should. We are that close. We have two bills. It is not impossible. In fact, it is more than possible that we can achieve what we are saying with this motion to instruct today. It will just take the sincere dedication that we know we have on the House Committee on Agriculture, working with the Committee on Resources. And I know it exists with the Senate. We have always had, when it comes to agriculture, an excellent working relationship to go to conference, to work it out. That is exactly what this motion does. I hope the House will accept it.

Mr. GEORGE MILLER of California. Mr. Speaker, will the gentleman yield?

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

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, when I was talking about dragging the chains across the desert, I did not mean that to be derogatory. That is a practice that works. In California, we cannot criticize that, because then we take the mesquite and turn it into mesquite charcoal for those oven-roasted, free-range chickens.

Mr. STENHOLM. Mr. Speaker, reclaiming my time, I took it exactly like the gentleman meant it. It was a compliment. I appreciate the support in this, because in many cases some of the folks do not agree with us on doing that either.

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

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

Mr. GOODLATTE. Mr. Speaker, if the gentleman will provide the mesquite, we will provide the chickens.

Mr. STENHOLM. Mr. Speaker, reclaiming my time, one of the requirements that I have had all along in this is do not muck around with my mesquite trees, whatever you do. But now we are talking about a very good, constructive use of mesquite trees. We have now got delineated, outlined clearly, how we can provide more of it, and we have a market for it, so I already see some benefits to this bill that are going to accrue to the 17th Congressional District of Texas in the new market for mesquite trees.

But here let us get back to seriousness. I hope we can do what this motion does.

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

The previous question was ordered.

The SPEAKER pro tempore (Mr. SHAW). The question is on the motion to instruct offered by the gentleman from Texas (Mr. STENHOLM).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on Agriculture, for consideration of the House bill and the Senate amendments, and modifications committed to conference: Messrs. GOODLATTE, BOEHNER, JENKINS, GUTKNECHT, HAYES, STENHOLM, PETERSON of Minnesota and DOOLEY of California.

From the Committee on Resources, for consideration of the House bill and the Senate amendments, and modifications committed to conference: Messrs. POMBO, MCINNIS, WALDEN of Oregon, RENZI, GEORGE MILLER of California and INSLEE.

From the Committee on the Judiciary, for consideration of sections 106 and 107 of the House bill, and sections 105, 106, 1115, and 1116 of the Senate amendment and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas and Mr. CONYERS.

There was no objection.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 1829.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

FEDERAL PRISON INDUSTRIES COMPETITION IN CONTRACTING ACT OF 2003

The SPEAKER pro tempore. Pursuant to House Resolution 428 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1829.

□ 1130

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. 1829) to amend title 18, United States Code, to require Federal Prison Industries to compete for its contracts minimizing its unfair competition with private sector firms and their non-inmate workers and empowering Federal agencies to get the best value for taxpayers' dollars, to provide a 5-year period during which Federal Prison Industries adjusts to obtaining inmate work opportunities through other than its mandatory source status, to enhance inmate access to remedial and vocational opportunities and other rehabilitative opportunities to better prepare inmates for a successful return to society, to authorize alternative inmate work opportunities in support of non-profit organizations, and for other purposes, with Mr. SHAW 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 Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

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

Mr. Chairman, Federal Prison Industries, or FPI for short, was first authorized in the 1930s to require Federal agencies to buy goods made by inmates in Federal prisons. The purpose of FPI was to ensure work and training for prison inmates by guaranteeing a market for prison-made goods. Although Federal Prison Industries may have started with good intentions, it has been surrounded by controversy since its inception.

FPI enjoys a mandatory market for its goods, a government facility to produce them in, and pays its workers less than the minimum wage to manufacture them. A guaranteed market for its products and reduced costs for labor and capital clearly amounts to an unfair advantage when put in direct competition with private industries. As Members of Congress, I believe it is our duty to protect the pocketbooks of taxpayers by ensuring that the Federal Government is not misusing taxpayer dollars. I believe it is also our duty to protect American business and workers from unfair competition by the Federal Government.

FPI is a large, government-owned corporation. It currently operates 111 factories at 71 of its correctional institutions where it produces goods in over 150 product lines under the trade name UNICOR. It offers approximately 150 broad classes of products and services through eight business groups. And there is no question FPI hurts private industry. For example, in fiscal year 2002, the FPI sold over $210 million in office furniture, representing a 17.2 share of the office furniture market nationwide.

Since I was first elected to Congress, I have been working to correct the situation with FPI and level the playing field for private industry. I became interested in this issue out of concern for small businesses in my district in Wisconsin. Two businesses in my district were shut down as a direct result of competition from FPI. Other businesses sought my help when FPI threatened to come in and begin manufacturing small engines. Over the years, I have received dozens of letters complaining about FPI and asking Congress to eliminate mandatory source in favor of a more competitive market for Federal agency business. Because of these concerns, it is not surprising that industry and labor have joined Members of this body in seeking reform of Federal Prison Industries.

Mr. Chairman, H.R. 1829, the Federal Prison Industries Competition and Contracting Act of 2003, is a bipartisan solution to reform prison industries. This legislation would alter the way FPI does business by requiring that FPI compete for its business opportunities. Currently, all Federal agencies

must purchase products offered by FPI, which is commonly referred to as FPI's ''mandatory source'' status. FPI, rather than the buying industry, currently determines if FPI's offered product and delivery schedule meet the needs of the buying agencies.

Now, just stop and think about that. There we have the manufacturer rather than the customer deciding whether or not the product and the delivery schedule meet the needs of the agency that is supposed to buy the product. That does not happen anyplace else in our economy. FPI, rather than the buying agency, determines the reasonableness of FPI's offered price.

Now, think about that again. There we have the seller saying this is the price you have to pay and the buyer has no choice but to pay that price. This is not the way the Federal Government should do business. And, it increases our Federal budget deficit.

This bill would gradually phase out the exclusive right of FPI to sell goods to Federal agencies by October 1, 2008. The bill also changes the manner in which FPI sells its products and services through the various Federal departments and agencies. During the phaseout period, FPI would be required to provide the agency with the product that meets its needs at a ''fair and reasonable price'' and in a timely manner.

H.R. 1829 would establish new competitive procedures for government procurement of products and services that are offered for sale by FPI. It would require that FPI sales to Federal agency customers be made through contracts won on a competitive basis for both products and services. Like other suppliers to the Federal Government, FPI would be required to fulfill its contractual obligations in a timely manner.

In order to ensure that inmates are not idle, there are provisions in the bill that provide funds for inmate rehabilitation and training. To address any concerns regarding prison safety and the safety of correctional officers, there are provisions in this legislation which allow the Attorney General to authorize mandatory source contracts for prisons where a safety risk exists.

These common sense approaches to reforming prison industries will allow FPI to continue operations, but will not allow it to continue to overcharge Federal agencies and American taxpayers, and it will not allow it to continue to have an unfair advantage over small business with a guaranteed contract, an unfair advantage that throws law-abiding, tax-paying citizens out of work. FPI will be able to compete with the private sector because it will still be able to pay subminimum wages and will not be required to provide health insurance or retirement benefits for its workers.

It is time to create a more balanced playing field for business and industry when it comes to government procurement and, at the same time, give our Federal agencies the ability to use taxpayer dollars in the most efficient manner possible.

The barriers to entry that mandatory source creates prevent the establishment of new businesses and new jobs. Reforming this program and eliminating mandatory source will help create jobs for law-abiding, tax-paying citizens.

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

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

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Federal Prison Industries program, or FPI, has been around since the 1930s. Under the law, Federal agencies are required to buy needed products from FPI if FPI can meet their order. The purpose of the program is to teach prisoners real work skills so that when they are released from prison, as they ultimately will be, they will be able to find and hold a job, they will be able to support themselves and their families, and they will be less likely to commit additional crimes.

It is clear that the program works to do just that. Follow-up studies covering as much as 16 years of data have shown that inmates who participate in prison industries are 14 percent more likely to be employed and 24 percent less likely to commit crimes than others who did not participate in the program. While this certainly benefits offenders and their families, there is a more important public policy perspective, and that is that the real benefit for all of us is that as a result of the program, they will be less likely to commit crimes. We are prepared to spend billions of dollars in prison construction and prisoner upkeep in our efforts to reduce crime. This is a program that reduces crime while it pays for itself.

Now, H.R. 1829 will result in fewer inmate jobs with increased taxpayer costs and an increase in crime. The CBO estimates that it will cost over a half a billion dollars with at least $177 million of that in additional security costs to guard the inmates who are made idle by this bill. The other part of the half billion dollars is attributable to the cost of vocational education and other alternatives to replace FPI when those jobs are lost. However, nothing guarantees that the half billion dollars will actually be funded, other than the phantom promise of an authorization in the bill.

In addition to the half billion dollars of taxpayer funds for a program that now costs taxpayers nothing, there are other big losers in the bill. About 75 percent of the roughly $600 million that FPI takes in goes back into the purchase of raw materials, equipment, and services from the private sector businesses in order to purchase supplies for FPI products. There are thousands of these businesses and they hire thousands of workers. Over 60 percent of them are small, minority- and women-owned, disadvantaged businesses. For many of them, FPI is their only client. So a high number of these private sector jobs held by law-abiding citizens will be gone immediately with the elimination of mandatory source of FPI, since there will be no reliable FPI revenues or orders.

And when these jobs are lost, they will not be made up by the business leaving FPI and going into other private businesses. The whole of the FPI revenues constitute less than one-quarter of 1 percent of Federal agency purchasing, about the same as it was in 1935. With the entire private sector market and 99.75 percent of the Federal market, spreading the remaining one-quarter of 1 percent of the Federal market over all of the private sector businesses is not likely to create any jobs. It will simply be absorbed in the existing workforce with little effect on work levels. Less than 25 percent of Federal agency purchases go to small businesses, so the bulk of the business taken away from FPI will go to big business, be absorbed, and not create any businesses to offset those that are lost.

Now, critics say that FPI has resulted in substantial job losses for law-abiding citizens. The furniture and apparel industries are two of the industries most often cited. But when asked, representatives of these industries conceded that FPI sales represent an insignificant or negligible portion of their industries, and if such industries are having problems, it is not due to the impact of FPI. I have been told that 600,000 jobs were lost over the last 10 years in the textile industry. There are roughly 7,000 prisoners working in textiles in FPI, and certainly we cannot blame a few thousand prisoners for the loss of 600,000 jobs.

All able-bodied inmates in the Federal system are required by law to work. Few offenders enter prison with marketable work skills. The vast majority do not have credible work habits such as showing up for a job and working cooperatively and productively with others. Such habits are required to maintain an FPI job. These are the same requirements and same habits required to be productive in desirable workers anywhere, and that is why inmates with FPI experience have been found to be significantly more employable than those who do not.

With the elimination of parole, with the elimination of good conduct credits, Pell grants, and the elimination of other incentives, the Federal Prison System has little to offer to a prisoner for self-development. One shining exception is FPI. Non-FPI inmate jobs pay about 12 cents an hour to about 30 cents an hour, while FPI jobs pay up to $1.25 an hour and are not paid for with any taxpayer money. To hold down an FPI job, an inmate must have completed high school or be making steady progress toward obtaining a GED, and maintain a record of good behavior.

This is true not only for those already in an FPI job, but also for those on the waiting list, as well as those who are trying to establish eligibility to be placed on the waiting list.

Some have suggested that vocational education is a good substitute for FPI work experience. While the vocational experience is important and ought to be available to all inmates who can benefit, not all inmates can benefit, and the timing is important for those who can. The average sentence for prisoners in the Federal system is 8 years. The average length of a vocational education program is about 2 years or less and is generally thought to be better delivered towards the end of the sentence, right before release. In any case, the question becomes what to do with the other 6 years of the sentence prior to or after completion of vocational education. And the next question, of course, is who is going to pay for the vocational education. The FPI program pays for itself.

I am the first to concede that there are problems with FPI which should be fixed. When a small business making a single product already has a government contract and depends on the continuation of that contract for its viability, the FPI should not be able to take that business away through the use of mandatory source.

□ 1145

But this bill should be fixing the problem, not gutting it by taking away all of FPI's primary business sources all at once. While the bill suggests that lack of competition is the problem, it takes away FPI's ability to provide services, even though services have to be provided on a competitive basis. There is no mandatory source provision for services; there is just for products. The bill prohibits FPI from providing services to businesses even when there is no business or labor in the United States interested in providing the service.

We are already seeing the effects of the Department of Defense restrictions on FPI procurement that we passed last Congress. Information from the program indicates that it has already had to close 13 factories and eliminate over 1,700 inmate jobs. They expect to eliminate 500 additional jobs before the end of the year.

Now, we should fix the problems, but we should do so in a way that assures the viability of a vital crime-reducing program. The GAO has been asked to study the impact of inmate employment, prison security, private and public employment, and public safety. The information will be available in April. With these issues at stake, we should not demolish a program with a record of contributing significantly to prison security, inmate and private job generation and public safety without first assessing the study information.

Congress has the oversight responsibility for the safe and efficient operation of our prisons and for the protection of the public from crime. Real work opportunities in prison have been shown not only to provide for safer, more manageable prisons, but also for substantially less recidivism upon release among those inmates who participate in FPI.

It costs the taxpayers nothing. If we are going to eliminate the program, we should put viable options in its place and wait for the results of the pending GAO study to determine what those options are. This program was created in the midst of the Great Depression when jobs were at their lowest point. We should not toss it aside just because it has a few problems. We should fix the problems.

Now, we can do better than this bill, Mr. Chairman, and we certainly should.

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

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. EHLERS.)

Mr. EHLERS. Mr. Chairman, I rise in strong support of H.R. 1829, legislation that has been a very long time in coming. I want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman, and the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary, for moving this bill forward; and I particularly want to thank the gentleman from Michigan (Mr. HOEKSTRA), my colleague and friend, for his steadfast work on this issue.

This bill will provide much-needed relief for manufacturers in my district and across the country that have faced the anticompetitive and unfair practices of Federal Prison Industries for too long. By eliminating FPI's current status as a mandatory source to various Federal agencies and requiring FPI to compete for its contracts, H.R. 1829 will ensure that all private sector businesses can bid on Federal contract opportunities that are funded with their tax dollars, not just those companies who first enter into contractual relationships with FPI.

For those who argue that this legislation is inappropriate or that Congress should delay action and rely on administrative reforms, let me describe one recent incident involving FPI and a business in my district that illustrates why we must pass this legislation.

The fundamental flaws in this mandatory source rule were clearly evident during a procurement for office furnishings associated with the renovation of the new headquarters of the Federal Aviation Administration. Through the GSA, the FAA conducted a fair and open competitive bidding process to identify the supplier whose entire proposal represented the best value for the FAA. The GSA then selected the winning private sector contractor based on the FAA's specific needs relating to both types of products and installation schedules.

As required by FPI procedures, the complete proposal for the winning contractor was then sent to FPI for review. FPI took the contract by simply matching the price of the winning bid to the penny. The FAA and GSA were left with little recourse and, for all practical matters, had to accept FPI's decision, despite the fact that they thought the private sector bid would better fit the FAA's needs and would be a better value than FPI-supplied furniture. Furthermore, FPI planned to subcontract much of the work to furniture companies whose products did not match the design and quality of the winning bid.

This contravention of the fair and open competitive bidding process was eventually resolved through vigorous congressional intervention, and the private sector contractor was awarded the FAA contract. But this situation serves as an example of how FPI's unjust procedures completely undermine fair and competitive bidding and eliminate a purchasing agency's prerogative.

The reforms in H.R. 1829 are absolutely vital for ending this type of abuse and restoring integrity to the bidding system.

I understand and fully support the need to provide prisoners with meaningful work that can help the rehabilitation process. But it should not be done in a procedurally flawed manner, and FPI should not unfairly compete with private sector bidders.

It is important to note that FPI is only one of several programs within the Bureau of Prisons that provides meaningful work and skill-developing opportunities to prisoners. The difference is that FPI does so at the expense of the jobs of hard-working, law-abiding citizens. Finally, I am pleased to note that this bill contains several provisions to help inmates transition back into society, including enhanced access to vocational training and employment assistance programs.

The FPI program is unfair, wasteful and desperately needs reforming. I urge my colleagues to vote in favor of this critical legislation.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Chairman, as we look at this bill, it certainly appears to respond to an issue that I have great concern with and that is, of course, the idea of the promotion and elevation of small businesses. I think my record is fairly clear in this House, Mr. Chairman, that I support that. But I am concerned as well about the substance and purpose of the Federal Prison Bureau Industries.

Just a couple of months ago I took the opportunity, Mr. Chairman, to visit one of our Federal detention centers, prison centers, maximum, minimum, and medium security, walked through the hallways and looked at their facilities. There was not a prisoner there that did not talk to me about the value of prison industries, the ability to do something with your hands, your mind.

I looked at the less-than-sufficient computer stations, if you will, and, of course, somebody will say this is not a vacation home, and I realize that. But we realize that prisoners are family members. They are Americans. And they will be let out.

There is a distinction, of course, between those who perpetrated heinous and horrific crimes. We know that there are some serving lifetime sentences. But it is documented, Mr. Chairman, that the prison industry is a valuable component to rehabilitation but also a valuable component to providing services in the community.

We also know that the Federal Prison Bureau contract out responsibilities to local businesses. So it is a partnership. And what I am concerned about is that this particular legislation will find a way to undermine that relationship and that infrastructure and further deny those who seek to rehabilitate the opportunity to rehabilitate.

Let me say this, that I appreciate, however, the consensus effort that has been made by the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the committee, and the ranking member, the gentleman from Michigan (Mr. CONYERS), and the chairman of the subcommittee and the ranking member of the subcommittee. There has been good work on this bill.

I am grateful to note that there is a provision that asks for a study regarding this issue of good time for nonviolent prisoners. Individuals whose hands I shook when I went in, parents who asked me about their young people who were in simply for drug possession long years because they were simply standing on a street corner, not using, but possessing. And so there are some elements that I think we can work on.

But let me remind my colleagues that it is clearly a challenge to balance the necessity of over half a million inmates. Rehabilitation, education, are key components of them being able to integrate into society. You have never seen anything worse than to go into those systems, as I did, and walk the hallways and walk the courtyards and see large segments of men, mostly standing idly by doing nothing, and having them beg you, can we find something to do. They took away the exercising equipment in some instances, televisions are coveted. So give them something to do.

And Federal Prison Industries is a very successful entity. It provides job training opportunities, and it is valuable.

Mr. Chairman, let me just say this: I wish we could compromise more. I hope we can work through this legislation to balance the needs of all who are in need of training and opportunities.

Mr. Speaker, I rise in opposition to this bill, H.R. 1829, the ''Federal Prison Industries Competition in Contracting Act of 2003.'' In a markup of the full Committee on the Judiciary in July of this year, my colleagues on that Committee voted to accept two of my amendments that speak to the issues of the bill's elimination of the ''mandatory source preference'' and inmate ''good time'' for the nature of offense and good behavior, and those amendments have been incorporated into Sections 15 and 16 of the current bill text respectively. Prison reform is an important matter that deserves serious attention by the House before it considers passing this important legislation.

Over 2 million offenders are incarcerated in the Nation's prisons and jails. At midyear 2002, 665,475 inmates were held in the Nation's local jails, up from 631,240 at midyear 2001. Projections indicate that the inmate population will unfortunately continue to rise over the years to come.

The Bureau of Prisons of the U.S. Department of Justice administers the Federal prison system. Clearly, the Bureau is expanding the capacity of the Federal system in anticipation of accommodating an inmate population exceeding 178,000 by the year 2006. Clearly, the overcrowding of prisons is a serious matter.

To illustrate the impact that this bill will potentially have on Texas, the Federal prison population for the years 2000, 2001, and 2002 reached 39,679, 36,138, and 36,635 persons respectively; the State prison population for the same years reached 20,200, 20,898, and 23,561 persons. These numbers have grown since 2002, so the impact is indeed significant and the State of Texas is an important stakeholder.

In 1934, Congress established Federal Prison Industries (FPI). FPI is a government corporation that employs offenders incarcerated in Federal prisons. FPI provides job-training opportunities to Federal inmates in the form of goods production and services for Federal agencies. Currently, the State of Texas alone employs 7,700 inmates in prison industries. Nationally, 25 percent of those held in Federal prisons are employed by FPI. Items produced by inmates include furniture, metal products, textile items, optical and plastic hardware, and electronic cable assemblies. Inmates are also able to use automated systems to prepare data and information aids.

By statute, FPI products and services must be purchased by Federal agencies (a requirement referred to as a ''mandatory source'' or ''sole source'') and not available for sale in interstate commerce or to non-Federal entities. Federal agencies can obtain products from the private sector through a waiver issued by FPI if the corporation is unable to make the needed product or provide the required service.

FPI is a self-supporting government operation. Revenue generated by the corporation is used to purchase equipment and raw materials, pay wages to inmates and staff, and expand facilities. Last year, FPI generated over $566 million in revenue, $418 million of which went to purchasing goods and services from the private sector, 74 percent of which went to small and minority owned businesses in local communities across this country.

The Bureau of Prisons clearly appreciates the advantage the program can have on inmates and society at large. First, there is some security benefit to FPI system because inmates are productively occupied. Second, FPI programs are said to provide inmates with training and experience that develop job skills and a strong work ethic. This is certainly important.

On the other hand, there are some groups that represent working Americans that suggest that job opportunities, particularly jobs needed by low-income families, are lost because FPI receives Federal contracts. Although current law prohibits FPI from dominating the Federal market, and there are currently congressional mandates placed on FPI to ''avoid capturing more than a reasonable share of the market'' among Federal agencies, departments, and institutions for any specific product, determining the appropriate share of the Federal market remains contentious. Nevertheless, we must endeavor to take into account the concerns by working Americans across the Nation so that we can pass a bill that simultaneously protects jobs and keeps inmates productive.

The bill before us today provides for a five-year phase-out of mandatory source preference by granting to FPI's Federal agency customers authority to first solicit on a noncompetitive basis. However, at the end of the phase-out period there is no existing substitute for the services and program. Looking to the States, there simply is not enough program participation to accommodate the 25 percent that is currently accommodated under FPI.

OPPOSING VIEWS TO FPI AND RESPONSES

Some who support H.R. 1829 would argue that eliminating the FPI mandatory source preference will help small business. However, H.r. 1829 will have an adverse impact on the many small businesses that provide raw materials, equipment, and other services to FPI factories. Must of the adverse impact of H.R. 1829 will fall on private sector small businesses. FPI would not exist, and certainly could not offer quality products and services, without the direct support of private sector companies that provide raw materials, equipment, and services that FPI needs to produce its products. Each of these private sector companies responded to solicitations issued by FPI and were awarded the contracts through competitive procedures.

During FY 2002, FPI spent 74 percent of its $680 million in sales revenues (that is, $503 million) on purchases of raw materials, equipment, and services from private sector companies. Some 62 percent of these purchases (that is, $311 million) were from small businesses, including businesses owned by women, minorities, and those who are disadvantaged. FPI has consistently received the U.S. Attorney General's Small Business Award for its concerted efforts to contract with the small business community, far exceeding the 23 percent government-wide requirement for contracts with small business. From 1997–2001, FPI has awarded $851 million in contracts to small business, which is a yearly average of 57 percent.

