior	Gonzalez	Nadler
Borski	Gordon	Neal
Boucher	Green	Oberstar
Browder	Gutierrez	Obey
Brown (CA)	Hall (OH)	Olver
Brown (FL)	Hamilton	Ortiz
Brown (OH)	Harman	Orton
Bryant (TX)	Hastings (FL)	Owens
Cardin	Hefner	Pallone
Chapman	Hinchev	Pastor
Clay	Holden	Payne (NJ)
Clayton	Hoyer	Payne (VA)
Clement	Jackson-Lee	Peterson (FL)
Clyburn	Jacobs	Peterson (MN)
Coleman	Johnson (SD)	Pomeroy
Collins (IL)	Johnson, E. B.	Poshard
Collins (MI)	Johnston	Rahall
Condit	Kanjorski	Rangel
Conyers	Kaptur	Reed
Costello	Kennedy (MA)	Richardson
Coyne	Kennedy (RI)	Rivers
Cramer	Kennelly	Roemer
Danner	Kildee	Ros-Lehtinen
de la Garza	Klecza	Rose
DeFazio	Klink	Royal-Allard
DeLauro	LaFalce	Rush
Dellums	Levin	Sabo
Deutsch	Lewis (GA)	Sanders
Diaz-Balart	Lincoln	Sawyer
Dicks	Lipinski	Schroeder
Dingell	Lofgren	Schumer
Dixon	Lowey	Scott
Doggett	Luther	Serrano
Dooley	Maloney	Skaggs
Doyle	Manton	Skelton
Edwards	Markey	Slaughter
Engel	Martinez	Spratt
Eshoo	Mascara	Stark
Evans	Matsui	Stokes
Farr	McCarthy	Studds
Fields (LA)	McDermott	Stupak
Filner	McHale	Tanner

Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Traficant

Allard
Archer
Army
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehler
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremean
Cubin
Cunningham
Davis
Deal
DeLay
Dickey
Doolittle
Dornan
Drier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly

Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)

NOES—234

Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinar
Montgomery
Moorhead
Morella

Waxman
Wise
Woolsey
Wyden
Wynn
Yates

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ANDREWS

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment in the nature of a substitute offered by the gentleman from New Jersey [Mr. ANDREWS] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment in the nature of a substitute.

The Clerk designated the amendment in the nature of a substitute.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 178, noes 232, not voting 24, as follows:

[Roll No. 651]

AYES—178

Andrews	Frost	Oberstar
Baesler	Furse	Obey
Baldacci	Gejdenson	Olver
Barcia	Gephardt	Ortiz
Barrett (WI)	Gibbons	Orton
Becerra	Gonzalez	Owens
Beilenson	Gordon	Pallone
Bentsen	Green	Pastor
Berman	Gutierrez	Payne (NJ)
Bevill	Hall (OH)	Payne (VA)
Bishop	Hamilton	Peterson (FL)
Bonior	Harman	Peterson (MN)
Borski	Hastings (FL)	Pickett
Boucher	Hefner	Pomeroy
Brewster	Hinchev	Poshard
Browder	Holden	Rangel
Brown (CA)	Hoyer	Reed
Brown (FL)	Jackson-Lee	Richardson
Brown (OH)	Jacobs	Rivers
Bryant (TX)	Johnson (SD)	Roemer
Cardin	Johnson, E. B.	Ros-Lehtinen
Chapman	Johnston	Rose
Clay	Kanjorski	Royal-Allard
Clayton	Kaptur	Rush
Clement	Kennedy (MA)	Sabo
Clyburn	Kennedy (RI)	Sanders
Coleman	Kennelly	Sawyer
Collins (IL)	Kildee	Kingston
Collins (MI)	Kingston	Klecza
Condit	Klink	Schumer
Conyers	LaFalce	Scott
Costello	Levin	Serrano
Coyne	Lewis (GA)	Skaggs
Cramer	Lipinski	Skelton
Danner	Lofgren	Slaughter
de la Garza	Lowey	Stark
DeFazio	Luther	Stokes
DeLauro	Maloney	Studds
Dellums	Manton	Stupak
Deutsch	Markey	Tanner
Diaz-Balart	Martinez	Tejeda
Dicks	Mascara	Thompson
Dingell	Matsui	Thornton
Dixon	McCarthy	Thurman
Doggett	McDermott	Torres
Dooley	McHale	Towns
Doyle	McKinney	Vento
Edwards	McNulty	Visclosky
Engel	Meehan	Volkmer
Eshoo	Meek	Ward
Evans	Mfume	Waters
Farr	Miller (CA)	Watt (NC)
Fields (LA)	Mineta	Waxman
Filner	Minge	Wilson
Flake	Montgomery	Wise
Foglietta	Murtha	Woolsey
Forbes	Nadler	Wyden
Ford	Neal	Yates
Frank (MA)		

NOT VOTING—21

Abercrombie
Ackerman
Boehner
Durbin
Fattah
Fazio
Hilliard

Jefferson
Lantos
Menendez
Moakley
Mollohan
Parker
Pelosi

Reynolds
Sisisky
Torricelli
Tucker
Waldholtz
Weldon (PA)
Williams

□ 1855

So the amendment was rejected.