Those who support this bill from the office furniture and apparel industries argue that FPI controls too much of the Federal procurement market and is taking away significant levels of Federal government business from those two industries. However, FPI is neither a procurement giant nor is it taking away significant levels of Federal business from the office furniture and apparel industries. FPI's total sales revenues ($680 million in FY 2002) represent only a very small percentage of the total Federal procurement dollars. FPI revenues represent one quarter of 1 percent of total Federal agency procurement dollars and only 4.5 percent of the overall Federal market in the 250 products it produces within the Federal supply—a very small fraction. The office furniture and apparel industries are the two industries in which FPI produces the highest

volume of work. In the Dissenting Views section contained in H. Rept. 108–286, the House Judiciary Committee report concerning this bill (H. Rept. 108–286), we see that ''when asked, representatives of these industries conceded that FPI sales represent an 'insignificant' and 'negligible' portion of their industries, respectively.''

Supporters of H.R. 1829 from private sector labor unions argue that the elimination of the FPI mandatory source preference authority will help labor union workers get back jobs that have been lost over the past decade. However, H.R. 1829 will adversely affect both Federal and private sector labor union workers, and it will not get back the jobs that have been lost. H.R. 1829's elimination of the FPI mandatory source preference will adversely affect the 33,000 Federal corrections officers and other Federal employees who work at the 101 prison facilities in the Federal Bureau of Prisons system. These 33,000 Federal employees, who are represented by the American Federation of Government Employees, AFL–CIO, know that eliminating the FPI mandatory source preference authority will undermine the FPI prison inmate work programs—and thereby create substantial problems for the safe and secure operation of Federal prisons. This bill's elimination of the FPI mandatory source preference also will adversely affect the approximately 5,000 U.S. workers—many of whom are represented by labor unions—who are employed by those private sector companies that provide FPI with raw materials, equipment, and other services. It is indisputable that certain U.S. industries have lost a great many jobs over the past decade. But these industries have lost jobs not because of FPI. For example, 600,000 textile jobs have been lost over the past 10 years. There are only about 7,000 prison inmates working in FPI textile factories. Clearly, the blame for the loss of 600,000 jobs cannot be placed on a few thousand Federal prison inmates. The same is true in the office furniture business. The real blame should be placed on the adverse impacts of globalization and unfair trade, not on FPI.

While there are other initiatives which may accomplish the goal of eliminating the mandatory source preference more quickly, I believe we can work together to reach a compromise that is both timely and also enhances opportunities for U.S. workers. We may not all agree on the specific phase-in period but let us try to find a workable solution on this critical issue.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. WOLF.)

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

Mr. WOLF. Mr. Chairman, I rise in opposition to the bill. Before I make some comments, let me say I have great respect for the gentleman from Michigan (Mr. HOEKSTRA). He is a good person. So we just have differences. I think this is not the way to go.

Secondly, I think the administration and the Justice Department, their failure to take a position on this bill is morally reprehensible. When they have a fiduciary relationship in running these prisons and not to say anything, what can I say.

Winston Churchill said one of the best tests of whether we are truly a civilized people is the temper, the mood of the public in regard to the treatment of crime and criminals.

As somebody who is proud to be a conservative, and a compassionate conservative, and somebody who has worked in prisons—before I got elected I was involved in a program at Lorton Prison called Man to Man where we would go down and counsel people—knowing what this bill could do, I think this bill should be defeated.

You cannot put a man in prison for years and expect him to be rehabilitated without work. The Bible says, ''Remember the prisoner as though in prison with them.''

This bill would make it difficult to operate a prison. Inmates without work who are idle are prisoners that are going to later come back and commit a crime. This bill also has major budget impacts. To those on my side of the aisle who talk about balancing the budget, the cost of this bill over 5 years will be $500 million.

Rehabilitation. Inmates who participate in prison work are less likely to repeat and less prone to violence.

Also, at election time everyone wants to be with the Fraternal Order of Police. It is sort of amusing. My dad was a policeman in the city of Philadelphia, very active in the Fraternal Order of Police. Politicians always like to get the FOP's endorsement. The FOP says, ''The FPI is the most important correctional rehabilitation program of the Bureau of Prisons. Not only does it provide Federal inmates with marketable skills,'' then it goes on to say it opposes this bill.

Lastly, Chuck Colson who runs Prison Fellowship, who I admire, who frankly has forgotten more about prisons than anybody in this institution on either side knows, sent a letter about this bill where he said the following: ''We regret that we must oppose your prison work legislation. We applaud you for working to reform Federal Prison Industries, and your bill makes many good and important reforms. In fact, we did not oppose bringing your bill to the floor because we think this important issue needs to be debated. However,'' and they underline, ''your bill does not set up an alternative system.''

That is the key. There is no alternative system ''for replacing the jobs that will be lost when your reforms are implemented. That would be tragic, and it is for this reason that we must oppose your bill.''

He goes on to say, ''Prison work programs are an essential part of changing prisoners' lives.'' We cannot put a man or woman in prison for all of these years and then expect them to come out with a changed life. They end by saying, ''We advocate work programs because they are beneficial to society.'' How we treat them in prison will determine what type of neighbors they will be.

Mr. Chairman, I will submit these letters for inclusion in the RECORD.

If this bill is not amended, I believe, and I may be wrong, that this bill, as surely as the night follows the day, will make it very difficult to operate prisons and will result in men not having the rehabilitation and the dignity, which I predict will lead to more crime in these United States.

This bill raises the issue of job loss, but the enemy is China, and yet this bill does not deal with China. The enemy here is China. The jobs are leaving and going to China. The furniture business took a gun and fired it at the FPI when China is really to blame.

The letters previously referred to follow:

GRAND LODGE,
FRATERNAL ORDER OF POLICE,
Washington, DC, November 4, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: In light of this week's scheduled vote on H.R. 1829, the ''Federal Prison Industries Competition in Contracting Act,'' I am writing on behalf of the membership of the Fraternal Order of Police to advise you of our position regarding efforts to reform this vital Federal program. While the F.O.P. has in the past supported legislation providing for appropriate reform of the statutes and authorities governing Federal Prison Industries (FPI), we cannot support H.R. 1829 in its current form.

The F.O.P. believes that FPI is the most important correctional rehabilitation program of the Bureau of Prisons (BOP). Not only does it provide Federal inmates with marketable job skills, it also assists with the efficient operation of correctional facilities. But most importantly, FPI promotes a safer environment for the thousands of correctional officers who work in BOP facilities. Thus, for our organization, any reform proposal must first be viewed from the perspective of its potential impact on both the safety of Federal correctional officers, and the safety of the public from recidivist offenders.

In addition, any reform proposal approved by Congress should provide for the complete reform of the FPI program—addressing the current law's ''mandatory source'' provisions and increasing opportunities for inmates to gain meaningful employment through the prison industries—while guarding against changes which would negatively impact the program's value. For example, in the 107th Congress legislation was enacted which placed certain restrictions on the Defense Department's procurement from Federal Prison Industries. According to the views of some members of the House Judiciary Committee contained in the report on H.R. 1829, ''information obtained from the program indicates that it has had to close 13 factories and eliminate over 1,700 inmate jobs and expects to eliminate 500 additional inmate jobs before the end of this year,'' as a result of this particular reform effort. Clearly, this raises important concerns about the safety of correctional officers and staff in the facilities which have experienced these losses.

Finally, in order to ensure the continued success of Federal Prison Industries following any major changes to the current program, any reform measure should also contain a provision that provides for the ongoing review of the health of the program. Such a provision should authorize the revival of current law if, after a given number of years following enactment, less than twenty-five percent of eligible inmates are employed by Federal Prison Industries.

On behalf of the more than 310,000 members of the Fraternal Order of Police, thank you in advance for your attention to our concerns on this important issue. Please do not hesitate to contact me, or Executive Director Jim Pasco, through our Washington office if we can provide you with any additional information.

Sincerely,

CHUCK CANTERBURY,
National President.

PRISON FELLOWSHIP MINISTRIES,
Reston, VA, November 3, 2003.

Congressman PETER HOEKSTRA

DEAR CONGRESSMAN HOEKSTRA: We regret that we must oppose your prison work legislation. We applaud you for working to reform Federal Prison Industries, and your bill makes many good and important reforms. In fact, we did not oppose bringing your bill to the floor because we think this important issue needs to be debated. However, your bill does not set up an alternative system for replacing the jobs that will be lost when your reforms are implemented. That would be tragic, and it is for this reason that we must oppose your bill.

Prison work programs are an essential part of changing prisoners' lives so that they leave prison better than they enter. Meaningful jobs teach inmates productive skills that will help them make the transition to leading productive lives in the free world, and the wages they receive allow them to pay restitution to the victims they have harmed, support their families, pay some of the costs of their incarceration and save a small amount toward their ''gate money''.

We advocate work programs because they are a benefit to society. Over 95 percent of the inmates who are currently incarcerated will be released back to our communities. Do we want them unskilled and angry after years of forced idleness? Or do we want them capable of contributing to society with skills they have learned during their confinement. How we treat them in prison will determine what type neighbors they will be.

Idleness is destructive, and any reform of the current system must also expand the work opportunities for inmates. We suggest that you amend your bill to adopt the thoughtful reforms proposed by the Progressive Policy Institute. If adopted those reforms would result in many more inmates working at productive jobs without unfairly competing with private industry. Without such amendments we must oppose your bill.

We appreciate the cooperation we have received from you personally as well as from your staff as we have sought middle ground on this very important issue.

Sincerely,

CHARLES W. COLSON,
Chairman of the Board, Prison Fellowship.

PAT NOLAN,
President, Justice Fellowship.

□ 1200

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, yes, the enemy is China but we have no moral high ground to complain about China flooding the American market with goods made from slave labor in China if we do not reform Prison Industries because they are doing the same thing here.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, it is quite unfortunate that we have a bill before us that pits the small business community or the business community against work opportunities in our prisons. It just should not have reached the floor this way.

It is absolutely obvious that prisoners need to have opportunities for work and rehabilitation while they are in prison. And every Member of the Congress of the United States has stated or demonstrated one way or the other that we support business, we support small business, and we have the office of SBA and a lot of other opportunities to show our support for small business. So we should not have this kind of tension. It really should be worked out.

I do not know where this bill is going, and whether or not it is going to receive the support of the Members of this House; but I know one thing, if we are to release prisoners into our community we should be releasing them with some kind of work experience. And I am sick and tired of prisoners being released with no money, no home, no rental opportunities, no health care, no anything. When they hit the street, if they do not have money for food, if they do not have money to pay rent, if they do not have a reasonable opportunity to have some time to find a job, you are going to continue to experience this recidivism that we are experiencing. And so my remarks today are a prelude to what I am going to do in an amendment.

My amendment is going to say that prisoners should be released with more money; that they should work with whatever the wages are under this system that we have; but for the last 2 years of their work, they should receive at least $2.50 an hour to be retained in a fund so that when they are released they can go and rent a place and have food and not be in the position of being tempted to commit crimes in our communities, in our neighborhoods, because we let them out of prison without anything.

So if I had my druthers, I would remove this bill from the floor. It has no business here creating this tension between business and prison opportunities for work, but I do not have my druthers on this, and so the bill is going to come up for a vote. And I will have an amendment that will deal with the last 2 years of a prisoners' time so that they could have a little bit more money to hit the street with the opportunity for rent, to pay the rent and to buy food.

Again, I know that it is important for prisoners to have the ability to work, and I would not want to eliminate that. I would want to make sure that whatever we do there are some opportunities for prisoners to be able to do this work.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. COBLE), chairman of the Subcommittee on Crime, Terrorism and Homeland Security.

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

While I support our efforts to train inmates to become productive citizens of society, I believe such effort should take great care not to threaten the job of hardworking taxpayers. This issue is especially important to the Sixth Congressional District of North Carolina, home to more than 40,000 textile and furniture workers, since two major classes of items produced by FPI are textile and furniture.

FPI's mandatory source status gives it an unfair advantage, it seems to me, over private manufacturers contending for Federal contracts. Therefore, many of my constituents are deprived of employment opportunities in order to give work to Federal inmates.

The furniture and textile industries in North Carolina are already competing with an increasing number of imports arriving in the United States from countries such as China as has been previously mentioned. From January 2001 to May of 2003, 100,000 furniture and related products jobs in the U.S. were lost. In addition, the North Carolina textile industry has suffered over 10,000 job losses in the past year. For these reasons, I am concerned about FPI's proposal to begin selling inmate furniture services in the commercial market.

It is my belief that the FPI is in need of reform before it is allowed to expand. I am a strong proponent of H.R. 1829 because it does just that, eliminates the FPI's mandatory source advantage. It also limits FPI's ability to enter the commercial market, which I believe may have an adverse effect on private companies not able to compete with low wages and cost benefits enjoyed by FPI. Further, the bill incorporates vocational and educational programs to teach inmates job hunting and professional skills and coordinates funding to help inmates transition back into society. So this bill does not turn a deaf ear to inmate training.

In my opinion, these are real and necessary reforms that will preserve FPI's goal of providing inmates with essential skills while allowing for better marketplace for competition.

Hardworking taxpayers in the Sixth District of North Carolina and other districts who are employed in the furniture and textile industries can compete with anyone in the world. They should not have to compete with their own government which is using their tax dollars to train inmates how to become textile and furniture workers.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise to voice my support for the Federal Prison Industries Competition in Contracting Act of which I am a lead sponsor with my colleagues, the gentleman from Michigan

(Mr. HOEKSTRA), the gentleman from Massachusetts (Mr. FRANK), the gentleman from Georgia (Mr. COLLINS), the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS).

We are living in difficult times, in a tough job market. The Federal Government should not be taking actions that put American working men and women out of work. But that is exactly what the Federal Prison Industries does.

Federal Prison Industries has established eight business groups including the garment industry that use Federal prisoners to manufacture goods at cut rate prices. With its predatory practices, FPI has contributed to the closure of private companies and the loss of tens of thousands of jobs throughout the Nation.

One of my constituents, Glamour Glove Company confronted FPI directly in 1997. FPI sought to simply take Glamour Glove's competitively won Defense Department contracts to make gloves for the military. If FPI had succeeded, Glamour Glove would have been out of business. And its workers, members of UNITE would have been out of work.

I led a fight to save those jobs in my district and had strong support of my colleagues in this Congress. In the forefront was my friend, the gentleman from Michigan (Mr. HOEKSTRA). We won that battle, but I recognize that FPI had to be fundamentally changed. It is examples like Glamour Glove that have brought us to where we are today.

This bill will require FPI to compete for contracts while continuing to offer rehabilitative work opportunities to Federal prisoners. Federal prisoners will be allowed to compete, but it will not allow FPI to come in, arbitrarily, and close plants down across this country. This legislation will ensure that contracts are awarded to the company that will provide the best products, delivered on time, and at the best prices.

Virtually all segments of business community led by the United States Chamber of Commerce, organized labor led by the AFL/CIO, and Federal managers represented by the Federal Managers Association enthusiastically support this bill. Passage of this legislation will not mean that inmates will sit idle in prison.

This bill provides alternative rehabilitative opportunities including work in support of nonprofit public service organizations to better prepare inmates for a successful return to society. This bill authorizes $75 million dollars a year for vocational, education and work programs for Federal inmates. I urge my colleagues to put an end to this unfair government-sponsored monopoly.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I have enormous respect for the author of this bill and, of course, I do for the chairman of this bill, but I must oppose this legislation. I oppose it on prison safety grounds, I oppose it on fiscal grounds, and I oppose it because I believe it will increase recidivism and crime.

FPI in my view is a critical tool in our justice system. It helps us manage prison safety at a time when everyone here knows that prison populations are exploding. It helps us increase the chances for prisoners to become law-abiding successful citizens upon their release, and it does all of this without costing the taxpayers one dime.

Now, FPI, Federal Prison Industries, has not been a perfect program. That is why it is being reformed and improved, and I agree that more work should be done. But this bill, the bill before us today would essentially destroy FPI and all of the benefits that it provides.

As a result of recent changes, FPI has already had to lay off over 1,700 inmates. H.R. 1829 will greatly exacerbate those numbers and create a volatile, dangerous situation in our prison system.

Now, as I said earlier, I oppose this bill also on fiscal grounds. According to the Congressional Budget Office, this bill will cost taxpayers nearly $590 million over the next 5 years. On the other hand, FPI costs taxpayers not a dime. Seventy-three percent of the earnings from FPI goes to purchases from the private sector for raw materials, parts, and services. These contracts are with businesses all across the country, and nearly two-thirds of those are with small, female, minority, and disadvantaged businesses. These private contracts keep an estimated 5,000 private sector workers employed. Twenty percent of FPI's earnings are paid to staff.

According to the Congressional Budget Office, H.R. 1829, on the other hand, would cost an additional $177 million over 5 years. That is nearly $35.4 million a year just for the extra security that will be necessary to supervise prisoners who are no longer working due to the elimination of FPI.

Mr. Chairman, this bill will harm prison safety. It will cost us over $100 million a year. It will cost us 5,000 private sector jobs. We should be supporting programs that will prevent recidivism. We should be supporting programs that will help secure prison and public safety. We should be supporting programs that work with small local businesses all across the country. FPI does that; H.R. 1829 does not. That is why the bill is opposed by Prison Fellowship, by the American Federation of Government Employees, and as we heard just a few moments ago, by the Fraternal Order of Police.

Mr. Chairman, these are days in which we have to be looking for ways to break the cycle of crime and violence. We know what works. The work ethic works. Teaching the work ethic, reinforcing the work ethic, that is how we maximize the chances of success for prisoners upon release. We have seen it day in and day out. We know that it works.

I think it is extraordinarily sad that we take up legislation today that would destroy that. That would undo the one thing that we know works.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I thank the gentleman for yielding me time.

My Fifth Congressional District in Florida is home to one of the southeast's largest prison complexes, and that is the prison complex in Coleman, Florida. It is a very small rural county.

At Coleman, working for Federal Prison Industry is a heavily sought after benefit that the inmates want. If an inmate misbehaves, he cannot work for FPI and they have lost that privilege.

Inmates who work are proven to be less violent and more able to be reintegrated into society.

We have to remember that these Federal inmates have broken the laws governing our land. In turn, we house them, we feed them, we provide them with some of the best medical care which our taxpayers very often resent. When I say we, I mean the American taxpayer.

□ 1215

We also offer, but not mandate, the opportunity for these inmates to gain some work skills.

The Federal Government owes it to the taxpayers to utilize Federal Prison Industries for efficient and inexpensive government production. I regularly hear from the Coleman employees and members of their families. They all feel that knowing that an employee is working for FPI is a greater safety factor.

My mama always used to say that an idle mind is the devil's workshop, especially in prison; and keeping the prisoners busy to me is a safety issue for the prison guards.

Given the current fiscal crunch that we are having and the estimates that we need to fund the ongoing war against terrorism, we should not pass a measure that will cost the taxpayers $589 million.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. QUINN).

Mr. QUINN. Mr. Chairman, I rise today in support of H.R. 1829, the Federal Prison Industries Competition in Contracting Act of 2003.

As a Member from the northeastern part of our country and a district with a large labor union constituency, I can tell my colleagues that it is not too often that the business community and the union community come together and work on an issue. Mr. Chairman, the business and labor communities have been working on this issue now for over 8 years to try to reform the program.

H.R. 1829 balances the need to rehabilitate inmates while at the same time protecting our workers and our jobs. Opponents of the bill will tell us that the intent of business and labor is to put FPI out of business. This is not the case at all, and this legislation does not attempt to do that.

I would ask my colleagues on both sides of the aisle to join me in opposing any amendments that allow FPI to expand its competitive advantage over businesses and unions by giving them unfettered access to the commercial marketplace.

Let me just close by saying, Mr. Chairman, this is a broad-based and bipartisan bill. This type of agreement shows that it is the right approach and that we should act today, not delay any longer. If the business community and the union community can work together so closely on this issue brought before us today, we should be able to do the same thing as Members of the House.

I say support 1829, support it now. Delay no longer. We should act today.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 2 minutes to the gentlewoman from Georgia (Ms. MAJETTE).

(Ms. MAJETTE asked and was given permission to revise and extend her remarks.)

Ms. MAJETTE. Mr. Chairman, I thank the gentleman for yielding me the time.

Today, I rise in support of H.R. 1829. This bill addresses two important issues, rehabilitation of prisoners and leveling the playing field for small businesses. Rehabilitation and fair competition, that is what this bill does.

For prisoners returning to society, this legislation provides more vocational and remedial education. It trains them and helps them to find jobs. I am a former State court judge, and I presided over hundreds of criminal trials. I know firsthand that people who receive education and job training are less likely to return to courtrooms and return to prisons.

Federal Prison Industries has a good track record for success, but vocational education is shown to be even more effective than FPI. Inmates who have vocational education are 33 percent less likely to return to prison after their release. They have a viable alternative to criminal activity.

This bill also levels the playing field for small businesses. Currently, FPI has a competitive advantage over small businesses. FPI is the Federal Government's mandatory source for over 200 products, and that effectively shuts out small businesses that make the same products.

Last month, Angie McClure, vice president of a Georgia metal manufacturer, testified that in Georgia alone there are more than 600 manufacturers competing with FPI. Some of these manufacturers are unable to compete because FPI is the mandatory source for those products. These Georgia manufacturers represent more than 31,000 jobs.

We need to eliminate FPI's mandatory source status and require FPI to compete for Federal contracts just like every other business.

I support H.R. 1829 because it meets both goals, fair competition and rehabilitation. I urge my colleagues to support the bill as well.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. HOEKSTRA), the author of this bill.

Mr. HOEKSTRA. Mr. Chairman, I thank the chairman of the Committee on the Judiciary for yielding me the time.

I really want to thank my colleagues who have worked with me I think over the last 8 years, the chairman 7 years; my colleague, the gentleman from Massachusetts (Mr. FRANK), on the other side of the aisle; the gentlewoman from New York (Mrs. MALONEY); the gentleman from Georgia (Mr. COLLINS). It was 7 years ago that common interest brought us together, and since that time we have been able to expand this coalition to bring about real reform, bringing about real reform that the business community endorses, that the labor unions endorse and I think really moves us into the right step.

I want to just address some of the concerns that my colleague, the gentleman from Virginia (Mr. WOLF), brought up; and I think we do share the same vision, the same objective in the legislation, because it is part of a test of civilized people as to how we are in regard to the treatment of crime and criminals. That is why we have put a number of different factors into H.R. 1829.

The first thing is we do not take a meat axe to this. What we do is we say over a period of 5 years we phase out mandatory sourcing. We still allow Federal Prison Industries to compete for the business, but we put it on a level playing field for manufacturing organizations in America so that taxpayers at least have the opportunity to compete for this business. So it is a phase-out of mandatory sourcing over a period of 5 years.

We open up the opportunity, too, for nonprofits. In the State of Michigan, our prisoners, they work with organizations like Habitat for Humanity. They build the frames of homes. The National Guard delivers these frames to the building sites. The prisoners learn the trade skills. The National Guard is involved and families receive homes.

We are going to be working with the gentleman from Virginia (Mr. SCOTT) today to expand the opportunity for prisoners to work for not-for-profit organizations. So we are looking to fill that void, if there is a void.

For years, we have heard that Federal Prison Industries produces a quality product at a competitive price, at a good delivery schedule. If that is true, there will be no change in the amount of prison work that is performed because all we do is we eliminate the mandatory sourcing. We force them to compete.

Then, finally, we have put in a significant amount of money for vocational training. We recognize that when these folks leave prison that they need skills to make them competitive and to make them employable in the workplace. The one thing we know that does not work is to have Federal Prison Industries growing by 20 to 30 percent per year and industries that are declining by 20 to 30 percent per year. That just does not work. How can we say we are preparing people for work in factories and in industries when those industries are declining? That is exactly what is happening. The two largest elements of prison work, textiles and office furniture, both industries in decline in America during the last number of years.

Support H.R. 1829. It is a balanced and a reasonable approach to this problem.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. Chairman, before the gentleman speaks, could the Chair advise us how much time we have left?

The CHAIRMAN pro tempore (Mr. SIMPSON). The gentleman from Virginia (Mr. SCOTT) has 8 minutes remaining. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 5½ minutes remaining.

Mr. EMANUEL. Mr. Chairman, today I rise in support of H.R. 1829.

Last weekend, my good friend and distinguished colleague from Illinois (Mr. HYDE) wrote a piece which appeared in the Chicago Tribune. In the article, he argued that the supporters of this bill would have criminals just break rocks rather than have a real job through Federal Prison Industries. I support this bill, not because I want criminals to break rocks, but because it is our job to ensure that hard-working, law-abiding citizens do have jobs.

I understand that prisoners need something to do. Idle hands will lead to trouble. The recidivism rate in this country is out of control, and the best way to attack the recidivism rate is in this legislation dealing with education and vocational training.

I support educational opportunities for prisoners. If we look at the history and we look at the record, it is the lack of education, whether it is high school or college or junior college education, that is one of the things that is most dominant and common throughout the prison population. This is what we need to prepare prisoners, not have them compete against law-abiding citizens who do work.

In fact, the gentleman from Massachusetts (Mr. FRANK), my friend and colleague, said we would outlaw this act in China. We do not support what goes on in China, that is, prison population slave wages labor. Now, this

product may be the best option, but we do not know because there is no real competition. Our job is to ensure that the taxpayers' money is being spent wisely.

I support H.R. 1829 because it will ensure that the Federal Government purchases the best product at the best price and that law-abiding citizens have the opportunity to compete for manufacturing jobs.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I thank the gentleman from Wisconsin (Chairman SENSENBRENNER) and congratulate him for bringing this bill to the floor, and especially to my friend, the gentleman from Michigan (Mr. HOEKSTRA), who has labored long in the vineyards to try to get the bill before us so we could debate it.

Mr. Chairman, as a cosponsor of the Federal Prison Industries Competition in Contracting Act, I rise in strong, strong support of this legislation. I could take this time perhaps to tell my colleagues about all the merits of the legislation, but the Chairman basically has done that and the author of the bill. I could also list for my colleagues a long list of groups supporting this bill, but that will be in the RECORD, too.

I would like to tell my colleagues just about the manufacturers in the State of Georgia alone that could benefit from this legislation. Manufacturers and workers have been hit hard in tough times in our economy and because of some of our trade policies. Yes, that is another fight for another day, but H.R. 1829 could help now.

Would my colleagues believe that there are 625 companies with over 30,000 employees in Georgia alone who need this bill? There are 80 of these companies in my district alone. One of these is Habersham Metal Products in Cornelia, Georgia. Ironically enough, they make prison cell doors.

In August, I toured this plant; and a few weeks ago, we were lucky enough to have Ms. Angie McClure, who is a vice president, testify before the Committee on Small Business in strong support of this bill. She told us how Habersham Metal worked on a design build project for several months in Pollock, Louisiana. This project would have meant work for the employees of Habersham Metal Products for 3 months. However, when the specification and request for pricing hit the streets, the FPI had taken all the prime doors and frames and left them with very little to do. This reduced the possibility of Habersham Metal employees working for 3 months down to 3 weeks.

This is not an isolated incident. It has happened in this company alone many other times. But beyond the money and the employment concerns, where in the world is the logic for allowing inmates to build their own prison doors? It makes no sense.

I have heard on this floor people say, well, if we leave everything just like it is, it does not affect the taxpayer. Well, I will tell my colleagues, ask the taxpayer who does not have a job and is not paying taxes anymore if it affects them because the government factory has a monopoly. I have heard people on this floor saying that, well, prisoners will not be trained, prisoners should not work. There is not a Member here who does not believe they should not be worked and should not be trained, and there is not a word in this bill that says they cannot work. In fact, there are provisions in this bill to improve training for the inmates. It is not work that we are after. It is what the work is that they do.

I ask all of my colleagues, please support this bill. This is legislation that is way overdue.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Chairman, often in institutions unwritten rules get more obedience than written rules. One of the unwritten rules that is quite generally followed around here is that when one Member begins a set of remarks by speaking highly of another Member, the first Member is about to disagree with the second Member. So let me adhere to that rule.

□ 1230

I have enormous respect for the work done by the gentleman from Virginia who is leading the opposition to this bill. He is in many ways, particularly in criminal justice, the conscience of this House. And so I feel it is particularly important to explain why we disagree, and I appreciate the comments made by the gentleman from Georgia. This is not a debate about whether or not prisoners ought to be given work to do which will be socially productive and rehabilitative. The question is how will we pay for that work. That is the issue.

The current system in effect pays for prison rehabilitation by putting hard-working, low-wage citizens at a disadvantage and exacerbates their problem. What we now have is a subsidized form of competition between the prisoners and garment workers, textile workers and furniture workers. That is why the AFL–CIO so strongly supports our bill. That is why unions, the UAW, UNITE, unions which have been in the forefront of the battle for social justice support this bill, because it is not a case of saying prisoners should not be given useful, rehabilitative work. It is an effort to change the way it is financed.

Right now a vulnerable section of our population, people who work in the textile industry, people who work in the garment industry, people who work in the furniture industry, they are the ones who have to bear the brunt of financing prison rehabilitation.

We believe through this bill, that like any other important public purpose, we should fund it in a general way with everybody who will benefit participating, and that we do not single out not just a segment but an economically vulnerable segment, people who are already hurt disproportionately by trade policies, people who are already in difficulty because of a variety of other factors.

This bill includes provisions to say that the prisoners can do work, make products, but simply not compete commercially. There are plenty of these institutions in this society, Habitat for Humanity was mentioned, homeless shelters, day-care centers, there are plenty of places that have a need for clothing and furniture, draperies, they can be given this.

What is at issue is not whether or not prisoners do work, but what is the socially fair and responsible way to pay for it. It is true there will be a difference. If we go the way those of us who support this bill want, Prison Industries will not be doing much marketing, but I would hope marketing is not one of the things that we are not getting the prisoners into right away. They do the physical work, they learn the vocational skills. The marketing is not something that we ought to be introducing them to. This bill is a way to continue rehabilitative work for the prisoners in a socially fair manner.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1½ minutes to the gentleman from Georgia (Mr. COLLINS).

Mr. COLLINS. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in support of this legislation, and I rise in support of it because I think it is long overdue that we address this problem. Approximately 8 years ago, a young man came to my office in Jonesboro, Georgia, to tell me about a situation that his small business was in. He was being denied a contract with the Air Force for building missile containers which he had been doing for several years. He fought it in court and won. He spent all of his cash doing so, only to see FPI come back again, this time successfully, leading to the demise of his business and the loss of about 150 jobs, people working to provide for their families, to pay their taxes, and they are playing by the rules.

They had an unfair competition, a position of having a mandatory source that this small business did not have and could not overcome. It has been said that China is the enemy, not these inmates. I do not consider either an enemy. I consider the inmates having an unfair position toward competition with the mandatory source which has been long overdue to be changed. I do not see China as an enemy, I see them as competition and meeting competition with us with some advantages. There are a couple of things where they do not play by the rules as far as trade. They do not value their currency as

they should, and they have tax provisions of tax laws which are much different from ours which make our workforce noncompetitive with their workforce. Here we are talking about law-abiding citizens competing with inmates. It is time to pass this legislation, do a 5-year phaseout of the program and get away from the mandatory source and the competition of contracting and bidding.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I have listened intently to this debate, and it is clear to me that there are a lot of people here who do not know much about what goes on in prison, and do not know much about what happens to people when they get out of prison. Most of the individuals who are incarcerated have no skills. As a matter of fact, most of them do not have a high school diploma. They are dropouts. Many of them have personal emotional problems and difficulties.

My mother always told us that an idle mind was a devil's workshop. I can tell Members if we do not provide an opportunity for individuals to learn and develop a skill, to come out so they are able to go in the marketplace and get a job, half of them will end up right back in the same prison. We will be paying for them and paying for them and taking care of them for the rest of their lives. If that is not utilization of tax money, then I do not know what is.

I agree with my esteemed colleague from Illinois (Mr. HYDE) when he wrote the op-ed opinion. It may not be the intent to have them breaking rocks, but the results will be that there will be nothing for them to do except break rocks. I have heard people talk about the training, all of the things that they are going to get. I do not know which prisoners these are, and I do not know which prisons these individuals come from. They sure do not come from the ones that I meet and know and see.

This legislation is not good even for small businesses. It is not good for the businesses that we intend to protect because any money that they can make they are going to have to plow it right back into taking care of the inmates who now cannot take care of themselves. I would urge that we vote this legislation down. It is not good for America.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, if this bill passes, we will very seriously jeopardize the viability of the Prison Industry programs that will reduce the number of prison jobs. It will actually reduce the number of business opportunities because right now we are only talking about one-fourth of 1 percent of the Federal procurement. In addition to all of the private procurement going on, obviously eliminating the prison work and one-fourth of 1 percent of just the Federal part of the entire market share will make no difference to anyone. If they cannot get a contract now, they certainly will not be able to get a contract if this bill passes. We do know, however, that crime will go up if this bill passes. It does not cost the taxpayer any money. It works. I would hope that we will defeat the bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, listening to the opponents of this bill, one would be led to believe if this bill passes, prisoners are not going to have anything to do and there will be nothing but prison riots. And when they get out of prison, they will go back to a life of crime because they do not have the skills. That is not true.

This bill authorizes $75 million a year for rehabilitation and training, vocational training so when they get out of the prisons, they will be equipped to compete in the job market.

The gentleman from Massachusetts (Mr. FRANK) said it correctly, the question is here who pays for the rehabilitation of prisoners, and who pays for giving them vocational training. Vote this bill down, and it is on the back of the small business owners and the people who work and pay taxes to try to compete in Federal Government procurement. Pass this bill, and the taxpayers will pay for it, which they ought to.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to discuss H.R. 1829, the Federal Prison Industries Competition in Contracting Act of 2003, and to discuss a section I added, section 16, which should be left intact. In a markup of the full Committee on the Judiciary in July of this year, my colleagues on that Committee voted to accept two of my amendments that speak to the issues of the bill's elimination of the ''mandatory source preference'' and inmate ''good time'' for the nature of offense and good behavior that have been incorporated in the bill as sections 15 and 16, respectively. Prison reform is an important matter that deserves serious attention by the House before it considers passing this important legislation.

Section 16 reads:

> It is the sense of Congress that it is important to study the concept of implementing a ''good time'' release program for non-violent criminals in the Federal prison system.

This provision is extremely important to the rebuilding and strengthening of our society with contributors to the economy. Furthermore, it helps to alleviate our ever-increasing problem of prison overcrowding. In addition, section 16 rewards those inmates who have behaved well during their incarceration period, thereby giving proof that the criminal justice system does work on occasion.

It is very important that we respect the lives of those who are incarcerated and allow those who do not belong there to exit. Ex-inmates find it hard to re-adjust to the free community as it is. If they have spent any length of time behind bars, they have come to see the rules of the free world etiquette as upside-down. They have learned in prison, for example, that a smile when greeting someone means you are looking for trouble. Being nice or kind to anyone is a sign of weakness, and ex-inmates typically overreact to anything that threatens to put them down or make them feel hopeless. The most common reason for not being able to adjust back into society is an inability to handle all the strange, angry emotions and hassles that come up in almost every social or interpersonal encounter with people in the free community.

The rights of inmates are restricted, the theory being that they do not have the required honesty and proper values to participate in some of the things that free people enjoy. These restrictions vary by jurisdiction, and some places are slowly lifting them but nevertheless remain very behind. I mention this situation to show how those inmates who have fully rehabilitated only get harmed by prolonged time in prison. This provision respects what the criminal justice system was built to do. The criminal justice system was not created to simply house the undesirables of the world or to keep them away from civilization. It was created to punish, rehabilitate, and to reinstate into active society.

Over 2 million offenders are incarcerated in the Nation's prisons and jails. At midyear 2002, 665,475 inmates were held in the Nation's local jails, up from 631,240 at midyear 2001. Projections indicate that the inmate population will unfortunately continue to rise over the years to come. A great number of these inmates have fully rehabilitated and have earned the right to exit on ''good time.''

According to a 1995 Federal Bureau of Prisons study of more than 7,000 inmates, 72 percent of those who participated in a prison work, vocational training or apprenticeship program, or a combination of these programs, had found and kept jobs by the end of their first year out of prison. Sixty-three percent of those who had not participated in these programs were able to find and keep jobs in the same time period. Allowing these individuals to exit on ''good time'' only gives our economy a much-needed wave of fresh contributors.

Work programs are an important component of rehabilitation. Most prisoners have poor literacy skills and few job skills, and therefore a history of unemployment and crime. Programs that reduce illiteracy, allow prisoners to earn a high school diploma, and provide vocational training and work skills are beneficial to a prisoner's rehabilitation and have been shown to be very effective in decreasing recidivism. A program that provides real work experience can teach useful job skills and good work habits which will be vital to the ex-offender's reintegration into the community. With the benefits conferred by section 16 of this bill, the prison system will actually serve as an institution in which we can have pride.

FPI runs effective and valuable rehabilitative programs. These programs help prisoners gain important life skills, thereby decreasing recidivism, and gives prisoners income which they can use to pay restitution to victims, fines to the government and money to their families. Eliminating the mandatory sourcing program, as mandated by H.R. 1829, would severely limit, if not completely destroy, FPI and these programs. Currently, 22,560 prisoners are employed in the FPI. This accounts for 18 percent of the total Bureau of Prison inmate population.

The Bureau of Prisons of the U.S. Department of Justice administers the Federal prison

system. Clearly, the Bureau is expanding the capacity of the Federal system in anticipation of accommodating an inmate population exceeding 178,000 by the year 2006. Clearly, the overcrowding of prisons is a serious matter.

The Bureau of Prisons clearly appreciates the advantage the program can have on inmates and society at large. First, there is some security benefit to the FPI system because inmates are productively occupied. Second, FPI programs are said to provide inmates with training and experience that develop job skills and a strong work ethic. This is certainly important.

On the other hand, there are some groups that represent working Americans that suggest that job opportunities, particularly jobs needed by low-income families, are lost because FPI receives Federal contracts. However, current law prohibits FPI from dominating the Federal market, and there are currently congressional mandates placed on FPI to ''avoid capturing more than a reasonable share of the market'' among Federal agencies, departments, and institutions for any specific product; determining the appropriate share of the Federal market remains contentious. Nevertheless, we must endeavor to take into account the concerns by working Americans across the Nation so that we can pass a bill that simultaneously protects jobs and keeps inmates productive.

The most important positive skill taught by FPI is a work ethic. The FPI has had a very positive impact on inmates. A major longitudinal research study conducted by the Bureau of Prisons concluded that inmates who worked in FPI while in custody were substantially more likely upon release to be employed and earning higher wages and were 24 percent less likely to be engaged in criminal behavior. Reductions in recidivism can have enormous impact on public safety, criminal justice costs, reimbursement to victims and strengthened family ties. Hand in hand with this reduction in recidivism is the benefit to be seen from giving inmates of non-violent crimes early exist from prison based on ''good time.'' The success stories that we see in our respective States all show that such early release does cut down on recidivism and helps the economy.

Instead of cutting back on prison industry, we must pass legislation to provide greater opportunities for prison employment and legislation that will improve the safety of those who must live and work in the prisons.

Mr. DINGELL. Mr. Chairman, I rise in strong support of H.R. 1829, the Federal Prison Industries Act. I am a proud cosponsor of this sensible legislation, and believe that private businesses from my State and others can now compete for government contracts that they were barred from in the past. The exemption of Federal Prison Industries (FPI), Inc. has allowed for higher prices, and fewer choices for Federal agencies. With enactment of this bill, Federal agencies will now be able to choose the products and services offered by FPI rather than the other way around. It is a good bill, a sensible bill that helps businesses and workers in my district.

In these tough economic times, when well paying manufacturing jobs are leaving the great State of Michigan, this is an opportunity to help unemployed workers get back to work. H.R. 1829 opens to competition Federal contracting opportunities reserved for FPI. Private sector firms, and their non-inmate workers, will, for the first time, be able to bid on these Federal business opportunities.

Mr. Chairman, this is a bipartisan bill that has the overwhelming support of business and many labor unions. I am proud to support this bill, and call on my fellow Members to do the same.

Mr. PETRI. Mr. Chairman, I rise today to voice my opposition to H.R. 1829, the Federal Prison Industries Competition in Contracting Act of 2003.

In my home State of Wisconsin there are many small businesses that provide parts for FPI products. These are vital businesses that will be hurt if the contracting procedures of FPI are changed. Additional job losses would be devastating to an area that has already lost many manufacturing jobs.

The supporters of this bill say that small businesses would be helped by its passage. That simply isn't true for the Sixth District of Wisconsin, and we will find that it won't be true in many other communities.

There are currently over 145,000 federally incarcerated inmates. It is our responsibility to provide meaningful work and job-training opportunities for these inmates while balancing the needs of the business communities. I have visited the Oxford Prison in my district, one of the institutions where FPI contracts are filled. The inmates there put together a good product, learn a skill, and importantly, must take responsibility and initiative, all of which will serve them well upon their release. H.R. 1829 would tie the hands of the Bureau of Prisons, preventing them carrying out these goals. Supporters of this bill seem to think that this isn't true.

Passage of this bill would be detrimental to businesses throughout the Nation, not to mention the thousands of inmates who benefit form the opportunities that FPI provides.

I urge my colleagues to oppose H.R. 1829.

Ms. MAJETTE. Mr. Chairman, I rise in support of H.R. 1829 Federal Prison Industries Competition in Contracting Act of 2003. Rehabilitation of prisoners is vitally important to society. However, when a government corporation becomes a profit center that is removing work from small businesses, the process needs to be reviewed and changed. That is what this legislature does.

Today, FPI is the Federal Government's mandatory source for almost 200 products. That is almost 200 items that small businesses cannot make for the Federal Government. FPI has a distinct advantage over small businesses. FPI is able to pay much lower wages—$.25–$1.25 per hour, which is four to five dollars less than our current minimum wage. FPI is exempt from the often overwhelming requirements of OSHA compliance. FPI also has the advantage of borrowing funds from the U.S. Treasury to purchase equipment, pay wages and invest in expansion of facilities. Small businesses do not have that advantage—they have to go to banks to borrow money.

For those prisoners who expect to return to society, rehabilitation is important and this legislation makes sure that vocational education for inmates is increased, as well as remedial education. It increases inmate access to programs that teach job-seeking skills and also gives them access to pre-release job fairs.

I am a former State Court judge and I have presided over hundreds of criminal trials. I know that we, as a society, have failed some of the individuals who appeared before me and my judicial colleagues. Many criminal defendants are people for whom the educational system has failed. We have failed to provide early intervention and Head Start for many of these individuals. We have failed to help them graduate from high school. We have failed to help these individuals develop the job skills necessary to be productive members of society and to stay on the right side of the law. If we had just made the proper investment in education and job training at the beginning, some of these individuals would not be in courtrooms and prisons across the country now.

Now that these individuals are in prison, it is vitally important to give them the training they need to be successful once they are released from prison, we must do our best to ensure they do not return.

Federal Prison Industries has certainly given skills and purpose to inmates and has a good track record for success. About 24 percent of prisoners who take part in FPI do not return to prison.

However, as I know from my years as a lawyer and judge, there is no one program that works for every individual. In fact, vocational education is shown to be even more effective than FPI. Those inmates who have vocational education are 33 percent less likely to return to prison after release.

This legislation increases funds available for vocational education for inmates, including remedial education. But we cannot stop there—we need to appropriate those funds as well. Saying we don't have the money next year is no excuse, because as a society we will pay.

We can decrease the likelihood that those individuals will return to prison. This is not a handout to prisoners, this is an investment in the future of our society. Education, job skills and training are investments that we should have made long before these individuals ended up on the wrong side of the law. The cost of this bill is a small price to pay for returning people to society with the skills they need to be productive and increasing the odds of their success.

But that success cannot come at the expense of law abiding citizens who are running small businesses. Small businesses are really the backbone of our economy. They give us three of every four jobs created. We must not take additional opportunities away from our entrepreneurs.

Last month a metal products manufacturer from Georgia testified that in Georgia alone there are more than 600 manufacturers that compete with FPI, or who are unable to compete for Federal contracts because FPI has become the mandatory source for those products. These companies represent more than 31,000 jobs.

We need to eliminate FPI's ''mandatory source'' status and require FPI to compete for Federal contracts just like every other business. Our small businesses need a level playing field on which to compete for Federal contracts while we continue to rehabilitate inmates. I support H.R. 1829 because it meets both goals—fair competition and rehabilitation. I urge my colleagues to do the same.

Mrs. BLACKBURN. Mr. Chairman, I rise in support of H.R. 1829, the Federal Prison Industries Competition in Contracting Act. This legislation is needed to help reform the Federal Prison Industries because right now FPI

unfairly competes with small businesses. FPI is a government-owned corporation that employs over 20,000 inmates. FPI has been producing approximately 150 types of goods and services that government agencies are forced to accept without competition. FPI was created in 1934 in order to manage, train, and rehabilitate inmates; unfortunately, FPI does not fulfill its mission and many inmates are unprepared to enter the workforce when they are released from prison.

In fact, there has been no evidence any inmates have gained meaningful employment upon release when assembly is the primary skill required. FPI pays inmates a paltry $.23 to $1.15 per hour, does not provide employee benefits, and is exempt from excise taxes. Small businesses absolutely cannot compete with this unfair system. Furniture manufacturers have had to lay off 30,000 employees nationwide, while 40 percent of FPI sales in FY 99 came at the expense of the office furniture industry. Law-abiding citizens are looking for work; nevertheless the FPI is shielded from competition, overcharges for its products and services, and is less efficient than many small businesses. The bill we are discussing today changes that by allowing small businesses to competitively bid on services provided by FPI to the government.

We update FPI in order to improve job-hunting skills and better address rehabilitation for inmates. In addition, reform will provide opportunities for law-abiding citizens and small businesses. This legislation updates and improves this depression-era agency by properly training inmates with hands-on vocation combined with remedial education.

I urge my colleagues to support this fair legislation that will help level the playing field between this government agency and our small businesses.

Mr. ROGERS of Michigan. Mr. Chairman, I rise today to offer my strong support for the Federal Prison Industries Competition in Contracting Act. But before I begin I would be remiss if I did not thank my good friend and colleague Representative PETE HOEKSTRA for introducing and working so hard to pass this important measure.

Mr. Chairman, H.R. 1829 levels the playing field and lets private sector businesses compete for Federal Government contracts. Specifically it eliminates the mandatory contracting requirement that Federal agencies are subject to when it comes to products made by the Federal Prison Industries (FPI).