NOES—232

Allard	Gilchrest	Ney
Archer	Gillmor	Norwood
Armey	Gilman	Nussle
Bachus	Goodlatte	Oxley
Baker (CA)	Goodling	Packard
Baker (LA)	Goss	Paxon
Ballenger	Graham	Petri
Barr	Greenwood	Pombo
Barrett (NE)	Gunderson	Porter
Bartlett	Gutknecht	Portman
Barton	Hall (TX)	Pryce
Bass	Hancock	Quillen
Bereuter	Hansen	Quinn
Bilbray	Hastert	Radanovich
Bilirakis	Hastings (WA)	Rahall
Bliley	Hayes	Ramstad
Blute	Hayworth	Regula
Boehlert	Hefley	Riggs
Bonilla	Heineman	Roberts
Bono	Hilleary	Rogers
Brownback	Hobson	Rohrabacher
Bryant (TN)	Hoekstra	Roth
Bunning	Hoke	Roukema
Burr	Horn	Royce
Burton	Hostettler	Salmon
Buyer	Houghton	Sanford
Callahan	Hunter	Saxton
Calvert	Hutchinson	Scarborough
Camp	Hyde	Schaefer
Canady	Inglis	Schiff
Castle	Istook	Seastrand
Chabot	Johnson (CT)	Sensenbrenner
Chambliss	Johnson, Sam	Shadegg
Chenoweth	Jones	Shaw
Christensen	Kasich	Shays
Chryslers	Kelly	Shuster
Coble	Kim	Skeen
Coburn	King	Smith (MI)
Collins (GA)	Klug	Smith (NJ)
Combest	Knollenberg	Smith (TX)
Cooley	Kolbe	Smith (WA)
Cox	LaHood	Solomon
Crane	Largent	Souder
Crapo	Latham	Spence
Creameans	LaTourette	Spratt
Cubin	Laughlin	Stearns
Cunningham	Lazio	Stenholm
Davis	Leach	Stockman
Deal	Lewis (CA)	Stump
DeLay	Lewis (KY)	Talent
Dickey	Lightfoot	Tate
Doolittle	Linder	Tauzin
Dornan	Livingston	Taylor (MS)
Dreier	LoBiondo	Taylor (NC)
Duncan	Longley	Thomas
Dunn	Lucas	Thornberry
Ehlers	Manzullo	Tiahrt
Ehrlich	Martini	Torkildsen
Emerson	McCollum	Trafficant
English	McCrery	Upton
Ensign	McDade	Velazquez
Everett	McHugh	Vucanovich
Ewing	McInnis	Walker
Fawell	McIntosh	Walsh
Fields (TX)	McKeon	Wamp
Flanagan	Metcalf	Watts (OK)
Foley	Meyers	Weldon (FL)
Fowler	Mica	Weller
Fox	Miller (FL)	White
Franks (CT)	Mink	Whitfield
Franks (NJ)	Molinari	Wicker
Frelinghuysen	Moorhead	Wolf
Frisa	Moran	Young (AK)
Funderburk	Morella	Young (FL)
Galleghy	Myers	Zeliff
Ganske	Myrick	Zimmer
Gekas	Nethercutt	
Geren	Neumann	

NOT VOTING—24

Abercrombie	Herger	Pelosi
Ackerman	Hilliard	Reynolds
Bateman	Jefferson	Sisisky
Boehner	Lantos	Torricelli
Bunn	Menendez	Tucker
Clinger	Moakley	Waldholtz
Durbin	Mollohan	Weldon (PA)
Fattah	Parker	Williams

□ 1904

Mr. WISE changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ABERCROMBIE. Mr. Chairman, during rollcall vote Nos. 650, 651 on H.R. 1594 I was unavoidably detained. Had I been present I would have voted "aye" on both.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. DICKEY) having assumed the chair, Mr. EMERSON, 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. 1594) to place restrictions on the promotion by the Department of Labor and other Federal agencies and instrumentalities of economically targeted investments in connection with employee benefit plans, pursuant to House Resolution 215, 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.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute? If not, 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 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

Mr. FAWELL, Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—yeas 239, nays 179, not voting 16, as follows:

[Roll No. 652]