In a misguided policy, Federal agencies are currently required to buy only from FPI. This requirement has transformed FPI from a small program focused on rehabilitation into a virtual monopoly power in the Federal marketplace. Providing over 300 products and services and generating $678 million in sales last year.

We in Michigan have a keen appreciation of the impact of FPI because nearly 35 percent of these sales represent office furniture products that are competing directly with the many furniture makers in my home State of Michigan. In fact, approximately 5,000 inmates in 17 factories within the Federal Prison System are building furniture today. Without this bill, FPI will be able to continue its mission creep into new marketplaces directly competing with struggling private manufacturers.

Mr. Chairman, the private marketplace has consistently shown that they can provide higher quality products quicker and cheaper than the FPI. I urge my colleagues to support this important bill and support American manufactures.

Mr. KNOLLENBERG. Mr. Chairman, I rise in strong support of H.R. 1829. Let me congratulate my colleague from Michigan for his hard work in bringing this bill to the floor of the House today.

This bill is about fundamental fairness. We are not voting today to eliminate the Federal Prison Industries. Rather, we seek to open up the federal procurement process to manufacturers who are capable of supplying quality products at reasonable prices, but who are by law prevented from doing so.

We have heard a great deal in recent months about the state of manufacturing in this country, and, it's true, our manufacturers are under severe pressure. As legislators, we should be looking for ways to open up markets for our small businessmen and women to sell their products, so that factories stay open and jobs stay here.

The fact of the matter is that the federal government is a market unto itself. But for the more than 300 products that the FPI is the only entity allowed to sell to the federal government, it is a market that is closed to our blue collar workers. This is simply not right.

It's time to end this unfair monopoly. Let's level the playing field for government contracts for our manufactures here at home. We'll save the government money, save some jobs, and restore some sanity to this part of the federal procurement process.

The FPI shouldn't be afraid of a little competition. Our manufacturers are not.

I encourage all my colleagues to support H.R. 1829.

The CHAIRMAN pro tempore (Mr. SIMPSON). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered by sections as an original bill for the purpose of amendment, and each section is considered read.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 1829

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Prison Industries Competition in Contracting Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Governmentwide procurement policy relating to purchases from Federal Prison Industries.
Sec. 3. Public participation regarding expansion proposals by Federal Prison Industries.
Sec. 4. Transitional mandatory source authority.
Sec. 5. Authority to perform as a Federal subcontractor.
Sec. 6. Inmate wages and deductions.
Sec. 7. Clarifying amendment relating to services.
Sec. 8. Conforming amendment.
Sec. 9. Rules of construction relating to chapter 307.
Sec. 10. Providing additional rehabilitative opportunities for inmates.
Sec. 11. Restructuring the Board of Directors.
Sec. 12. Providing additional management flexibility to Federal Prison Industries operations.
Sec. 13. Transitional personnel management authority.
Sec. 14. Federal Prison Industries report to Congress.
Sec. 15. Independent study to determine the effects of eliminating the Federal Prison Industries mandatory source authority.
Sec. 16. Sense of Congress.
Sec. 17. Definitions.
Sec. 18. Implementing regulations and procedures.
Sec. 19. Rule of construction.
Sec. 20. Effective date and applicability.
Sec. 21. Clerical amendments.

The CHAIRMAN pro tempore. Are there any amendments to section 1?

AMENDMENT NO. 8 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GREEN OF WISCONSIN

Mr. GREEN of Wisconsin. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

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

Amendment No. 8 in the nature of a substitute offered by Mr. GREEN of Wisconsin:

Strike all after the enacting clause and insert the following:

SECTION 1. GENERAL ACCOUNTING OFFICE STUDY ON FEDERAL PRISON INDUSTRIES.

(a) REQUIREMENT.—The Comptroller General shall conduct a study of the effects of eliminating the mandatory source requirements for Federal Prison Industries (as specified in section 4124 of title 18, United States Code). The study shall consider the effects on prison operations, public safety, inmate employment, public and private sector employment, and any other matters the Comptroller General considers relevant.

(b) REPORT.—Not later than April 30, 2004, the Comptroller General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on the results of the study required by subsection (a).

Mr. GREEN of Wisconsin. Mr. Chairman, a few moments ago my friend, the author of this bill, claimed that this bill would not hurt FPI. He said it would help Federal Prison Industries. It would strengthen it.

Well, the truth of the matter is although he may believe that, he cannot say that for certain. We simply do not know. The amendment that I offer today would help us to find out. This simple amendment is grounded in common sense. It simply permits the GAO to study the effects of eliminating mandatory source requirements for Federal Prison Industries. The proscribed study will consider the effects on prison operations, public safety, inmate employment, and public and private sector employment.

A similar study is already underway at the GAO, and we have been told that this study will be ready by April 2004,

in 6 months. In only 6 months, we would have all of the information we need, impartial evidence, the evidence that we need to know what the effect this legislation would have on our public safety, on our prison safety, on recidivism, on prison operations, and local business. It seems to me 6 months is not too long to wait. This study will provide us with the data to determine the actual effects of eliminating the FPI mandatory source authority as this bill would do. The study is critical in my view to the proper development of any comprehensive legislative solution to the real problems that exist with FPI.

Currently, FPI has a positive impact upon a number of important concerns in the justice system, concerns like prison security and correctional worker safety and victim restitution, dependent support, recidivism, hundreds of small and minority-owned businesses, not to mention the thousands of workers that partner with FPI. And last, but not least, public safety. The GAO report will assess the impact of the bill on these important areas.

I believe the consideration of this legislation is premature without this analysis and review. There could be many unforeseen and unmeasured impacts as a result of this bill. The problem is no one knows for sure.

It is this type of uncertainty that has caused Chuck Colson's Prison Fellowship to oppose this legislation.

My amendment asks for the study to be forwarded to the House and Senate Judiciary Committees for review. Once we have this information, then we can act in ways that will truly reform and improve Prison Industries. There would be more than enough time in this session to take action, action that would strengthen FPI, action that would take care of abuses in FPI.

Mr. Chairman, we should act on the basis of facts. We should wait a short 6 months before proceeding with legislation that could harm so many people and do so very much damage. I ask Members to vote yes for this amendment and vote yes for getting the real facts.

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

Mr. Chairman, let us be clear about this. This is an amendment in the nature of a substitute. If it is adopted, there will be no more amendments in order and the bill will come up for a vote on final passage right away. All of the work that has been done relative to reforming Prison Industries will be tossed in the waste basket, and we will get another study and the Committee on the Judiciary is going to have to start over from scratch in terms of putting together legislation to reform Federal Prison Industries.

The Committee on the Judiciary has held hearings on the problems relating to Prison Industries. We have had a markup on this bill where all views were considered. In the last Congress we did the same. To say that all of this work should be tossed in the waste basket and we have to start over from scratch is nothing but a means of saying let us keep the present system as it is.

□ 1245

It is a stalling technique, and it really should not be seriously considered in the House.

Let us look at what is in the 48 pages of H.R. 1829. It makes reform of the government-wide procurement policy with respect to purchases from FPI. It has public participation regarding expansion proposals by FPI. It has a transitional mandatory source authority. It gives FPI the authority to perform as a Federal subcontractor. It deals with inmate wages and deductions. It has additional rehabilitative opportunities for inmates, and provides an authorization for it. It restructures the board of directors of FPI, which I think is vitally necessary because it is the board that determines what Federal Government agencies have to buy and what goods they have to buy. It provides additional management flexibility for FPI. It requires a report by FPI to Congress. It has an independent study to determine the effects of eliminating the Federal Prison Industries' mandatory source authority.

All that is completely obliterated by the amendment that my colleague from Wisconsin has offered. He can be against the bill. If he is against the bill, he ought to vote against it. But to stop FPI reform in its tracks and force everybody to go back to square one is not warranted given all of the work that has been put into this. I would urge that this amendment be overwhelmingly rejected.

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

Mr. Chairman, a couple of comments on remarks made earlier by the gentleman from Massachusetts. The unions do not speak with one voice on this issue. We have received correspondence from the AFL–CIO locals that represent the correctional officers in the prisons who are very much against this bill. The prisoners do not have any lobbyists on Capitol Hill, and perhaps for purposes of this debate I can appoint myself as their lobbyist because I do have a perspective on the prison and prisoners and what their future and what their present could be.

One of the most memorable events in my life was attending a graduation ceremony of prisoners in the Cook County jail where these young men marched to the tune of ''The Impossible Dream'' in their secondhand graduation robes where they were getting an eighth grade diploma. Some of them had been taught how to read, something that their education had missed. The room was filled with employers who were going to see that these people, who tried to put their time in jail to use, were going to have some hope instead of despair when they left the prison.

Yes, this is a Federal subsidy of prison industries, but we rush to subsidize the farmer, or we rush to subsidize research at universities and education. Subsidies are not alien to this body. But the social good that comes from prison industries, it seems to me, outweighs any distaste for a Federal subsidy.

One of the great unmet needs of our country is prison reform. Currently there are 145,000 federally incarcerated prisoners. I ask whether or not we have a duty towards them. I think one of the purposes of imprisonment is rehabilitation and one very effective way to rehabilitate, especially someone who has never had an education, as many of these have not, is to provide work opportunities and training. This is a government program that works and that does not cost a dime.

Since 1934, thousands of prisoners have changed their lives, have been better when they left the prison than when they came in. What is the result of a functional Federal prisoners program? Restitution to the victims, support their families, pay some of the costs of incarceration, and some gate money for when they leave. These are all highly useful social consequences and ought to be considered. Work is constructive. Idleness is destructive. These programs provide incentives for good behavior.

To work in the Federal Prison Industries, you need a general education diploma or be working towards it. That is important. The other is a record of good behavior. Close them down, curtail them, limit them and you only ask for trouble in prison. Small business is supported by FPI because over $502 million worth of raw materials and other goods were purchased by FPI from private business. Sixty-two percent was from small business. Less work and more idleness combined with inmate overcrowding and staff shortages is a formula for disaster. We should be building, not tearing down. I think we encourage hope, we encourage opportunity, not despair, by strengthening and reinforcing Federal Prison Industries, not weakening them, as this bill unintentionally will do.

I hope this bill is not supported and we go ahead and get the report that the gentleman from Wisconsin (Mr. GREEN) has asked for so we are not legislating in the dark.

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

Mr. Chairman, I rise to speak against the amendment. I am always a little puzzled when we get amendments that would substitute a study for the bill. It seems to me it would ease the strain on the GAO if we just killed the bill. Since the purpose of this study is to stop the bill from going forward, why drag the poor GAO into it? Why do we not let them go about their business and not have them do a study when the only purpose of the study is to kill the bill? I say that because I do not remember

any call for a GAO study before we came forward with this bill.

On the merits, I want to express my disagreement with the former chairman of this committee. I appreciate very much his concern for prison reform, and there are a number of things I think we ought to be doing to reform the prisons. For one thing, we ought to be dealing with overcrowding by not locking up as many wholly nonviolent prisoners as we do for things that in some cases ought not to be offenses. But I have to disagree with him when he says this does not cost anything. It extracts a cost, and it extracts it in an unfair way. Obviously, somebody has to pay for this. It is now paid for not by the tax system in general but by those people who work in a couple of industries, industries that are already under economic attack. This takes the cost and takes it out of the hides of workers in the garment and textile industries. That is why UNITE!, the union of garment and textile workers, is so strongly for this bill. It takes it away from small businesspeople who would be getting the work otherwise.

I want to say particularly to many of my friends on the liberal side who have a concern for the welfare of prisoners not based on any kind of view that the prisoners are such wonderful people who happened to fall into prison by accident, but on the perfectly sensible notion that most prisoners will someday be out of prison and back in society and it is in society's self-interest to help them become the kind of people who will not do bad things when they come out.

But here is what you have to look at this Federal Prison Industries system as. It is a way for the prison system of the United States Government to escape public judgments and public supervision. It is self-financing. Why should it be? What other aspects of the prison system do we want to exempt from the appropriations process, do we want to exempt from Congress being in control? What this does is to say to the prisons, the Bureau of Prisons in our government, you get this source of income over which we have no control, and I must say I think we have a problem with not just prison overcrowding but what is the cause of prison overcrowding. In my view, too many people are in prison who should not be there. People who are violent towards other people or people who steal from other people ought to be in prison. But we have got people who are there for nonviolent drug possession offenses and others whom I think should not be in prison.

I do not understand why some of my liberal friends think we ought to be subsidizing prison expansion. That is what you are doing here. When you leave this in place, Federal Prison Industries, as this self-financing entity, you are giving the people in the Bureau of Prisons a source of income so that they can do something that everybody agrees is important. No one is for having the prisoners be without this kind of rehabilitative work. The question is, how do you finance it? I am not for allowing that to be self-financed in a way that deprives us of the right as elected officials to make choices about what the resources ought to be. That is particularly the case because, as I said, it is not cost-free.

We are losing jobs in the garment and textile area. Obviously when we subsidize prisoners to produce jeans, to produce clothing, to produce draperies, jobs are lost by people in the private sector who would be doing that. It is simply inappropriate to say to hardworking, low-wage people, you know what, you are going to lose your job because there are prisoners we want to rehabilitate. I want to rehabilitate the prisoners, but not by taking jobs away from people who have stayed out of prison. On the whole, they are better at what they are doing. That is the nub of this.

We have a very large budget. I think that the gentleman from Illinois is right about what we ought to be doing. The question is not what we should be doing with regard to prisoners but how do you pay for it, how do you finance it. Do you do it by taking work away from people in the private sector? They are not taking away high-level jobs. They are not taking away those jobs where America is expanding. They are not doing things that take away from the strengths in the American economy. They exacerbate the problem we already have in industries that are already under pressure, and that is wholly inappropriate.

I believe that there are in this society day care centers, homeless shelters, and other institutions with a great need for these products. Let us in an intelligent and humane way have the prisoners produce for that sector and pay for it in a legitimate way, not by taking it out of the hides of the weakest and most vulnerable people in the private sector.

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

Mr. Chairman, I agree with nearly everything my friend from Massachusetts has said, but I rise today in support of the Green amendment because I think that would give Congress important information about the potential effects of H.R. 1829 by requiring the GAO to submit to this Congress a study of the effects of eliminating Federal Prison Industries' mandatory source requirements. This amendment would require that this study be completed within a compressed period of time, by April 2004.

Mr. Chairman, I may be the only Member of this House who has actually worked in a prison, in a maximum security prison, as a matter of fact. Based on my experience, I believe there are good arguments both in support of and in opposition to H.R. 1829, and I feel conflicted today. I am inclined to support the underlying bill because I do want to put FPI on a more level playing field with other industries that employ Americans. I am very sympathetic with the concerns of correctional officers, however, who oppose the bill because FPI has been proven a successful tool in creating safe prison environments for both staff persons, correctional officers, and inmates. I am sympathetic with those who believe that FPI provides essential work experience and rehabilitation for inmates who will eventually use these skills when they are released from prison.

I strongly believe that the Green amendment gives us an opportunity to craft a thoughtful, successful public policy for all involved. The Green amendment would simply give Congress more information. The amendment gives the GAO a compressed time frame to study the effects of the bill on prisons, on public safety, inmates, public and private sector employment. I know that I have a lot of questions about the effects this bill will have, and it seems to me that we should at least have a chance to have all of our questions answered before we make this decision. This program has been around nearly 70 years.

In closing, I want to point out that this is not an issue that we should take lightly. Its effects have the potential to reach the core of our communities. Yes, correctional officers and inmates, small business owners and American workers care about this bill for very obvious reasons. But we should not forget that all those who are worried about criminal recidivism and the safety of our communities also care about this bill. About 98 percent of prisoners currently serving time will eventually return to society, and H.R. 1829 will potentially have a dramatic effect on our prisons' ability to ensure that those prisoners are ready to make the transition. I think we should do this right. I would hope we would pass this amendment so that when we do make the final decision, we can do it being better-informed Representatives and consequently arrive at a more justifiable public policy.

Mrs. MILLER of Michigan. Mr. Chairman, I move to strike the requisite number of words. I rise today to support H.R. 1829.

□ 1300

I think most Americans would be surprised, and I dare say appalled, to know that the Federal Government has been using their tax dollars to engage in business which literally takes jobs away from hardworking men and women, away from law-abiding citizens who obey the laws of our Nation, who pay their taxes, try to raise their families, and the Federal Government takes their jobs away to give those jobs to convicted felons. Yes, that is the brutal reality of this. The Federal Government taking away jobs from taxpayers and giving those jobs to prisoners who are housed and fed by those same taxpayers.

It sounds too ridiculous to be true, but believe it. Because some think we need to put prisoners' rights ahead of the rights of tax-paying American citizens, and they say that these poor prisoners are doing hard time and they need to be taught a skill. Let me say that hard time is a time that one is unemployed while they helplessly watch goods that they once proudly made now being made by prisoners who can produce the same product at a lower price because their overhead is being paid for by the Federal Government.

And some would say what is the harm? Why not keep prisoners busy? That is an important thing for us to do, who cares? Well, go to west Michigan and talk to the thousands of unemployed workers who have lost their jobs because their own government has conspired against them and ask them if they mind. A once vital industry in Michigan has been decimated, the furniture industry. Not because the workers did not have a high degree of productivity, not because the quality of their products was inferior, not because their company wanted to ship those jobs to China or to Mexico. It has been devastated because the Federal Government has totally forgotten what the purpose of government is and, in fact, has actually, in the very height of arrogance, declared an unfair trade war against its own citizens.

These companies are not even allowed to competitively compete for those contracts. Rather, they are given to criminals because of some misguided notion of rehabilitation.

I am not a corrections expert. I admit that. But I do know that I could think of plenty of other rehabilitation outlets rather than assisting felons from, one more time, taking advantage of law-abiding citizens.

I urge my colleagues to do the right thing, to do the decent thing, to change a law that is un-American, and vote for H.R. 1829.

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

Mr. Chairman, I want to rise in opposition to the gentleman from Wisconsin's (Mr. GREEN) amendment and in support of the underlying bill, and it may come as a surprise to some people because I cannot think of a more difficult position to be in than to be opposing my friend from Virginia. My friend from Virginia and I have been debating this issue about what the appropriate role of the Federal Prison Industries should be for a number of years now, which brings me to the first point I wanted to make. When I was in the State legislature, the way they would kill a bill would be to send it to a study commission, and they would study that bill to death until it went away, and that is really what the purpose of this amendment is that the gentleman from Wisconsin (Mr. GREEN) has offered. He wants to send this back for further study as if we have not been studying this for a long, long time. That is the first point I want to make.

The second point I want to make is if they find an issue where the gentleman from Virginia (Mr. SCOTT) is on one side and the gentleman from North Carolina (Mr. WATT) is on the opposite side, one can almost be guaranteed that that is a very difficult issue and that it is not an issue of the good guys against the bad guys. This is not a good guy/bad guy issue. It is an issue of how we try to define the appropriate role that the Federal Prison Industries ought to be playing in the overall context of what we are doing here. Federal Prison Industries serves a very important role, and I am not adverse to the Federal Prison Industries, but it has to have some balances to it, and it should not be used solely as a baby-sitting or a prisoner-sitting mechanism. It ought to be used for its original purpose, which was to train people and get them prepared for reentry into society and prepared to accept jobs when they come out of the prison system. And I think the system is out of balance now because we have set up a system where we basically guarantee contracts to the Prison Industries program rather than putting them in a position where they are obligated to compete, and they are going to have a competitive advantage just in terms of the lower wages that they are paying in the system. But we cannot give such an advantage to the Prison Industries that we start to disadvantage and be unfair to businesses that are outside the prison system because ultimately if we do that, we will do damage to private businesses. They will then lay off or terminate people who are employed by them, and that will run the risk of cycling them into a life of crime because they will have to depend on that as a means of survival.

So this is a very delicate and difficult issue, and the Committee on the Judiciary has been working the issue, debating the issue, trying to find the right balance, and I think we have found a reasonable balance on this issue. That is why we see Democrats and Republicans on both sides of this issue, liberals and conservatives on both sides of this issue. It is not a philosophical issue. It is not a bad guy versus good guy. It is what is the appropriate balance? And I think this bill strikes an appropriate balance, and I would encourage my colleagues to defeat the amendment, which would study it to death forever, and to support the bill so that we can get on with making the reforms that are needed.

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

Mr. Chairman, it seems to me that what we are debating is corrections policy. The United States of America, our country, has become the most imprisoned Nation on the face of the earth. Right now, we have more than 2 million people in jails and prisons. We have more than 630,000 people who return home to neighborhoods and communities each and every year. Some communities are impacted a great deal. Other communities are impacted not as much.

If one lives in inner city America where there is the greatest amount of impact, there are some neighborhoods where they will go into and find that almost a third of the men have some kind of prison record, have some kind of association with the criminal justice system. That sounds theoretical to people who do not experience it, but if one lives in one of those neighborhoods, then they have a large number of individuals who cannot get a job, who cannot be employed.

For example, in my State of Illinois, there are 57 job titles by license that a person coming out of prison with a felony cannot hold. As a matter of fact, they cannot be a barber. They cannot cut hair without a waiver. They cannot be a beautician. They cannot be a nail technician. They cannot work in any hospital or health care facility. They cannot wash dishes at a nursing home. They cannot work around a school. They cannot cut the grass. They cannot mow the lawn. They cannot wash the windows. They cannot be a butcher. And, of course, the professions, they cannot enter into those.

So these individuals then come back, and they cannot find anything to do. They do not have any resources. And before we know it, most of them are back on the streets hollering crack and blow, pills and thrills, whatever it was that got them there. As a matter of fact, 67 percent of them are more than likely to be rearrested within a 3-year period of time, 67 percent. Almost half of them will be back in jail or the penitentiary within a 3-year period, almost half, 45, 46 percent.

So any opportunity that exists for them to get trained is good, even if it is only the little bit that they get. As a matter of fact, we talk about the impact, and we do need a GAO study, because in one sense we are really talking about one-quarter of 1 percent of the procurement that we are talking about. That does impact some businesses.

I consider myself a serious proponent of small businesses. I am an advocate for small businesses, and I recognize that they need opportunities and agree that they should have them, but the Prison Industries really did not send the jobs to Mexico. They did not create NAFTA. They did not create GATT. They did not create free trade. They did not create any monopolistic trade. All these individuals are, are some individuals that have gone afoul of the law and are hoping that they would have some opportunity to reclaim themselves rather than be in and out of the penitentiary, the penitentiary that we pay for, $35,000 a year in many instances. If we can get an individual to get an individual to become self-sufficient, that is $35,000 that we could use for something else. Support the Green amendment.

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

Mr. Chairman, I would first like to start off with an agreement with my friend from North Carolina, who indicated when he was in the State Senate, as I was in the State Senate in Virginia, often bills would go to a study and that would defeat the bill. That is true because after they studied an issue, they would find that the bill had no merit. It also helped bills because after they studied a bill, they would find that it had more merit than they thought. So there is nothing inherently wrong with sending it to a study to get the facts. The study is already underway. The information will be to us by April, and there are a lot of statements that have been made on this floor as to whether this bill will hurt or help small business.

□ 1315

We know right now that FPI spends 75 percent of all of its revenue on purchasing supplies from outside of the prison system. Small businesses, 62 percent of the 75 percent is spent with small, disadvantaged or women-owned businesses. Only 23 percent of Federal purchases generally are spent this way. So there is a question of whether small businesses will be better or worse off if this bill passes. But let us get a study. Let us study the effect.

Last year we passed amendments similar to the provisions in this bill that affected the Department of Defense. What happened as a result of those provisions? Thirteen factories have closed, 1,700 jobs have been eliminated, 500 more jobs are expected to be eliminated in the near future. There has been a temporary upward blip in jobs in Federal Prison Industries because of the war in Iraq, but we need to study to see what the long-term effect will be.

Finally, we need to know whether or not we are going to actually appropriate the money for on-the-job training programs and the other programs in the bill. FPI pays for itself. Are we going to actually appropriate the money, or will we just let the crime rate go up? Because if we eliminate the jobs without any replacement, crime will go up.

These are the kinds of things we will learn from a study, and that is why I am delighted to stand up and support the pending amendment, and I hope it is in fact adopted.

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

Mr. Chairman, the amendment that is before us talking about another study, I would like to just hold up the studies that have been done on Federal Prison Industries. These are the studies that have been done over the last number of years. These are the hearings that have taken place: Committee on Small Business, Committee on the Judiciary, Committee on Education and the Workforce.

There are plenty of studies that have been completed on this issue. The time now is to move forward. If the gentleman proposing the amendment is against the bill, he should vote against the bill, but not delay it for another 6 months.

We have seen the impact, we have seen the circumstances of what Federal Prison Industries has done. We have a modest proposal for reform. We are not putting prisoners out of work. What we are doing is providing a 5-year phase-out of the concept called mandatory sourcing. We are putting significant amounts of money into vocational training. We are going to continue to work with our colleague on the other side of the aisle, the gentleman from Virginia (Mr. SCOTT), on the issue of repatriation. On one part of that, I think we are going to have an amendment that we are going to offer together that will expand work opportunities for prisoners to do work for not-for-profit organizations and these types of things.

So I think we have much of the framework in place to move forward. We share the same vision. We want folks who are in prison to gather the skills and the capabilities that they need so that when they leave, they will be successful in society. So we share the same vision.

We share much of the same vision for how we are going to implement that, the strategies and the tactics. We have got one major issue there, and that is, is there enough work in this bill or is there not, and we are committed to working with the gentleman from Virginia (Mr. SCOTT) on other work opportunities to make sure that there is not idleness in the prisons, that the people learn the skills and have the work; and we are committed to working together. But the one thing we do not need, we do not need another study.

I urge my colleagues to vote ''no'' on this amendment, vote ''yes'' on the bill, and enable us to go forward.

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

Mr. Chairman, I find it a bit inconsistent. This is the same body that voted for NAFTA, that sent tens of thousands of American jobs to Mexico, the same body that voted for permanent normal trade relations with the Communist Chinese.

In the case of NAFTA, we have gone from a trade surplus to a trade deficit. We have sent jobs that used to be in Mississippi to Mexico. In the case of normal trade relations with China, we have taken it a step worse. We have taken jobs that used to be done in Waynesboro, Mississippi, that are now done by political prisoners in China.

To make matters worse, you can trace Chinese defense spending, and their weapons modernization has increased on a dollar-for-dollar basis with their trade surplus with the United States. So we have not only sent them our jobs; we are sending them the money they will eventually use to shoot at Americans.

My colleagues, in the response to the loss of these jobs, say it is the prisoners' fault. No, guys, it is NAFTA's fault. It is permanent trade relations with China's fault.

I can tell you one thing that my constituents want, is they want prisoners to work. They do not want them sitting on their duffs watching television. They want them to work. They want them to do something for society, to pay their debt to society. If you are going to tell them they cannot make this or that, what can they do? Because there is not enough trash on the highways to be picked up. And, by the way, no one is hiring people to pick up trash on the highways when they get out of prison.

If you are really serious about the loss of American manufacturing jobs, repeal NAFTA. If you really care about the future of this country, repeal permanent normal trade relations with the last communist superpower that is using that money to buy weapons that will eventually be used against our country. But, for gosh sakes, do not take two mistakes and compound it with a third mistake of saying prisoners cannot work and continue to do something to pay their debt to society.

I urge Members to vote against this bill.

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

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

Mr. WOLF. Mr. Chairman, I listened to the gentleman from Mississippi. I was walking back to my office. He really made a lot of good points. I was going to make them, and I had 4 minutes.

Let me just say, he is right. You are shooting at American prisoners who are trying to be rehabilitated, when China has taken more jobs from this country. But somebody said China is not the enemy.

China has about 11 Catholic bishops in jail today according to the Cardinal Kung Foundation, if anybody read, I did a Special Order on it—11 Catholic bishops. They have 250 evangelical house church leaders in jail today. They have plundered Tibet. Tibet is a wreck. I have been to Lhasa. Lhasa is a dirty Chinese city. Lhasa is no longer the Tibetan capital. The Muslims. China is pounding the Muslims in the northwest portion of the country.

Spying. The gentleman from Mississippi is right. The FBI comes before my appropriations subcommittee. They gave me a classified briefing. I can tell you that the Chinese are spying against us more so than the Russians were doing it. Yet what does this body do with regard to China? Zero. Zip. Not a thing.

The gentleman is right. I was opposed to granting normal trade to China. I am a free-trader. A lot of you rushed down here to give MFN to the Chinese. They are spying against us; they sold weapons to Saddam Hussein.

Remember watching that show one day? The shopping center hit in Kuwait was from a Chinese missile, sold by China to Iraq.

I know some members are frustrated because you are losing some jobs, and I want to do something to help keep jobs here. Yet you do not deal with those who are persecuting fundamentalists, who are persecuting Christians, persecuting Catholics and Protestants. I never hear anybody here speak about it. I never hear this House speak about that issue.

Tibet. Many came to see the Dalai Lama, but nobody talks about the persecution of the Buddhists. Muslims. Many of you represent large Muslim areas. Why do you not speak out when China is persecuting the Muslim faith? Spying against us. Why do you not speak out? The gentleman from Mississippi (Mr. TAYLOR) is right, China is spying against us.

China is taking high-tech jobs from us. We lost 600,000 jobs. Maybe some changes ought to be made in the FPI. The gentleman from Michigan (Mr. HOEKSTRA) is a good guy, and it pains me to be on the opposite side. Hopefully, something can be done.

There is an amendment that the gentleman from Virginia (Mr. SCOTT) has about repatriation, but we are fundamentally not dealing with a major issue here.

The gentleman from Mississippi (Mr. TAYLOR) was right. Generally he makes a lot of sense, a lot of times. I know I am using this opportunity on a bill dealing with FPI, but we are ignoring—this side and that side—are ignoring the persecution of people of faith in China.

Do you know if you need a new kidney, for $50,000 you can get it in China? Do you want to see it? Come by my office. They are shooting people in the back of the neck. They put the bayonet up high so the body goes rigid, they shoot them, they throw the body in a canvas bag, they put it in an ambulance, and in a half hour they are doing a transplant.

When does this Congress ever speak out? When does the Congress speak out on that issue? The Congress does not. There are more slave labor camps in China today than there were in Russia when Solzhenitzyn wrote the book ''Gulag Archipelago.'' Does this Congress ever speak out about it?

About the FPI, I know members are frustrated, and want to do something. You want to deal with this issue. But we're talking about a handful of jobs that are helping to train people so when they get out of prison they have some rehabilitation and some dignity. The gentleman from Mississippi is exactly right.

Mr. WOLF. Mr. Chairman, what is America if not a Nation that stands up for basic decency and human rights? What is America if it is not a people that speaks out for those who cannot speak out for themselves? And what will America become if we fail to speak out against dictators and despots who oppress and brutalize their own people?

China has for too long been at liberty to detain and torture and intimidate and oppress good men and women for their religious beliefs. As the world's greatest democracy and the symbol of hope for millions, America has a duty and an obligation to speak out for the oppressed people of the world. We fail in our duty if we do nothing.

It was the British philosopher and statesman Edmund Burke who said that Representatives owe you not just their industry but also their judgment. As Representatives and beholders of American ideals, we should speak out on the issue of the persecution of those of faith in China.

The litany of abuses committed by the Government of China toward its own people is long and senseless. I recently held a meeting with a number of groups who have spent years in documenting the numerous abuses committed by the Chinese Government upon the Chinese people. In the coming days, I will be highlighting the plight of different groups of long-suffering Chinese people so that colleagues can better understand the depth of this problem in China. The material I will be submitting today was prepared by the International Religious Freedom Commission, and I hope Members will read it.

As I close, 10 Catholic bishops are in China today under house arrest, and this government, our government, our Congress and the administration, does not act. The Protestant Church is being abused and beaten in China and we have refused to speak out. The Chinese have plundered Tibet, and yet the West is quiet. Muslims are being persecuted in the northwest portion of China, and yet the West speaks out not at all. The Falun Gong are being persecuted almost on a daily basis.

I think this is an opportunity to hear, in their own words, what all of these groups have to tell us in the Congress and us in the United States and us in the West about what is taking place, so that we know we should speak out on their behalf, particularly next year when the Geneva resolution with regard to condemning China on human rights comes up.

Depending on the religious organization in question, the Chinese government provided various justifications to defend its policy of repression. Its action to restrict religious belief and practice, however, go far beyond what is necessary to protect legitimate state interests.

Since 2001, the Communist government has engaged in a persistent campaign of banning some religious groups while insisting on registration for others. Many groups, particularly Christian house churches, have refused, understandably fearful that providing membership rosters would lead to regular surveillance by party and government agencies.

The government's policy of designating religious or spiritual organizations as ''cults'' has led to tragic outcomes for millions of religious believers. All too often victims are sentenced to ''re-education through labor camps,'' administered by the notorious Ministry of Public Security, which appears to perpetrate human rights abuses with absolute impunity. Persons adhering to ''unacceptable'' faiths have been given prison sentences of up to three years without a right to a hearing, without counsel and without judicial determination of their cases.

There are at least 30 million Protestant Christians in China. Mostly, believers belong to independent house churches. Purely on account of their faith, properties belonging to or used by such groups have been confiscated, closed, or destroyed and members have been detained, tortured, and subjected to other forms of government harassment.

In June 2003, 12 members of a house church in Guna Village in Yunnan province were arrested after they sought registration with the local government. On June 6, in response to the government's ''invitation'' to complete the registration process, the 12 church leaders were arrested for engaging in ''feudalistic superstition.'' Eight of the 12 were immediately sentenced to three years in ''re-education through labor'' camps, while the other four were indicted and are being held for trial.

In late August 2003, local officials arrested 170 house church Christians in Nanyang county, Henan province after local police reportedly raided the meeting place where the worship service was being conducted. The report indicates that the 14 leaders of the group are currently being held in detention, possibly facing serious charges, while the other members were released after having been fined, fingerprinted, and warned against continuing their activities.

The Chinese Communist state has, since the 1950s, banned the Roman Catholic Church, replacing it with the state-approved Catholic Patriotic Association. Through this state organization, the Communist government has claimed the exclusive right to appoint Chinese bishops. Most Chinese clerics, however, have refused to accept the legitimacy of government appointees. As a result, many Roman Catholic bishops and priests have been harassed, detained, or imprisoned.

According to the Cardinal Kung Foundation, a number of Catholic bishops and priests who refuse to submit to government tutelage remain in prison or in detention and the status of other priests and lay persons remains unknown. As of August 2003, at least 10 Catholic bishops, including Bishop Su Zhimin, whose whereabouts are unknown, are imprisoned, in detention, under house arrest, or under surveillance.

In Tibet, Buddhist monks and nuns serve lengthy sentences for voicing their allegiance to the Dalai Lama. In point of fact, the great majority of Tibetan political prisoners are monks and nuns.

The longest-serving Tibetan political prisoner, Tagna Jigme Zangpo, was granted a medical parole to come to the United States in summer 2002 when he was in the middle of a 28-year sentence before his ''early'' release. Ngawang Sandrol, a member of the famous Tibetan ''Singing Nuns'' who was released last year, had served over 10 years in the infamous Drapchi Prison before her release. According to the Tibet Information Network, the State Department, and the testimony of former Tibetan nuns like Ngawang Sandrol, many of these prisoners have been severely beaten and subjected to other extreme forms of punishment. Some have died in prison.

The Chinese government has denied repeated requests, including from the U.N. High Commissioner for Human Rights, for access to the 12-year-old boy whom the Dalai Lama recognizes as the 11th Panchen Lama. Government officials have stated that he is being ''held for his own safety,'' while at the same time insisting that another boy is the true Panchen Lama.

The Chinese government's official ban on the Falun Gong movement, in 1999, has meant heightened government repression for all religious organizations designated by the government as ''cults.'' According to Falun Gong practitioners, as many as 100,000 of their members have been sent to labor camps without trial. They claim that as many as 700 may have died as a result of police brutality either while in prison or after their release.

In largely Muslim Xinjiang, religious freedom is severely curtailed by the government, which indiscriminately links Muslim religious expression with ''separatist'' or ''terrorist'' acts. The indiscriminate repression of the Uighur people is best exemplified by the arrest and imprisonment of Rebiya Kadeer, a prominent Uighur businesswoman and activist, who was arrested in 1999 after she met with a visiting U.S. congressional delegation. Close supervision of all mosques in the region by local Communist Party officials is now commonplace.

China repeatedly engages in severe—systematic, egregious—violations of religious freedom. If our ideals and what America stands for—both at home and abroad—are to mean anything, then we must not shrink from this issue. We must not allow human considerations to come secondary to the pursuit of trade.

We must dare to speak out for those who have no voice.

Mr. WOLF. Mr. Chairman, over the last two weeks I have submitted testimony from various groups that I have been meeting with regarding China's continual abuse of human rights. Whether it be restrictions on religious freedom; the persecution and arrest of Catholics and Protestants; the use of barbaric labor camps; the continual victimization of members of the Falun Gong; or the abhorrent and coercive One-Child policy, China's government continues to show nothing but contempt for its citizens and the opinions of the rest of the world.

These offenses alone should be enough to condemn the government of China. However, on top of these crimes the People's Republic of China poses a great and serious counterintelligence threat to America, the extent of which will, I have no doubt, concern our colleagues greatly.

AN UNCLASSIFIED REPORT FROM THE FBI ON THE PEOPLE'S REPUBLIC OF CHINA INTELLIGENCE COLLECTION EFFORTS

The People's Republic of China (PRC) poses a significant counterintelligence threat to the United States (U.S.) via its cadre of professional intelligence officers who collect political, military and economic intelligence, and its network of non-professional individuals and organizations that collect science and technology, high-tech and proprietary information completely outside the direction and control of the PRC Intelligence Services.

The PRC's professional military intelligence organization, the Military Intelligence Department of the People's Liberation Army (MID/PLA), also known as the Second Department of the PLA (2PLA), relies mainly on intelligence collection through its military attaches. The PRC's military seeks military, science and technology, and some political information through its contacts and agents. In 1987, PRC military attache Hou Desheng was interdicted by FBI Special Agents in Washington, D.C. while receiving and paying for classified U.S. Government information.

The PRC's professional civilian intelligence, the Ministry of State Security, targets U.S. political and policy information, runs influence operations against Taiwan and other political targets, attempts to penetrate the U.S. Government, and directs a growing number of covert science and technology collection operations. Collection operations from this civilian segment of the PRC Intelligence Services are difficult to counter because the Chinese typically insist that the physical transfer of documents or items take place in the PRC. PRC civilian intelligence officers in the U.S. direct part of their efforts toward developing as many Americans of Chinese ancestry into what the PRC terms ''patriotic Overseas Chinese.''

An example of the Ministry of State Security's success in penetrating the U.S. Government was the Larry Wu-tai Chin case. Chin, a U.S. Government employee of 30 years, was an actual agent of the Ministry of State Security. While residing in the U.S. and during his employment with the government, Chin provided information to the Ministry of State Security for over 40 years. Chin was arrested for espionage activities in 1985 and was subsequently convicted of those charges in 1986. Chin committed suicide prior to being sentenced.

Like most countries operating intelligence services within the U.S., the PRC employs a number of commonly-used collection techniques. Their intelligence services attempt to gain access to sensitive foreign facilities, try to meet individuals with access to classified information, and attempt to photograph military installations and equipment. However, the PRC employs several non-traditional methods and unlike most other countries, the PRC makes extensive use of non-intelligence personnel.

Consumers of intelligence such as China's production facilities, laboratories and research institutes often bypass professional intelligence services in favor of direct intelligence collection efforts. Opportunities to accomplish direct collection within the U.S. are facilitated through the very large number of temporary visitors in private companies, academic institutions, and U.S. Government facilities. A significant number of these delegation members are science and technology experts, often characterized by their American hosts as aggressive and extremely knowledgeable in their professional fields. In many cases, Chinese-Americans employed by these entities and institutions are sought out by members of the PRC delegations as persons who might be willing to assist them.

In 1997, Peter Lee pleaded guilty to transmitting U.S. national defense information to the PRC. The consumer of Lee's information was a PRC institute, not a traditional PRC intelligence service. In 2002, a PRC national was arrested for attempting to steal proprietary seismic-imaging software from a Silicon Valley company. This was the second unsuccessful attempt by an employee of a PRC based company to obtain this proprietary software within a span of five years. Later in 2002, two PRC nationals were indicted for economic espionage related to their attempted theft of trade secrets from several Silicon Valley companies. These two individuals were subsequently linked to a PRC based high-technology research and development program.

As the PRC's varied presence in the U.S. continues to grow, more PRC nationals find themselves in positions of direct or indirect access to items of intelligence interest to China. If they can find the right consumer, PRC nationals involved in intelligence collection may be in a position to profit from their services. These individuals do not operate under the direction or control of either the military or civilian PRC intelligence services.

In 1994, two PRC nationals were indicted on computer fraud and fraud by wire in connection with the theft of $950,000 of proprietary computer source code developed by a U.S. firm. The end-user of the code was a Chinese machinery import and export company. Evidence collected in the investigation indicated that the two perpetrators had shopped the computer source code around for the best price.

Whether directed by one of its intelligence services, manufacturing sectors or research institutes, the PRC threat to U.S. policy, intelligence, military, national security and proprietary/economic information is growing. In response to this expanding PRC threat, the FBI, in conjunction with the U.S. Intelligence Community, continues to pursue an aggressive and focused counterintelligence program.

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

Mr. WOLF. I yield to the gentleman from Michigan.

Mr. HOEKSTRA. I thank my colleague for yielding.

Mr. Chairman, as the gentleman is worried about China and as the gentleman is also worried about FPI, I think it is fair to note that a number of us have been with him on the issue of China. I voted against PNTR, both again for the jobs and because of the persecution that is going on there and because of their military intervention.

I believe that we need to protect American jobs here, both from the Chinese; and we need to allow those folks at least to have the opportunity to try to keep their jobs if they are competing against Federal Prison Industries. We are going to make sure that there is plenty of work and rehabilitative services for those in our prisons.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I came to this floor earlier, and my opening remarks in this debate were to acknowledge the hard work that had taken place in the Committee on the Judiciary and our other committees on this particular legislation. In fact, I had complemented the chairman and ranking member of the full committee and the chairman and ranking member of the subcommittee dealing with the Committee on the Judiciary. I know other committees had jurisdiction as well, and I see a lot of my good friends from the Committee on Small Business, so I know this is a very sensitive and emotional issue. I applaud the work and compromise that has already taken place.

But I would like to have taken away the suggestion that any of us are trying to gut this bill, or to make frivolous the issues that are seen in this bill. In fact, my good friend from Michigan, I almost wish I could carve out for him a separate response to some of the very vital concerns that he has mentioned. But I want to cite just an example, because I have heard a line of reasoning dealing with this whole question of trade agreements, that we are mired down in trade agreements, and that may be another issue.

But I do want to cite a figure, and I am saddened by this number. We have lost 600,000 textile jobs over the last 10 years; but as we stand here today, only 7,000 inmates are doing anything dealing with the issue of the loss of textile jobs. Only 7,000 of them are doing textile work, but we have lost 600,000 jobs.

I raise this point to suggest that the amendment offered by the gentleman from Wisconsin (Mr. GREEN) makes sense because what it is saying is it is not trying to be another study. The Green amendment specifically directs itself to the language of this bill, asking for the study on the impact of this legislation.

□ 1330

What will happen as we drastically modify prison industries? So we cannot compare apples and oranges. Frankly, we have the data that suggests that this Nation has lost 600,000 textile jobs. My friends in the South have told me that this is an anguish with them. But of those 600,000, even if it is included, we know that there are 7,000 inmates doing something with textiles. This amendment asks to look at these issues along with safety and management and other issues.

But, Mr. Chairman, I want to get to the heart of the matter, and that is who is in these prisons. When I walked through the Federal prison in Beaumont just a few months ago, recognizing many of my constituents, seeing people who were both remorseful but, as well, certainly had a number of other bases for their presence there, many nonviolent offenders, all of them desiring another life, all of them desiring to get out to be with their families and to be a provider. In this instance, all of them were men. And the idleness, Mr. Chairman, was tragic. It was absolutely tragic. They were begging for things to do. They were standing in line to do kitchen duty. There were not enough hours for them to do this kind of work. And if my colleagues have not visited, I would ask my colleagues to take some time to realize that lives may have gone awry and astray but, frankly, these are Americans who want to have their lives rehabilitated.

The real tragedy of those incarcerated, and in this instance I speak to those having perpetrated nonviolent crimes, and there are many who are looking for a better life who, unfortunately, perpetrated a violent crime, is their family members. Those dollars that they gain, Mr. Chairman, from being in a prison industry go home to support those children, that elderly parent, or maybe even that spouse. And if anyone wants to tell a tale of woe that we document in our high schools today, in our schools today, the child who is performing poorly, the child who seems to always get in trouble, the child who seems distressed and disturbed, one can be assured that, in many instances, it is the child of an incarcerated parent.

Mr. Chairman, it is time now that we support an initiative that will allow us to study the overall impact, negative impact of this legislation. I support the Green amendment, and I ask that my colleagues support it.

The CHAIRMAN pro tempore (Mr. SHIMKUS). The question is on the amendment in the nature of a substitute offered by the gentleman from Wisconsin (Mr. GREEN).

The amendment in the nature of a substitute was rejected.

The CHAIRMAN pro tempore. Are there further amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. GOVERNMENTWIDE PROCUREMENT POLICY RELATING TO PURCHASES FROM FEDERAL PRISON INDUSTRIES.

Section 4124 of title 18, United States Code, is amended to read as follows:

"§ 4124. Governmentwide procurement policy relating to purchases from Federal Prison Industries

''(a) IN GENERAL.—Purchases from Federal Prison Industries, Incorporated, a wholly owned Government corporation, as referred to in section 9101(3)(E) of title 31, may be made by a Federal department or agency only in accordance with this section.

''(b) SOLICITATION AND EVALUATION OF OFFERS AND CONTRACT AWARDS.—(1) If a procurement activity of a Federal department or agency has a requirement for a specific product or service that is authorized to be offered for sale by Federal Prison Industries, in accordance with section 4122 of this title, and is listed in the catalog referred to in subsection (g), the procurement activity shall solicit an offer from Federal Prison Industries, if the purchase is expected to be in excess of the micro-purchase threshold (as defined by section 32(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(f))).

''(2) A contract award for such product or service shall be made using competitive procedures in accordance with the applicable evaluation factors, unless a determination is made by the Attorney General pursuant to paragraph (3) or an award using other than competitive procedures is authorized pursuant to paragraph (7).