AYES—239

Allard	Bonilla	Coble
Archer	Bono	Coburn
Armey	Brownback	Collins (GA)
Bachus	Bryant (TN)	Combest
Baker (CA)	Bunn	Cooley
Baker (LA)	Bunning	Cox
Ballenger	Burr	Crane
Barr	Burton	Crapo
Barrett (NE)	Buyer	Creameans
Bartlett	Callahan	Cubin
Bartlett	Callahan	Cunningham
Bass	Camp	Davis
Bateman	Canady	Deal
Bereuter	Castle	DeLay
Bilbray	Chabot	Dickey
Bilirakis	Chambliss	Doolittle
Bliley	Chenoweth	Dornan
Blute	Christensen	Dreier
Boehlert	Chryslers	Duncan
Boehner	Clinger	Dunn

Ehlers	Kim	Roberts
Ehrlich	King	Rogers
Emerson	Kingston	Rohrabacher
English	Klug	Roth
Ensign	Knollenberg	Roukema
Everett	Kolbe	Royce
Ewing	LaHood	Salmon
Fawell	Largent	Sanford
Fields (TX)	Latham	Saxton
Flanagan	LaTourette	Scarborough
Foley	Laughlin	Schaefer
Fowler	Lazio	Schiff
Fox	Leach	Seastrand
Franks (CT)	Lewis (CA)	Sensenbrenner
Franks (NJ)	Lewis (KY)	Shadegg
Frelinghuysen	Lightfoot	Shaw
Frisa	Linder	Shays
Funderburk	Livingston	Shuster
Galleghy	LoBiondo	Skeen
Ganske	Longley	Skelton
Gekas	Lucas	Smith (MI)
Geren	Manzullo	Smith (NJ)
Gilchrest	Martini	Smith (TX)
Gillmor	McCollum	Smith (WA)
Gilman	McCrery	Solomon
Goodlatte	McHugh	Souder
Goodling	McInnis	Spence
Goss	McIntosh	Stearns
Graham	McKeon	Stenholm
Greenwood	Metcalf	Stockman
Gunderson	Meyers	Stump
Gutknecht	Mica	Talent
Hall (TX)	Miller (FL)	Tanner
Hancock	Molinari	Tate
Hansen	Montgomery	Tauzin
Hastert	Moorhead	Taylor (MS)
Hastings (WA)	Morella	Taylor (NC)
Hayes	Myers	Thomas
Hayworth	Myrick	Thornberry
Hefley	Nethercutt	Tiahrt
Heineman	Neumann	Torkildsen
Herger	Ney	Trafficant
Hilleary	Norwood	Upton
Hobson	Nussle	Vucanovich
Hoekstra	Oxley	Walker
Hoke	Packard	Walsh
Horn	Paxon	Wamp
Hostettler	Petri	Watts (OK)
Houghton	Pickett	Weldon (FL)
Hunter	Pombo	Weldon (PA)
Hutchinson	Porter	Weller
Hyde	Portman	White
Inglis	Pryce	Whitfield
Istook	Quillen	Wickert
Johnson (CT)	Quinn	Wicker
Johnson (SD)	Radanovich	Wolf
Johnson, Sam	Ramstad	Young (AK)
Jones	Reed	Young (FL)
Kasich	Regula	Zeliff
Kelly	Riggs	Zimmer

NOES—179

Abercrombie	DeFazio	Hefner
Andrews	DeLauro	Hilliard
Baessler	Dellums	Hinches
Baldacci	Deutsch	Holden
Barcia	Diaz-Balart	Hoyer
Barrett (WI)	Dicks	Jackson-Lee
Becerra	Dingell	Jacobs
Beilenson	Dixon	Johnson, E. B.
Bentsen	Doggett	Johnston
Berman	Dooley	Kanjorski
Bevill	Doyle	Kaptur
Bishop	Edwards	Kennedy (MA)
Bonior	Engel	Kennedy (RI)
Borski	Eshoo	Kennelly
Boucher	Evans	Kildee
Brewster	Farr	Klecicka
Browder	Fazio	Klink
Brown (CA)	Fields (LA)	LaFalce
Brown (FL)	Filner	Levin
Brown (OH)	Flake	Lewis (GA)
Bryant (TX)	Foglietta	Lincoln
Cardin	Forbes	Lipinski
Chapman	Ford	Lofgren
Clay	Frank (MA)	Lowe
Clayton	Frost	Luther
Clement	Furse	Maloney
Clyburn	Gejdenson	Manton
Coleman	Gephardt	Markey
Collins (IL)	Gibbons	Martinez
Collins (MI)	Gonzalez	Mascara
Condit	Gordon	Matsui
Conyers	Green	McCarthy
Costello	Gutierrez	McDade
Coyne	Hall (OH)	McDermott
Cramer	Hamilton	McHale
Danner	Harman	McKinney
de la Garza	Hastings (FL)	McNulty