''(3) The procurement activity shall negotiate with Federal Prison Industries on a noncompetitive basis for the award of a contract if the Attorney General determines that—

''(A) Federal Prison Industries cannot reasonably expect fair consideration to receive the contract award on a competitive basis; and

''(B) the contract award is necessary to maintain work opportunities otherwise unavailable at the penal or correctional facility at which the contract is to be performed to prevent circumstances that could reasonably be expected to significantly endanger the safe and effective administration of such facility.

''(4) Except in the case of an award to be made pursuant to paragraph (3), a contract award shall be made with Federal Prison Industries only if the contracting officer for the procurement activity determines that—

''(A) the specific product or service to be furnished will meet the requirements of the procurement activity (including any applicable prequalification requirements and all specified commercial or governmental standards pertaining to quality, testing, safety, serviceability, and warranties);

''(B) timely performance of the contract can be reasonably expected; and

''(C) the contract price does not exceed a current market price.

''(5) A determination by the Attorney General pursuant to paragraph (3) shall be—

''(A) supported by specific findings by the warden of the penal or correctional institution at which a Federal Prison Industries workshop is scheduled to perform the contract;

''(B) supported by specific findings by Federal Prison Industries regarding why it does not expect to win the contract on a competitive basis; and

''(C) made and reported in the same manner as a determination made pursuant to section 303(c)(7) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(7)).

''(6) If the Attorney General has not made the determination described in paragraph (3) within 30 days after Federal Prison Industries has been informed of a contracting opportunity by a procurement activity, the procurement activity may proceed to conduct a procurement for the product or service in accordance with the procedures generally applicable to such procurements by the procurement activity.

''(7) A contract award may be made to Federal Prison Industries using other than competitive procedures if such product or service is only available from Federal Prison Industries and the contract may be awarded under the authority of section 2304(c)(1) of title 10 or section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(c)(1)), as may be applicable, and pursuant to the justification and approval requirements relating to such noncompetitive procurements specified by law and the Governmentwide Federal Acquisition Regulation.

''(c) OFFERS FROM FEDERAL PRISON INDUSTRIES.—A timely offer received from Federal Prison Industries to furnish a product or service to a Federal department or agency shall be considered for award without limitation as to the dollar value of the proposed purchase.

''(d) PERFORMANCE BY FEDERAL PRISON INDUSTRIES.—Federal Prison Industries shall perform its contractual obligations under a contract awarded by a Federal department or agency to the same extent as any other contractor.

''(e) FINALITY OF CONTRACTING OFFICER'S DECISION.—(1) A decision by a contracting officer regarding the award of a contract to Federal Prison Industries or relating to the performance of such contract shall be final, unless reversed on appeal pursuant to paragraph (2) or (3).

''(2) The Chief Executive Officer of Federal Prison Industries may appeal to the head of a Federal department or agency a decision by a contracting officer not to award a contract to Federal Prison Industries pursuant to subsection (b)(4). The decision of the head of a Federal department or agency on appeal shall be final.

''(3) A dispute between Federal Prison Industries and a procurement activity regarding performance of a contract shall be subject to—

''(A) alternative means of dispute resolution pursuant to subchapter IV of chapter 5 of title 5; or

''(B) final resolution by the board of contract appeals having jurisdiction over the procurement activity's contract performance disputes pursuant to the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

''(f) REPORTING OF PURCHASES.—Each Federal department or agency shall report purchases from Federal Prison Industries to the Federal Procurement Data System (as referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4))) in the same manner as it reports to such System any acquisition in an amount in excess of the simplified acquisition threshold (as defined by section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

''(g) CATALOG OF PRODUCTS.—Federal Prison Industries shall publish and maintain a catalog of all specific products and services that it is authorized to offer for sale. Such catalog shall be periodically revised as products and services are added or deleted by its board of directors (in accordance with section 4122(b) of this title).

''(h) COMPLIANCE WITH STANDARDS.—Federal Prison Industries shall comply with Federal occupational, health, and safety standards with

respect to the operation of its industrial operations.''.

AMENDMENT NO. 1 OFFERED BY MR. TOOMEY

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. TOOMEY:

Page 7, line 17, strike the period and insert the following: '', unless the contract opportunity has been reserved for competition exclusively among small business concerns pursuant to section 15(a) of the Small Business Act (15 U.S.C. 644(a)) and its implementing regulations.''.

Mr. TOOMEY. Mr. Chairman, it seems to me we have had considerable debate about the substance of this bill today, and there is substantial evidence that the mandatory source status that is enjoyed by FPI is a policy that is harmful to a variety of American industries and workers, including the furniture manufacturers and the garment-makers in my district. The core objective of this bill is to eliminate the status, the FPI status as a mandatory source supplier and, thereby, require the FPI to compete for Federal contracts rather than have the opportunity to simply claim them. I am a cosponsor of this bill, and I applaud this effort and I support the bill.

What my amendment would do would further define the FPI's role in competing with private sector small businesses. Specifically, my amendment would prohibit the FPI from bidding on any contracts that are intended to be exclusively set aside for small business concerns.

This Congress and many Congresses before us have established, for a variety of reasons, that a certain percentage of Federal Government procurements should be made through small businesses, and we call those small businesses set-asides. The whole idea has always been to ensure that small businesses, mom-and-pops, local people struggling, in all of our districts and in all of our communities, to get a business off the ground and to employ some people, that they get a shot at some of the business that their tax dollars pay for.

It seems abundantly obvious to me that the Federal Prison Industry does not in any way qualify as a small business nor fit the descriptions that most of us have in mind when we think about small businesses. With $500 billion in annual sales, with 20,000 employees, with this network within the Federal penitentiaries in America, that is not what we mean when we talk about small business. It was never the intent of Congress that the Federal Prison Industry should be able to compete for the contracts that are intended to be set aside for small businesses.

Yet, last year, when we repealed the mandatory source status for the FPI with respect to DOD procurements, unfortunately, regulations were promulgated that specifically allowed the Federal Prison Industry to compete for small business set-asides within DOD. My amendment would correct this error with respect to DOD, but it also would apply to the other Federal agencies, and it is based on a simple premise: that small business set-asides should in fact be for small businesses, not for the FPI. It is tough enough for small businesses to compete against large businesses. I do not think they should have to compete against the Federal Prison Industry. This is a good bill.

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

Mr. TOOMEY. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding. This is a good bill and this is also a good amendment, and I am pleased to support it.

Mr. TOOMEY. Mr. Chairman, reclaiming my time, I appreciate the support of the Chairman. I appreciate the support of the author of the bill. I urge my colleagues to support the amendment and the underlying bill.

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

I too agree that the Toomey amendment is a good addition to this bill. Business spends what it makes, government spends what it takes, and government should not take taxpayers' money and go into business against them and put these hardworking, taxpaying Americans out of business. The Toomey amendment will help curb this repugnant practice of harming our small businesses.

Of course, rehabilitation of prisoners is a worthy goal, but rehabilitation is not the exclusive aim of incarceration. After all, Dostoevsky did not write Crime and Rehabilitation. Thus, we must now write and pass a law to stop government from rehabilitating prisoners by punishing productive Americans. So I urge support of the Toomey amendment.

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

Mr. Chairman, I rise in strong support of the Toomey amendment. The amendment offered by my good friend and Committee on Small Business subcommittee chairman makes perfect sense. The amount of competition that the FPI would bring against small business in set-aside procurements goes against the very intention of having a small business set-aside in the first place. Common sense tells us that the small businesses will have to unfairly lower their prices to match the levels that the FPI can offer.

Also, knowing how Federal procurement works, I can predict that contracting officers will tailor their acquisitions in such a way as to guarantee that FPI will win when that is the outcome the contracting office wants, even though they may still carry it out under a small business set-aside.

With specifications written for products the FPI has experience and economy of scale in making, of course, they will undercut the small businesses and win such an unfair competition. A small business cannot survive by buying in on a contract at a loss, but the FPI could do business indefinitely by using such a strategy.

The final irony of all this is that the administration is valiantly trying to increase opportunities for small businesses by unbundling large procurements and giving them a chance to win a contract of a size they can handle. Turning around and letting the FPI get into the small business-sized contracts would negate whatever progress we would be making on that front, and we would end up right where we started. I would remind my colleagues that the government has not obtained its 23 percent goal for contracting with small businesses for several years.

With a workforce of over 20,000, FPI is a large business, and FPI should be competing with other large contractors. Let us keep them out of the sort of procurements we set aside for mom-and-pop small businesses.

I do not want to be holding hearings investigating why the FPI is winning one small business set-aside after the other. Let us solve this problem once and for all and support the Toomey amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. TOOMEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Michigan:

Page 7, after line 12, insert the following:

(8) A contract award may be made to Federal Prison Industries using other than competitive procedures by the Federal Bureau of Prisons.

Mr. SMITH of Michigan. Mr. Chairman, part of our goal is to keep prisoners working, especially if they are working to take care of themselves. This amendment simply provides that the law would stay as it is now for the Federal Bureau of Prisons. The Federal Prison System, should have prisoners in prison industries produce the products they need.

I chaired the Department of Corrections budget in the State of Michigan for years, and in terms of the gentleman from Michigan's (Mr. HOEKSTRA) idea that we should have competitive bids, that is what we have done in Michigan. I mean the prison industry competes with the private sector. If they cannot beat the bid, or the quality of the product, they do not get the bid.

But what is happening in the State of Michigan is that our prison industries is still making a great deal of money. The incentive has been there to be productive; and, in terms of recidivism,

there has been a greater interest by these workers to do a better job. That means they are more likely to get a job on the outside. We instigated provisions in Michigan that prisoners have to pass drug tests before they are even allowed to work. So working has become a privilege. It gives them an advantage over other prisoners. That is what we should seek to do in our federal system.

In fact, when I first went into the Michigan legislature, the prisoners produced farm products. They produced the fruits and the vegetables and the milk and the butter and they did maintenance as well as prison industries sales. It reduced the cost to State government of taking care of those prisoners, and that is the way it should be at the federal level.

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

Mr. SMITH of Michigan. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding.

Let me just make it clear that what the gentleman is proposing is that Federal Prison Industries can have a mandatory source contract for procurement by the Bureau of Prisons. In other words, what is used in the prisons can be made by FPI on a mandatory source contract. Am I correct in that impression?

Mr. SMITH of Michigan. Mr. Chairman, the gentleman is correct on that. Actually, ''may'' is the exact language of the amendment. So it is a decision of the Federal Prison System whether they do the sole source contracting for their own use. So it still leaves flexibility, but it allows the prison system to require prisoners to make more of the things that are going to be required by the Bureau of Prisons.

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

Mr. SMITH of Michigan. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, with that understanding, I am happy to support the amendment. I believe it makes a significant improvement to the bill.

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman for supporting the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. SMITH).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to section 2?

If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. PUBLIC PARTICIPATION REGARDING EXPANSION PROPOSALS BY FEDERAL PRISON INDUSTRIES.

Section 4122(b) of title 18, United States Code, is amended—

(1) by redesignating paragraph (6) as paragraph (12); and

(2) by striking paragraphs (4) and (5) and inserting the following new paragraphs:

''(4) A decision to authorize Federal Prison Industries to offer a new specific product or specific service or to expand the production of an existing product or service shall be made by its board of directors in conformance with the requirements of subsections (b), (c), (d), and (e) of section 553 of title 5, and this chapter.

''(5)(A) Whenever Federal Prison Industries proposes to offer for sale a new specific product or specific service or to expand production of a currently authorized product or service, the Chief Operating Officer of Federal Prison Industries shall submit an appropriate proposal to the board of directors and obtain the board's approval before initiating any such expansion. The proposal submitted to the board shall include a detailed analysis of the probable impact of the proposed expansion of sales within the Federal market by Federal Prison Industries on private sector firms and their non-inmate workers.

''(B)(i) The analysis required by subparagraph (A) shall be performed by an interagency team on a reimbursable basis or by a private contractor paid by Federal Prison Industries.

''(ii) If the analysis is to be performed by an interagency team, such team shall be led by the Administrator of the Small Business Administration or the designee of such officer with representatives of the Department of Labor, the Department of Commerce, and the Federal Procurement Data Center.

''(iii) If the analysis is to be performed by a private contractor, the selection of the contractor and the administration of the contract shall be conducted by one of the entities referenced in clause (ii) as an independent executive agent for the board of directors. Maximum consideration shall be given to any proposed statement of work furnished by the Chief Operating Officer of Federal Prison Industries.

''(C) The analysis required by subparagraph (A) shall identify and consider—

''(i) the number of vendors that currently meet the requirements of the Federal Government for the specific product or specific service;

''(ii) the proportion of the Federal Government market for the specific product or specific service currently furnished by small businesses during the previous 3 fiscal years;

''(iii) the share of the Federal market for the specific product or specific service projected for Federal Prison Industries for the fiscal year in which production or performance will commence or expand and the subsequent 4 fiscal years;

''(iv) whether the industry producing the specific product or specific service in the private sector—

''(I) has an unemployment rate higher than the national average; or

''(II) has a rate of unemployment for workers that has consistently shown an increase during the previous 5 years;

''(v) whether the specific product is an import-sensitive product;

''(vi) the requirements of the Federal Government and the demands of entities other than the Federal Government for the specific product or service during the previous 3 fiscal years;

''(vii) the projected growth or decline in the demand of the Federal Government for the specific product or specific service;

''(viii) the capability of the projected demand of the Federal Government for the specific product or service to sustain both Federal Prison Industries and private vendors; and

''(ix) whether authorizing the production of the new product or performance of a new service will provide inmates with the maximum opportunity to acquire knowledge and skill in trades and occupations that will provide them with a means of earning a livelihood upon release.

''(D)(i) The board of directors may not approve a proposal to authorize the production and sale of a new specific product or continued sale of a previously authorized product unless—

''(I) the product to be furnished is a prison-made product; or

''(II) the service to be furnished is to be performed by inmate workers.

''(ii) The board of directors may not approve a proposal to authorize the production and sale of a new prison-made product or to expand production of a currently authorized product if the product is—

''(I) produced in the private sector by an industry which has reflected during the previous year an unemployment rate above the national average; or

''(II) an import-sensitive product.

''(iii) The board of directors may not approve a proposal for inmates to provide a service in which an inmate worker has access to—

''(I) personal or financial information about individual private citizens, including information relating to such person's real property, however described, without giving prior notice to such persons or class of persons to the greatest extent practicable;

''(II) geographic data regarding the location of surface and subsurface infrastructure providing communications, water and electrical power distribution, pipelines for the distribution of natural gas, bulk petroleum products and other commodities, and other utilities; or

''(III) data that is classified.

''(iv)(I) Federal Prison Industries is prohibited from furnishing through inmate labor construction services, unless to be performed within a Federal correctional institution pursuant to the participation of an inmate in an apprenticeship or other vocational education program teaching the skills of the various building trades.

''(II) For purposes of this clause, the term 'construction' has the meaning given such term by section 2.101 of the Federal Acquisition Regulation (48 C.F.R. part 2.101), as in effect on June 1, 2002, including the repair, alteration, or maintenance of real property in being.

''(6) To provide further opportunities for participation by interested parties, the board of directors shall—

''(A) give additional notice of a proposal to authorize the production and sale of a new product or service, or expand the production of a currently authorized product or service, in a publication designed to most effectively provide notice to private vendors and labor unions representing private sector workers who could reasonably be expected to be affected by approval of the proposal, which notice shall offer to furnish copies of the analysis required by paragraph (5) and shall solicit comment on the analysis;

''(B) solicit comments on the analysis required by paragraph (5) from trade associations representing vendors and labor unions representing private sector workers who could reasonably be expected to be affected by approval of the proposal to authorize the production and sale of a new product or service (or expand the production of a currently authorized product or service); and

''(C) afford an opportunity, on request, for a representative of an established trade association, labor union, or other private sector representatives to present comments on the proposal directly to the board of directors.

''(7) The board of directors shall be provided copies of all comments received on the expansion proposal.

''(8) Based on the comments received on the initial expansion proposal, the Chief Operating Officer of Federal Prison Industries may provide the board of directors a revised expansion proposal. If such revised proposal provides for expansion of inmate work opportunities in an industry different from that initially proposed, such revised proposal shall reflect the analysis required by paragraph (5)(C) and be subject to the public comment requirements of paragraph (6).

''(9) The board of directors shall consider a proposal to authorize the sale of a new specific product or specific service (or to expand the volume of sales for a currently authorized product

or service) and take any action with respect to such proposal, during a meeting that is open to the public, unless closed pursuant to section 552(b) of title 5.

''(10) In conformity with the requirements of paragraphs (5) through (9) of this subsection, the board of directors may—

''(A) authorize the donation of products produced or services furnished by Federal industries and available for sale;

''(B) authorize the production of a new specific product or the furnishing of a new specific service for donation; or

''(C) authorize a proposal to expand production of a currently authorized specific product or specific service in an amount in excess of a reasonable share of the market for such product or service, if—

''(i) a Federal agency or department, purchasing such product or service, has requested that Federal Prison Industries be authorized to furnish such product or service in amounts that are needed by such agency or department; or

''(ii) the proposal is justified for other good cause and supported by at least eight members of the board.''.

The CHAIRMAN pro tempore. Are there any amendments to section 3?

If not, the Clerk will designate section 4.

The text of section 4 is as follows:

SEC. 4. TRANSITIONAL MANDATORY SOURCE AUTHORITY.

(a) IN GENERAL.—Notwithstanding the requirements of section 4124 of title 18, United States Code (as amended by section 2 of this Act), a Federal department or agency having a requirement for a product that is authorized for sale by Federal Prison Industries and is listed in its catalog (referred to in section 4124(g) of title 18, United States Code) shall first solicit an offer from Federal Prison Industries and make purchases on a noncompetitive basis in accordance with this section.

(b) PREFERENTIAL SOURCE STATUS.—Subject to the limitations of subsection (d), a contract award shall be made on a noncompetitive basis to Federal Prison Industries if the contracting officer for the procurement activity determines that—

(1) the product offered by Federal Prison Industries will meet the requirements of the procurement activity (including commercial or governmental standards or specifications pertaining to design, performance, testing, safety, serviceability, and warranties as may be imposed upon a private sector supplier of the type being offered by Federal Prison Industries);

(2) timely performance of the contract by Federal Prison Industries can be reasonably expected; and

(3) the negotiated price does not exceed a fair and reasonable price.

(c) CONTRACTUAL TERMS.—The terms and conditions of the contract and the price to be paid to Federal Prison Industries shall be determined by negotiation between Federal Prison Industries and the Federal agency making the purchase. The negotiated price shall not exceed a fair and reasonable price determined in accordance with the procedures of the Federal Acquisition Regulation.

(d) PERFORMANCE OF CONTRACTUAL OBLIGATIONS.—

(1) IN GENERAL.—Federal Prison Industries shall perform the obligations of the contract negotiated pursuant to subsection (c).

(2) PERFORMANCE DISPUTES.—If the head of the contracting activity and the Chief Operating Officer of Federal Prison Industries are unable to resolve a contract performance dispute to their mutual satisfaction, such dispute shall be resolved pursuant to section 4124(e)(3) of title 18, United States Code (as added by section 2 of this Act).

(e) LIMITATIONS ON USE OF AUTHORITY.—

(1) IN GENERAL.—As a percentage of the sales made by Federal Prison Industries during the base period, the total dollar value of sales to the Government made pursuant to subsection (b) and subsection (c) of this section shall not exceed—

(A) 90 percent in fiscal year 2005;

(B) 85 percent in fiscal year 2006;

(C) 70 percent in fiscal year 2007;

(D) 55 percent in fiscal year 2008; and

(E) 40 percent in fiscal year 2009.

(2) SALES WITHIN VARIOUS BUSINESS SECTORS.—Use of the authority provided by subsections (b) and (c) shall not result in sales by Federal Prison Industries to the Government that are in excess of its total sales during the base year for each business sector.

(3) LIMITATIONS RELATING TO SPECIFIC PRODUCTS.—Use of the authorities provided by subsections (b) and (c) shall not result in contract awards to Federal Prison Industries that are in excess of its total sales during the base period for such product.

(4) CHANGES IN DESIGN SPECIFICATIONS.—The limitations on sales specified in paragraphs (2) and (3) shall not be affected by any increases in the unit cost of production of a specific product arising from changes in the design specification of such product directed by the buying agency.

(f) DURATION OF AUTHORITY.—The preferential contracting authorities authorized by subsection (b) may not be used on or after October 1, 2009, and become effective on the effective date of the final regulations issued pursuant to section 18.

(g) DEFINITIONS.—For the purposes of this section—

(1) the term ''base period'' means the total sales of Federal Prison Industries during the period October 1, 2001, and September 30, 2002 (Fiscal Year 2002);

(2) the term ''business sectors'' means the eight product/service business groups identified in the 2002 Federal Prison Industries annual report as the Clothing and Textiles Business Group, the Electronics Business Group, the Fleet Management and Vehicular Components Business Group, the Graphics Business Group, the Industrial Products Business Group, the Office Furniture Business Group, the Recycling Activities Business Group, and the Services Business Group; and

(3) the term ''fair and reasonable price'' shall be given the same meaning as, and be determined pursuant to, part 15.8 of the Federal Acquisition Regulation (48 C.F.R. 15.8).

(h) FINDING BY ATTORNEY GENERAL WITH RESPECT TO PUBLIC SAFETY.—(1) Not later than 60 days prior to the end of each fiscal year specified in subsection (e)(1), the Attorney General shall make a finding regarding the effects of the percentage limitation imposed by such subsection for such fiscal year and the likely effects of the limitation imposed by such subsection for the following fiscal year.

(2) The Attorney General's finding shall include a determination whether such limitation has resulted or is likely to result in a substantial reduction in inmate industrial employment and whether such reductions, if any, present a significant risk of adverse effects on safe prison operation or public safety.

(3) If the Attorney General finds a significant risk of adverse effects on either safe prison management or public safety, he shall so advise the Congress.

(4) In advising the Congress pursuant to paragraph (3), the Attorney General shall make recommendations for additional authorizations of appropriations to provide additional alternative inmate rehabilitative opportunities and additional correctional staffing, as may be appropriate.

AMENDMENT NO. 4 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. SCOTT of Virginia:

Page 17, strike line 16 and all that follows through page 18, line 19.

Page 18, line 20, strike ''(2)'' and insert ''(b)'' (and align the margin with subsection (a) and redesignate subsequent subsections accordingly).

Page 19, lines 7 and 8, strike ''subsection (b) and subsection (c) of''.

Page 19, lines 15 and 16, and lines 21 and 22, strike ''subsections (b) and (c)'' and insert ''this section''.

Page 20, line 7, strike ''preferential''.

Page 20, line 8, strike ''subsection (b)'' and insert ''this section''.

Mr. SCOTT of Virginia. Mr. Chairman, this is a ''truth-in-legislating'' amendment. We have been told that the underlying bill phases out mandatory source. This amendment would actually provide for a 5-year phaseout of the mandatory source law, which is what the proponents say the bill does. Unfortunately, the bill, in fact, immediately eliminates the mandatory source program and replaces it with an agency preference program where an agency may be required to make a purchase or may not, and there is no way to know whether it will actually replace the number of jobs without significant erosion of the program. After the 5 years, agencies under the bill do not even have to go through a preference process, and if one reads the language left after my amendment strikes out the agency preference program, we still have the bill, but with a 5-year phaseout of the mandatory source rule now in effect.

Now, if anybody believes that there is a 5-year phaseout of the current mandatory source rule under the bill, rather than an immediate elimination, just read the bill. Page 4 of the bill, starting on line 20, says ''agencies shall solicit an offer'' from FPI. Nothing wrong with that.

□ 1345

But note that the words no longer require a purchase, which is the current mandatory source law.

Proponents of the bill would have you believe that the public wants agency bureaucrats to have the option of buying furniture or office supplies with all the bells and whistles and all the colors, shapes, and sizes that the private sector can muster, rather than having them promoting the proven public policy of promoting meaningful work experience for inmates, most of whom would not be imprisoned in the first place if they had the work place skills and knew how to hold down a job.

Now, FPI was created in 1934. And the point of the 1934 law was, as a matter of sound public policy, that we should carve out a little minuscule portion of Federal agency purchases to provide marketable work skills and productivity to prisoners so that they will be productively occupied while in prison and be able to get a job when

they get out. Now, this program has been shown that it works. Not only has it shown that inmates who participate in FPI are significantly more likely to find productive employment, but they have shown that they are 24 percent less likely to commit a new crime upon release. That means 24 percent fewer victims.

The program and developers are aware that inmates constitute the least educated, least disciplined, least trained, least skilled, and least productive workforce around. The program requires an emphasis on manual work to employ as many people as possible. And as a result of all of those factors, the FPI estimates that it takes four inmates to do the work of one properly trained private sector employee.

That is clearly not the intent of the developers of the program to have inmates compete with the private sector, or that inmates be prevented from doing any work that could be done by the private sector. In 1934, any FPI work could have been done by the private sector, and that is still the case today.

The whole of the FPI revenues constitute less than one-quarter of 1 percent of Federal agency purchasing. And with the entire private sector market and 99.75 percent of the Federal market, spreading the remaining one-quarter of 1 percent of the Federal market over the entire private business sector is not likely to create any new jobs. So it would simply be absorbed in the existing workforce.

On the other hand, almost 80 percent of the revenues that FPI takes in goes back to purchase raw materials through the Federal procurement process and a subcontractor with private sector businesses producing FPI products for agencies. Now there are hundreds of these businesses. They hire thousands of workers. Over 60 percent of them are small, minority, women-owned or disadvantaged businesses, and for many of them FPI is their only client. A high number of these private sector jobs are held by law-abiding citizens, and they will be immediately gone with the elimination of the mandatory source of FPI since there will be no reliable orders or revenues.

When we put restrictions on the mandatory source program in the Department of Defense last year, we saw a significant erosion of inmate jobs without any indication that industry jobs in the private sector would increase as a result.

We should not be gutting this proven crime-reduction program that does not require taxpayer funding, suddenly, without knowing the consequences and without giving the prison system a realistic period to try to develop something to replace it. We should certainly not be doing this to give agency bureaucrats just a few more choices in furniture purchases.

Several of us have asked the GAO to study the impact on the prison system, FPI, the businesses, and the public from eliminating the FPI mandatory source provision. This will provide a meaningful transition. And I would hope that we would adopt the amendment.

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

Mr. Chairman, this amendment puts the fox back to guarding the chicken coop, at least during the phase-out period in this legislation, and it is another attempt to buy time. The way it does it is to eliminate the competitive procedures that are in section 4 of the bill, which is the transitional mandatory source authority.

Now, what section 4 of the bill does, what the amendment of the gentleman from Virginia (Mr. SCOTT) tries to eliminate is to phase out FPI's dependence upon the narcotic of mandatory source procurement. And it eliminates the requirements that, during the phase-out of mandatory source for all products still being provided under this authority, that FPI provides a product that meets the agency's specific needs in a timely manner and at a fair price.

So the adoption of the Scott amendment would mean that FPI decides what the agencies need, not the agencies themselves; and the FPI decides when the agencies need the goods, not the agencies themselves; and FPI decides that the price is fair, not the agencies themselves. And there is not any competition at all when FPI makes all of these decisions. This basically is another stall that rolls back the changes in the bill and leaves the decision on whether to grant a waiver and allow competitive sourcing to the FPI rather than the buying agency.

It is time we get the fox away from this chicken coop because the taxpayers are going to end up much further ahead and the agencies are going to get better goods in a more timely manner without the amendment and with the bill as written.

Mr. Chairman, I urge that the amendment be voted down.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I respect the principled opposition of the gentleman from Virginia (Mr. SCOTT) to this bill. It is in this context we should see his amendment. He argues that he has a better transition, but it is a transition to a goal which he opposes.

So I would ask Members to consider if you are trying to find a path to a certain destination, whose guidance will you select: the people who are trying to get to the destination or the people who think that destination would be a terrible thing?

The gentleman from Wisconsin (Mr. SENSENBRENNER) has said this accurately, that this is a second chance to vote ''yes'' or ''no'' on the bill. I want to reiterate I will be strongly supportive of efforts to continue giving prisoners the work. There are specific sections in this bill that we are bringing forward that talk about donation programs, that say that we want the inmates to be making things for daycare centers, for homeless shelters, for drug rehab clinics. All of us know in every one of our districts there are very worthy facilities that provide services to people in great need, and they do not have enough of a budget to buy what they need. Let us give them the furniture. Let us give them the clothing. Let us give them the drapery. Let us give them the other things that can be made.

The issue is not whether or not the prisoners should be engaged in rehabilitative work; it is whether rehabilitative work should be financed by the whole society or whether it should be financed by competing with the most economically vulnerable sectors of our society. The bill says the former; the opposition to the bill and the amendment essentially say the latter.

The amendment says a while longer, a vote against the bill says never, but they came to the same result.

The CHAIRMAN pro tempore (Mr. SHIMKUS). The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The amendment was rejected.

AMENDMENT OFFERED BY MRS. MALONEY

Mrs. MALONEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. MALONEY:

Page 22, insert after line 3 the following:

(i) PROCEDURAL REQUIREMENTS FOR CIVILIAN AGENCIES RELATING TO PRODUCTS OF FEDERAL PRISON INDUSTRIES.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by adding at the end the following new section:

''SEC. 318. PRODUCTS OF FEDERAL PRISON INDUSTRIES: PROCEDURAL REQUIREMENTS.

''(a) MARKET RESEARCH.—Before purchasing a product listed in the latest edition of the Federal Prison Industries catalog under section 4124(d) of title 18, United States Code, the head of an executive agency shall conduct market research to determine whether the Federal Prison Industries product is comparable to products available from the private sector that best meet the executive agency's needs in terms of price, quality, and time of delivery.

''(b) COMPETITION REQUIREMENT.—If the head of the executive agency determines that a Federal Prison Industries product is not comparable in price, quality, or time of delivery to products available from the private sector that best meet the executive agency's needs in terms of price, quality, and time of delivery, the agency head shall use competitive procedures for the procurement of the product or shall make an individual purchase under a multiple award contract. In conducting such a competition or making such a purchase, the agency head shall consider a timely offer from Federal Prison Industries.

''(c) IMPLEMENTATION BY HEAD OF EXECUTIVE AGENCY.—The head of an executive agency shall ensure that—

''(1) the executive agency does not purchase a Federal Prison Industries product or service unless a contracting officer of the agency determines that the product or service is comparable to products or services available from the private sector that best

meet the agency's needs in terms of price, quality, and time of delivery; and

''(2) Federal Prison Industries performs its contractual obligations to the same extent as any other contractor for the executive agency.

''(d) MARKET RESEARCH DETERMINATION NOT SUBJECT TO REVIEW.—A determination by a contracting officer regarding whether a product or service offered by Federal Prison Industries is comparable to products or services available from the private sector that best meet an executive agency's needs in terms of price, quality, and time of delivery shall not be subject to review pursuant to section 4124(b) of title 18.

''(e) PERFORMANCE AS A SUBCONTRACTOR.—(1) A contractor or potential contractor of an executive agency may not be required to use Federal Prison Industries as a subcontractor or supplier of products or provider of services for the performance of a contract of the executive agency by any means, including means such as—

''(A) a contract solicitation provision requiring a contractor to offer to make use of products or services of Federal Prison Industries in the performance of the contract;

''(B) a contract specification requiring the contractor to use specific products or services (or classes of products or services) offered by Federal Prison Industries in the performance of the contract; or

''(C) any contract modification directing the use of products or services of Federal Prison Industries in the performance of the contract.

''(2) In this subsection, the term ''contractor'', with respect to a contract, includes a subcontractor at any tier under the contract.

''(f) PROTECTION OF CLASSIFIED AND SENSITIVE INFORMATION.—The head of an executive agency may not enter into any contract with Federal Prison Industries under which an inmate worker would have access to—

''(1) any data that is classified;

''(2) any geographic data regarding the location of—

''(A) surface and subsurface infrastructure providing communications or water or electrical power distribution;

''(B) pipelines for the distribution of natural gas, bulk petroleum products, or other commodities; or

''(C) other utilities; or

''(3) any personal or financial information about any individual private citizen, including information relating to such person's real property however described, without the prior consent of the individual.

''(g) DEFINITIONS.—In this section:

''(1) The term 'competitive procedures' has the meaning given such term in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5)).

''(2) The term 'market research' means obtaining specific information about the price, quality, and time of delivery of products available in the private sector through a variety of means, which may include—

''(A) contacting knowledgeable individuals in government and industry;

''(B) interactive communication among industry, acquisition personnel, and customers; and

''(C) interchange meetings or pre-solicitation conferences with potential offerors.''.

Page 17, line 15, strike the period and insert the following: ''or in accordance with section 2410n of title 10, United States Code, or section 318 of title III of the Federal Property and Administrative Services Act of 1949 (as added by subsection (i)).''.

Mrs. MALONEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from New York?

PARLIAMENTARY INQUIRY

Mr. SCOTT of Virginia. Mr. Chairman, reserving the right to object, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SCOTT of Virginia. Mr. Chairman, I am not sure which section this amendment is in. I would hope that it would not prejudice amendments in previous sections.

The CHAIRMAN pro tempore. Section 4 will remain open to further amendment after the consideration of this amendment.

Mr. SCOTT of Virginia. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mrs. MALONEY. Mr. Chairman, the amendment extends to the new contracting officer of the various civilian agencies, including the new Department of Homeland Security, the same powers available to contracting officers of the Department of Defense in their dealings with the Federal Prison Industries. It will better enable them to get the best value for the taxpaying dollars being expended with FPI.

Under FPI's 1934 authorizing statute, FPI is a mandatory source to all Federal agencies. Federal contracting officers must purchase products offered by FPI unless FPI authorizes, through the granting of a so-called waiver, the solicitation of competitive offers for the private sector.

In making the unilateral determination to grant a waiver, FPI, rather than the buying agency, determines whether FPI's offered product and delivery schedule meet the mission's needs of the buying agency. FPI, rather than the buying agency, determines the reasonableness of FPI's offered price.

While comprehensive FPI reform was being advanced in both Chambers, several Members of the other body devised a means to provide some modest interim relief to DOD's procurement professionals by including interim relief in the National Defense Authorization Act for fiscal year 2002. That provision added a new section 2410(n) to title 10 of the U.S. Code which governs DOD.

My amendment adds a new section to title III of the Federal Property and Administrative Services Act of 1949, which governs procurement by the civilian agencies. This new provision mirrors exactly the test of section 2410(n) in title 10.

Specifically, my amendment will make explicit that a contracting officer is fully empowered to determine if a product offered by FPI is comparable to products available from the private sector that best meet the Department's needs in terms of price, quality, and time of delivery; provide a contracting officer access to the full range of market research tools to make the required determination and full discretion on how to use such tools; empower contracting officers to ensure that FPI performs its contractual obligations to the same extent as any other contractor; and prohibit inmate workers from having access to classified data, critical infrastructure data, and personal or financial data under any service contract.

The text of the amendment being offered today was offered by the gentleman from Indiana (Mr. SOUDER) and accepted by the Committee on Government Reform during its consideration of H.R. 1837, the Services Acquisition Reform Act, earlier this year.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Mrs. MALONEY. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, let me say that I support her amendment because what her amendment does is it applies the DOD contracting rights that were passed in last year's defense authorization bill to procurement by the other Federal agencies that would be covered by this bill. So there is a uniform standard of agency contracting rights. And we would not have one set of rules for the Defense Department and another set of rules for the rest of the government agencies.

I believe that this amendment is a constructive addition, and I am pleased to support it.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentlewoman yield?

Mrs. MALONEY. I yield to the gentleman from Massachusetts, the distinguished ranking member.

Mr. FRANK of Massachusetts. Mr. Chairman, we do not have the usual situation here where there are Democratic and Republican managers who might come to an agreement on this one. I would say, though, that as one of the Democrats who has been supportive of this bill, I certainly would concur with what the gentleman from Wisconsin (Mr. SENSENBRENNER) has said and would also urge its acceptance.

Mrs. MALONEY. Mr. Chairman, I would like to add that the U.S. Chamber of Commerce and the AFL/CIO join my distinguished colleagues on both sides of the aisle in support of this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New York (Mrs. MALONEY).

The amendment was agreed to.

□ 1400

AMENDMENT OFFERED BY MR. GREEN OF WISCONSIN

Mr. GREEN of Wisconsin. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GREEN of Wisconsin:

Page 21, strike line 21 and all that follows through page 22, line 3, and insert the following:

(3) If the Attorney General finds a significant risk of adverse effects on safe prison management, prison rehabilitation opportunities, or public or prison safety, he shall so advise the Congress before the end of the fiscal year in which the finding is made, and such finding shall serve to postpone for one year any further percentage limitation under subsection (e)(1).

(4) Any percentage limitation postponed under paragraph (3) shall take effect in the fiscal year immediately following the fiscal year for which it is postponed, if not later than 60 days before the first day of such following fiscal year the Attorney General makes a determination under paragraph (2)—

(A) that such limitation is not likely to result in a substantial reduction in inmate industrial employment; or

(B) that any such reduction will not present a significant risk of adverse effects on safe prison operation or public safety.

Mr. GREEN from Wisconsin (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. GREEN of Wisconsin. Mr. Chairman, the proponents of this legislation, H.R. 1829, said earlier that they share our vision, they share the concerns that many of us have. The proponents of this bill have claimed that this legislation, H.R. 1829 will actually strengthen FPI, Federal Prison Industries. Unfortunately, close observers of the system, like the American Federation of Government Employees and the Fraternal Order of Police, disagree. Who shall we believe?

This amendment that I offer right now offers us a safe way for us to provide and to find out the answer and determine who it is that we should believe.

Now, earlier it was said that my study amendment was an amendment to kill, an amendment to delay. Well, this legislation is very different. It allows us to proceed while also creating a mechanism to make sure that we do not do the damage that some have said, some fear will be done. It provides a safety valve in case this bill does not work out as its proponents claim.

It would require the Attorney General to make a determination each year about whether phasing out of fiscal procurement preference has resulted in a reduction of the number of inmates who are provided employment. If the numbers are substantially lower, if the numbers are substantially lower, then the Attorney General will be required to determine whether or not this reduction poses a significant threat to prison operations or general public safety. If the Attorney General determines that this has occurred, if there is a threat to public safety, then he may postpone the phasing out for a year. It could begin again once the Attorney General has determined that it is safe to proceed. The current bill provides no mechanism for reviewing the effect of the preference phaseout.

Let us understand the effect of this amendment very carefully and why it is so important. If proponents of the bill are correct in assuming that their reforms will, in fact, make FPI more competitive rather than putting it out of business as I would suggest, then the safety valve provisions in this amendment will never come into play. It will be as though this amendment was never adopted, never considered. But if the proponents are wrong, and they just might be wrong, and if our highest law enforcement official determines, as I believe, that this would present a significant risk to prison safety or public safety, then this safety valve will be critically needed. It will be terribly important. It will save lives. It will save the working conditions in prisons. It will make prison operations safer.

Now, again, in the past with my previous amendment, the study amendment, it was argued that I was trying to kill H.R. 1829, to kill this legislation. I would argue that those who oppose this amendment, given that this amendment does not delay the phaseout of the mandatory preference, I would argue that any who oppose this amendment really do want to kill FPI.

Again, if their claims are accurate, if their assumptions are correct, then this amendment will have no effect. But if they are wrong, as many of us fear, we will at least have some mechanism, some small way to stop this damage from occurring. I ask support for this amendment.

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

Unfortunately, Mr. Chairman, my colleague from Wisconsin wants to stall FPI facing the music in being reformed by this amendment. And he cloaks his argument by saying there has to be a safety valve in case the reduction in work that FPI may or may not get as a result of having to compete, ends up causing a problem in prison safety.

The provision of the bill that the gentleman from Wisconsin proposes to strike does provide a safety valve, but it provides a safety valve where the ultimate determination is made by the Congress. In other words, we have to make a decision on whether the determination is a correct one or an incorrect one.

Let me outline what this amendment proposes to strike. It says, a finding by the Attorney General with respect to public safety within 60 days after the end of every fiscal year, which means by December 1, the Attorney General shall make a finding with respect to public safety and whether the reduction in the percentage of mandatory sourcing will have a likely effect on public safety during the next fiscal year.

The Attorney General's findings shall include a determination on whether such determination has resulted or is likely to result in a substantial reduction in inmate industrial employment and whether such reductions, if any, present a significant risk of adverse effects on safe prison operation or public safety.

If he finds that, he shall advise the Congress. And if he advises the Congress pursuant to this section, the Attorney General shall make recommendations for additional authorizations of appropriations to provide additional alternative inmate rehabilitative opportunities and additional correctional staffing as may be appropriate.

Now, what this means is that the Attorney General gets $75 million authorized every year to provide for additional rehabilitation and industrial employment within the prison. If the $75 million dollars is not enough or is not used effectively enough, then the AG has got to come back to Congress and say, okay, I either need more money, I need a change in the law, or I need more people to provide for more prison guards. And then the Congress can make this determination as a part of the ordinary authorization appropriations process.

The gentleman from Wisconsin's (Mr. GREEN) amendment is kind of a guillotine, the death penalty, if you will, because it says that if the AG finds a significant risk of adverse effects on either safer prison management or public safety, he shall so advise the Congress before the end of the fiscal year in which the finding is made and such finding shall, shall, not may, postpone for 1 year any further percentage limitation under the subsection e(1) and the transitional title which is under debate now.

Now, there are over 70 prisons that have got Federal prison industries programs. And the way the gentleman from Wisconsin's (Mr. GREEN) amendment is drafted is that if the Attorney General finds that there is a public safety problem in just one of those prisons, then FPI is able to continue doing business as usual for another year.

That is a stall. That is why this amendment should be rejected, and I hope it is rejected overwhelmingly.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I was listening to my good friend, the gentleman from Wisconsin (Mr. SENSENBRENNER) and looking to the section in which he was referring and as well to which this amendment is referring. I join the gentleman from Wisconsin (Mr. GREEN) as a cosponsor of this amendment, and I do so because I think that what we are doing today is a work in progress and that we are responding to a ground yet explored.

None of us will and can determine two things, Mr. Chairman. We can not determine that if this bill is passed whether we will soon open up the windows of Heaven, and I do not make light, in helping small businesses. And that is our intent, of course. We want

to be generous and recognize that small businesses should not be disadvantaged as competitors because I believe that small businesses are the backbone of America and they create jobs.

At the same time, we do not want to deconstruct or undermine our prison structure and the goals of prisons, which are to punish and, I believe, to rehabilitate. And this amendment that we are offering together is a triggering amendment. It allows the Attorney General to proceed with a study that deals with the issues of public rehabilitation, management, that is key, Mr. Chairman, public or prison safety.

We know that there are documented studies of years past that suggest that we have problems when there is an idleness in our prisons. We have gone past that to a certain extent. We went through a crisis where no one wanted television sets or they did not want physical fitness rooms, and we have gone through that, and we do not have much of that.

So what do we have for the inmates? We have work. We try to have study, and we try to have factors that will rehabilitate their lives. This amendment speaks to a delaying process, not a process that eliminates, and it gives us a sense of information that will be instructive.

One of the more, I think, enlightened aspects of the amendment is that if a limitation is proposed under paragraph 3, and it takes effect in the fiscal year immediately following the fiscal year for which it is postponed, is not less than 60 days before the before the first day of such following fiscal year, the Attorney General makes a determination. And so it gives another action item, that such limitation is not likely to result in a substantial reduction of inmate industrial employment, or that any such reduction would not present a significant risk of adverse effect on safe prison operation or public safety, we go forward.

So it gives limitations. It is not an elimination. It is a limitation.

I would like to pose a question to the gentleman from Wisconsin (Mr. GREEN) because my understanding of what we intended, and as the gentleman offered the amendment and as I am very pleased to join the gentleman, what the gentleman intended, the gentleman intended to be thoughtful, to give a moment of study, to then allow to come back again and to state that there is no injury; and if there is no injury, we can go forward.

Am I understanding what our thought processes were?

Mr. GREEN of Wisconsin. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Wisconsin.

Mr. GREEN of Wisconsin. Yes, the reason this amendment is drafted as it is, is we are, I think as the gentlewoman said very eloquently, treading into new territory here.

What I want to do is make sure that we have an opportunity, if just by that small chance the proponents are wrong, as you and I believe that they may well be, that we have a mechanism to stop irreparable harm from being done.

Ms. JACKSON-LEE of Texas. Well, I thank the gentleman for his thoughtfulness. I might just ask one quick question. Does the gentleman think we are in a crisis point where thoughtfulness and study is not appropriate? When I say crisis, we are all supporters of small businesses, but we are working with a collective body of opportunity for small businesses which we both support. Are we at a crisis where we just absolutely are collapsing and we can not study this thoughtfully?

Mr. GREEN of Wisconsin. I think there is no reason why we can not study this thoughtfully. We can look at ways of reforming the FBI to make sure it works better to protect all of the interest. I want to make sure, as the gentlewoman does, that we have that time.

Ms. JACKSON-LEE of Texas. Let me just say, Mr. Chairman, I believe that we are working to be, if you will, constructive. And this is only an amendment that provides guidance, that allows us to be thoughtful. And if there is a problem, if this is devastating to the prison industries, we are allowed to cease and desist temporarily. If we find that we have overcome the problems, the Attorney General could move forward. I would ask my colleagues to move forward on this very constructive amendment.

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

Mr. Chairman, I rise in opposition to the amendment. What this amendment does is it seeks to reverse an action that was taken by the committee during its markup of the bill in the 107th Congress, and that was on a Roll Call vote this amendment was defeated 18 to 9.

The bill already requires the Attorney General to closely monitor the effects of the 5-year transition period in which FPI adapts to selling Federal agencies on a competitive basis rather than the noncompetitive process that it currently has under mandatory source.

Annually, during the 5-year transition period, the Attorney General is required to determine whether there has been a reduction in inmate industrial employment; and if such reduction presents ''a significant risk of adverse effects on safe prison operation or public safety,'' report to the committee any ''adverse effects on either safe prison management or public safety,'' and to make recommendations for corrective action.

Under the bill the committee and the Congress would determine the appropriate remedial actions to be taken, if any. Remember, this is a 5-year gradual phaseout.

Under the Green amendment, the Attorney General would be unilaterally empowered to suspend FPI's statutorily specified transition to competition simply on the basis of his own findings.

As was reflected in the debate during the 107th Congress, the committee is fully capable of evaluating the Attorney General's findings and recommendations and of taking appropriate remedial action as needed.

□ 1415

Modification of statutorily specified timetables lies with the legislative branch and should not be subject to unilateral change by an individual officer of the executive branch.

In keeping with the provision's intent for the Attorney General to make and report to the Congress findings that are very broadly drafted, ''has resulted or is likely to result, substantial reduction in inmate industrial employment and significant risk of adverse effects.''

They are insufficiently clear bases on which to authorize the Attorney General to unilaterally suspend the implementation of this statute. I ask my colleagues to oppose this amendment.

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

Mr. Chairman, I rise in support of the amendment. It allows the Attorney General to protect public safety. If the Attorney General concludes that, in order to protect public safety, he needs the continuation of the prison industries program, he ought to be able to respond to that crisis in a way that responds to the crisis and not just send a letter to Congress to hope something might get done while the crisis is going on.

The warden apparently can do this now in the bill, but that is fairly unrealistic because the warden would have to report to the Attorney General that he cannot do his job in order to trigger that element of the bill. That is obviously not a realistic thing to think that a warden would volunteer to the fact that he cannot do his job as a condition to protect public safety.

I would hope that this safety valve amendment would be adopted so that our public safety can, in fact, be protected.

The CHAIRMAN pro tempore (Mr. SHIMKUS). The question is on the amendment offered by the gentleman from Wisconsin (Mr. GREEN).

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

Mr. GREEN of Wisconsin. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Wisconsin (Mr. GREEN) will be postponed.

Are there further amendments to section 4?

If not, the Clerk will designate section 5.

The text of section 5 is as follows:

SEC. 5. AUTHORITY TO PERFORM AS A FEDERAL SUBCONTRACTOR.

(a) IN GENERAL.—Federal Prison Industries is authorized to enter into a contract with a Federal contractor (or a subcontractor of such contractor at any tier) to produce products as a subcontractor or supplier in the performance of a Federal procurement contract. The use of Federal Prison Industries as a subcontractor or supplier shall be a wholly voluntary business decision by the Federal prime contractor or subcontractor, subject to any prior approval of subcontractors or suppliers by the contracting officer which may be imposed by the Federal Acquisition Regulation or by the contract.

(b) COMMERCIAL SALES PROHIBITED.—The authority provided by subsection (a) shall not result, either directly or indirectly, in the sale in the commercial market of a product or service resulting from the labor of Federal inmate workers in violation of section 1761(a) of title 18, United States Code. A Federal contractor (or subcontractor at any tier) using Federal Prison Industries as a subcontractor or supplier in furnishing a commercial product pursuant to a Federal contract shall implement appropriate management procedures to prevent introducing an inmate-produced product into the commercial market.

(c) PROHIBITIONS ON MANDATING SUBCONTRACTING WITH FEDERAL PRISON INDUSTRIES.—Except as authorized under the Federal Acquisition Regulation, the use of Federal Prison Industries as a subcontractor or supplier of products or provider of services shall not be imposed upon prospective or actual Federal prime contractors or a subcontractors at any tier by means of—

(1) a contract solicitation provision requiring a contractor to offer to make use of Federal Prison Industries, its products or services;

(2) specifications requiring the contractor to use specific products or services (or classes of products or services) offered by Federal Prison Industries in the performance of the contract;

(3) any contract modification directing the use of Federal Prison Industries, its products or services; or

(4) any other means.

The CHAIRMAN pro tempore. Are there any amendments to section 5?

If not, the Clerk will designate section 6.

The text of section 6 is as follows:

SEC. 6. INMATE WAGES AND DEDUCTIONS.

Section 4122(b) of title 18, United States Code (as amended by section 3 of this Act), is further amended by adding after paragraph (10) a new paragraph (11) as follows:

''(11)(A) The Board of Directors of Federal Prison Industries shall prescribe the rates of hourly wages to be paid inmates performing work for or through Federal Prison Industries. The Director of the Federal Bureau of Prisons shall prescribe the rates of hourly wages for other work assignments within the various Federal correctional institutions.

''(B) The various inmate wage rates shall be reviewed and considered for increase on not less than a biannual basis.

''(C) Wages earned by an inmate worker shall be paid in the name of the inmate. Deductions, aggregating to not more than 80 percent of gross wages, shall be taken from the wages due for—

''(i) applicable taxes (Federal, State, and local);

''(ii) payment of fines and restitution pursuant to court order;

''(iii) payment of additional restitution for victims of the inmate's crimes (at a rate not less than 10 percent of gross wages);

''(iv) allocations for support of the inmate's family pursuant to statute, court order, or agreement with the inmate;

''(v) allocations to a fund in the inmate's name to facilitate such inmate's assimilation back into society, payable at the conclusion of incarceration; and

''(vi) such other deductions as may be specified by the Director of the Bureau of Prisons.

''(D) Each inmate worker working for Federal Prison Industries shall indicate in writing that such person—

''(i) is participating voluntarily; and

''(ii) understands and agrees to the wages to be paid and deductions to be taken from such wages.''.

The CHAIRMAN pro tempore. Are there any amendments to section 6?

AMENDMENT OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. WATERS:

Page 24, line 7, insert after the period the following: ''In the case of an inmate whose term of imprisonment is to expire in not more than 2 years, wages shall be earned at an hourly rate of not less than $2.50, but paid at the same rate and in the same manner as to any other inmate, and any amount earned but not paid shall be held in trust and paid only upon the actual expiration of the term of imprisonment.''.

Page 24, after line 10, insert the following new subparagraph (and redesignate succeeding subparagraphs accordingly):

''(C) The Board of Directors of Federal Prison Industries shall—

''(i) not later than September 30, 2004, increase the maximum wage rate for inmates performing work for or through Federal Prison Industries to an amount equal to 50 percent of the minimum wage prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1));

''(ii) not later than September 30, 2009, increase such maximum wage rate to an amount equal to such minimum wage; and

''(iii) request the Secretary of Labor to establish, not later than October 1, 2004, an 'inmate training wage' pursuant to that Act.

Mr. SENSENBRENNER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Ms. WATERS. Mr. Chairman, I have sat here and listened to this debate today on this very important legislation, H.R. 1829, and it is clear to me listening to the very thoughtful debate that has been held on this floor today that people care an awful lot, both about small business and about opportunities for inmates in our prison system to be able to work and earn money that can be helpful to them upon their release.

It is also clear to me that people are torn about the way that this bill has been presented. They want to make sure that they protect small businesses and not have them disadvantaged because we have our Federal Prison Industries able to produce goods without having to compete in the open market, and we really do not know how to fix this. We really do not have all of the answers.

We have people that are attempting all kinds of amendments. Some of the amendments are to study this, to slow it down and perhaps give us another opportunity to take a look at it. Some of the other amendments are a bit clearer than that, simply trying to make sure that we do not expand the opportunity for the Federal Prison Industries to expand and to continue to operate perhaps in the way that it is doing.

We heard some very interesting debate about NAFTA and about the exportation of jobs to Third World countries for cheap labor and some pointed references to China; and I was struck by the references that were made to labor that has been done in China by prisoners in China, and could not help but think if, in fact, we limit the opportunities for Federal Prison Industries to operate as it is doing, whether or not we are going to find small businesses who would get this work and then export it to Third World countries for cheap labor, and we find that prisoners in other countries are doing the kind of work that we are prohibiting our prisoners in this country from doing.

All of these questions certainly, I think, are on our minds. However, this is what I have attempted to do. I have attempted to find a way to recognize that prisoners are being released and that when they are released, if they have no money, if they have no resources, they are more likely to find their way back into the system. Recidivism is a real problem.

I would like to see those prisoners that are being released have at least enough money to rent a place to live, to have some food, maybe to have some transportation, to be able to be supported by their earnings until they can find a job. I do this by allowing the last 2 years of their wages to be increased to $2.50 per hour and then to be held in a special fund; and while they are working, they get no more than any other prisoner would get working in this industry, but the additional dollars would be available to them, held in this fund so that when they are released, they will have an opportunity to have money to do those things that I have alluded to.

I think my chairman, the gentleman from Wisconsin (Chairman SENSENBRENNER), thought there may be some conflict between my amendment and the amendment by my colleague from California. I do not think so, but this amendment now incorporates my thought about the $2.50 and the thoughts of my colleague from the State of California about giving the authority to the board of directors to increase the wages if they desire to do so. I suppose before they can do it they at least need to be told that if they desire to increase wages up to the minimum they can do that. So that is included in this bill, and I am sure that she will better explain that and that authority that has been given to them.

So these two ideas are combined here, and the idea simply is $2.50, an opportunity to have a special fund, inmates able to make more money so

that when they are released, they can have money for food, clothing, job, transportation, and of course, the other idea of authorization to the board of directors so that they could, over a period of time, increase the pay up to the minimum wage if they so desire.

That is the essence of my amendment. I would ask an ''aye'' vote on the Waters amendment number 62.

Mr. SENSENBRENNER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I think that this amendment is a good one for a number of reasons, but I just would like to make it very clear what the amendment does.

First, it requires that during the last 2 years of incarceration the inmate would be paid not less than $2.50 an hour; and, secondly, it would have a cap on how much inmates could be paid regardless of whether they were within 2 years of release or not within 2 years of release to 50 percent of the minimum wage by September of 2004 and the minimum wage by September 2009.

Additionally, the amendment would save the funds for a prisoner in trust which would be paid to them upon their release, which would mean that when the prisoners are released, they would have some gate money in their pocket to be able to begin their lives anew and hopefully lead a crime-free rest of their lives.

Now, with these two provisions this amendment is a very good one because it addresses two things. First of all, it helps level the playing field in terms of wages paid to FPI employees who are inmates with those of private sector employees who are making goods that are competing with the Federal Prison Industries. Secondly, it does give the prisoners an amount of money that has been held in trust for them so that they do not walk out of the prison with very little money in their pocket and perhaps are given a greater temptation to commit a crime in order to be able to put more money in their pocket to live.

So I think that this is really a win-win situation. I would hope that the committee would approve this amendment because I do believe it deals with some of the concerns in this bill that are legitimate and which have been expressed by people who have some doubts over how this bill has been put together.

Ms. MILLENDER-MCDONALD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today to offer an amendment that will join with the congresswoman from California, along with the gentleman from Illinois (Mr. DAVIS) and the gentleman from Michigan (Mr. HOEKSTRA), and offering this amendment would direct the board of directors of Federal Prison Industries to increase its maximum rate of pay to inmates participating in its programs.

Specifically, our amendment would require the FPI board to increase the maximum wage that an inmate participating in its programs could receive, half the current Federal minimum wage by September 30, 2004. Our amendment also requires that the FPI board would increase the maximum wage rate for inmates in the program to a full Federal minimum wage by September 30, 2009.

Mr. Chairman, this amendment was offered for two very important reasons. First and foremost, individuals who are working in any type of environment deserve a fair and decent wage. Currently, inmates participating in the Federal Prison Industries program earn anywhere from 25 cents per hour to just over $1 per hour. So, Mr. Chairman, I believe it is unfair to ask any person, including those who are incarcerated, to work for wages that are abysmally low. Raising inmate wages, I believe, will give these individuals a desperately needed boost to their self-esteem and confidence as they seek to rehabilitate themselves while they finish their sentences and return to society as contributing members.

Raising the hourly wages of these inmates has additional benefits. As an inmate earns more, increased deductions from their wages can be used to pay applicable State, local and Federal taxes, fines and restitution pursuant to court costs, and contribute to a fund in the inmate's name to help them assimilate back into society once the inmate is released.

Secondly, the Committee on Small Business, Subcommittee on Tax, Finance and Exports and the Subcommittee on Workforce, Empowerment, and Government Programs held a joint hearing October 1, 2003, to hear firsthand how FPI maintains a competitive advantage in the Federal contracting market and how FPI and small businesses can compete on an even playing field.

I do feel that these amendments joined together will be a win-win for those who we are trying to help in rehabilitation and to go back into society ready for work and for assimilating into that society.

Mr. Chairman, I ask that all Members support the amendment.

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

I thank my colleagues for working on this amendment and allowing me to be a cosponsor. They did all the work. They worked out the differences to put their two amendments together in a single amendment; and, again, I think it is an amendment that improves the overall quality of the final bill.

So I rise in support of the amendment. I thank my colleagues for the spirit in which we have worked together to put this amendment together and to put the whole bill together.

□ 1430

The CHAIRMAN pro tempore (Mr. SHIMKUS). The question is on the amendment offered by the gentlewoman from California (Ms. WATERS).

The agreement was agreed to.

Are there further amendments to section 6?

If not, the Clerk will designate section 7.

The text of section 7 is as follows:

SEC. 7. CLARIFYING AMENDMENT RELATING TO SERVICES.

(a) IN GENERAL.—Section 1761 of title 18, United States Code, is amended in subsection (a), by striking ''any goods, wares, or merchandise manufactured, produced, or mined'' and inserting ''products manufactured, services furnished, or minerals mined''.

(b) COMPLETION OF EXISTING AGREEMENTS.—Any prisoner work program operated by a prison or jail of a State or local jurisdiction of a State which is providing services for the commercial market through inmate labor on October 1, 2002, may continue to provide such commercial services until—

(1) the expiration date specified in the contract or other agreement with a commercial partner on October 1, 2002, or

(2) until September 30, 2005, if the prison work program is directly furnishing the services to the commercial market.

(c) APPROVAL REQUIRED FOR LONG-TERM OPERATION.—A prison work program operated by a correctional institution operated by a State or local jurisdiction of a State may continue to provide inmate labor to furnish services for sale in the commercial market after the dates specified in subsection (b) if such program has been certified pursuant to section 1761(c)(1) of title 18, United States Code, and is in compliance with the requirements of such subsection and its implementing regulations.

AMENDMENT NO. 5 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. SCOTT of Virginia:

Page 25, strike section 7 (line 11 and all that follows through page 26, line 12).

Mr. SCOTT of Virginia. Mr. Chairman, section 7 limits the ability of FPI and State Prison Industries programs to do services and reflects the reality that promoting competition is not what proponents of FPI want. Presently, there is no mandatory source on services as opposed to products, and so straight competition is the only way that FPI can get a service contract. The bill will limit the ability of FPI to get service contracts and actually eliminate the ability of State prison service programs in State prisons.

The mandatory source in products is being eliminated in the bill. Restricting FPI's ability to continue to perform service contracts as it does now with no particular replacement will only serve to further replace inmate work opportunities. There appears to be no justification for prohibiting States from continuing their service contracts in a bill designed to reform the Federal Prison Industry program.

I am told by Delco Remy, an international company which contracts with State and Federal inmates to break down auto parts for reusable materials to produce new auto parts, I have been told by that company that

600 law-abiding Virginians, along with 300 State and Federal inmates, will lose their jobs as a direct result of this bill, and about the same number of law-abiding citizens and State and Federal inmates in South Carolina will lose their jobs. Ironically, the likelihood is that the jobs will not go to other law-abiding citizens in the United States, but will go to Delco Remy plants outside of the United States.

Other States have service contract programs as well, so it is likely that thousands of law-abiding citizens, as well as inmates, will lose their jobs as a result of this gratuitous, unrelated provision attacking State programs in a bill designed to restructure the Federal Prison Industry programs.

One of the major problems of the bill is we are taking actions without full knowledge of the consequences. That is why several of us have requested a GAO study of the potential impact of this bill, including the impact of the provision outlawing service contracts. The information will be available in April, and that is why we should wait for that information and in the meantime adopt this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the Scott amendment.

Mr. Chairman, in order to put this amendment in context, it is important that we have a history lesson. When the Federal Prison Industries law was created in 1934, there was a compromise that was struck by President Roosevelt between the advocates and business and labor who objected to Federal Prison Industries that the results of inmate labor, whether it was Federal, State or local, would be prohibited from interstate commerce which meant the commercial market. This statutory prohibition is now codified in 18 United States Code 1761(a). Fifty-five years went by, and the statute was always interpreted to prohibit the commercial sale of the results of inmate labor products as well as services, even though the statute that was passed in 1934 did not explicitly mention services.

In 1998, Federal Prison Industries got a legal interpretation that did not come from the DOJ Office of Legal Counsel as most opinions come from, but in a legal memorandum from a special counsel in the Office of Enforcement Operations in the criminal division of the Department of Justice which supervises both FPI and the Bureau of Prisons. The new interpretation provided that FPI and the prison industries of the States and their local governments could sell inmate-furnished services, either directly or in partnership with the private sector, without restrictions; and those restrictions included restrictions against the displacement of noninmate workers or the payment of wages comparable to wages being paid outside the prison to noninmate workers of private firms that provide the same type of services.

With this new interpretation that came about as a result of a Department of Justice learned legal opinion in 1998, subminimum-wage prison inmates could compete directly in the services market, but not in the goods market, against people on the outside who have to receive minimum wage and also have to pay taxes on their wages.

The business community raised very strong objections in 1998 to this legal interpretation, and the Subcommittee on Oversight and Investigation of the Committee on Education and the Workforce held a hearing on this issue on September 20, 2000. What section 7 does is to make it explicit that the prohibitions that have been in the law since 1934 against goods entering the commercial market also covers services.

This, I guess, brings the law up-to-date as our economy has gradually evolved from a manufacturing and goods-oriented economy to a service-oriented economy.

The amendment of the gentleman from Virginia strikes section 7, and if his amendment is adopted, that means that Federal Prison Industries, as well as State and local prison industries organizations, can directly compete in the commercial market in the services sector of the economy.

When the compromise was struck during the Roosevelt administration, that door was supposedly slammed shut. This will make sure that the door is slammed shut so that the playing field is equal and FPI and State and local inmates cannot compete in the services market for subminimum wage. I hope that the amendment is defeated.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The amendment was rejected.

The CHAIRMAN pro tempore. Are there further amendments to section 7?

If not, the Clerk will designate section 8.

The text of section 8 is as follows:

SEC. 8. CONFORMING AMENDMENT.

Section 4122(a) of title 18, United States Code, is amended by striking ''production of commodities'' and inserting ''production of products or furnishing of services''.

The CHAIRMAN pro tempore. Are there any amendments to section 8?

If not, the Clerk will designate section 9.

The text of section 9 is as follows:

SEC. 9. RULES OF CONSTRUCTION RELATING TO CHAPTER 307.

Chapter 307 of title 18, United States Code, is further amended by adding the following:

''§ 4130. Construction of provisions

''Nothing in this chapter shall be construed—

''(1) to establish an entitlement of any inmate to—

''(A) employment in a Federal Prison Industries facility; or

''(B) any particular wage, compensation, or benefit on demand, except as otherwise specifically provided by law or regulation;

''(2) to establish that inmates are employees for the purposes of any law or program; or

''(3) to establish any cause of action by or on behalf of any inmate against the United States or any officer, employee, or contractor thereof.''.

The CHAIRMAN pro tempore. Are there any amendments to section 9?

If not, the Clerk will designate section 10.

The text of section 10 is as follows:

SEC. 10. PROVIDING ADDITIONAL REHABILITATIVE OPPORTUNITIES FOR INMATES.

(a) ADDITIONAL EDUCATIONAL, TRAINING, AND RELEASE-PREPARATION OPPORTUNITIES.—

(1) PROGRAM ESTABLISHED.—There is hereby established the Enhanced In-Prison Educational and Vocational Assessment and Training Program within the Federal Bureau of Prisons.

(2) COMPREHENSIVE PROGRAM.—In addition to such other components as the Director of the Bureau of Prisons deems appropriate to reduce inmate idleness and better prepare inmates for a successful reentry into the community upon release, the program shall provide—

(A) in-prison assessments of inmates' needs and aptitudes;

(B) a full range of educational opportunities;

(C) vocational training and apprenticeships; and

(D) comprehensive release-readiness preparation.

(3) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out the program established by paragraph (1), $75,000,000 is authorized for each fiscal year after fiscal year 2003, to remain available until expended. Funds shall be allocated from the gross profits within the Federal Prison Industries Fund, and, to the extent such amounts are inadequate, from the General Treasury.

(4) SCHEDULE FOR IMPLEMENTATION.—All components of the program shall be established—

(A) in at least 25 percent of all Federal prisons not later than 2 years after the date of the enactment of this Act;

(B) in at least 50 percent of all Federal prisons not later than 4 years after such date of enactment;

(C) in at least 75 percent of all Federal prisons not later than 6 years after such date of enactment; and

(D) in all Federal prisons not later than 8 years after such date of enactment.

(b) INMATE WORK OPPORTUNITIES IN SUPPORT OF NOT-FOR-PROFIT ENTITIES.—

(1) PROPOSALS FOR DONATION PROGRAMS.—The Chief Operating Officer of Federal Prison Industries shall develop and present to the Board of Directors of Federal Prison Industries proposals to have Federal Prison Industries donate products and services to eligible entities that provide goods or services to low-income individuals who would likely otherwise have difficulty purchasing such products or services in the commercial market.

(2) SCHEDULE FOR SUBMISSION AND CONSIDERATION OF DONATION PROGRAMS.—

(A) INITIAL PROPOSALS.—The Chief Operating Officer shall submit the initial group of proposals for programs of the type described in paragraph (1) within 180 days after the date of the enactment of this Act. The Board of Directors of Federal Prison Industries shall consider such proposals from the Chief Operating Officer not later than the date that is 270 days after the date of the enactment of this Act.

(B) ANNUAL OPERATING PLAN.—The Board of Directors of Federal Prison Industries shall consider proposals by the Chief Operating Officer for programs of the type described in paragraph (1) as part of the annual operating plan for Federal Prison Industries.

(C) OTHER PROPOSALS.—In addition to proposals submitted by the Chief Operating Officer, the Board of Directors may, from time to time, consider proposals presented by prospective eligible entities.

(3) DEFINITION OF ELIGIBLE ENTITIES.—For the purposes of this subsection, the term ''eligible entity'' means an entity—

(A) that is an organization described in section 501(c)(3) of the Internal Revenue Code of

1986 and exempt from taxation under section 501(a) of such Code and that has been such an organization for a period of not less than 36 months prior to inclusion in a proposal of the type described in paragraph (1), or

(B) that is a religious organization described in section 501(d) of such Code and exempt from taxation under section 501(a) of such Code.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $7,000,000 for each of the fiscal years 2004 through 2008 for the purposes of paying the wages of inmates and otherwise carrying out programs of the type described in paragraph (1).

(c) MAXIMIZING INMATE REHABILITATIVE OPPORTUNITIES THROUGH COGNITIVE ABILITIES ASSESSMENTS.—

(1) DEMONSTRATION PROGRAM AUTHORIZED.—

(A) IN GENERAL.—There is hereby established within the Federal Bureau of Prisons a program to be known as the ''Cognitive Abilities Assessment Demonstration Program''. The purpose of the demonstration program is to determine the effectiveness of a program that assesses the cognitive abilities and perceptual skills of Federal inmates to maximize the benefits of various rehabilitative opportunities designed to prepare each inmate for a successful return to society and reduce recidivism. The demonstration program shall be undertaken by a contractor with a demonstrated record of enabling the behavioral and academic improvement of adults through the use of research-based systems that maximize the development of both the cognitive and perceptual capabilities of a participating individual, including adults in a correctional setting.

(B) SCOPE OF DEMONSTRATION PROGRAM.—The demonstration program shall to the maximum extent practicable, be—

(i) conducted during a period of three consecutive fiscal years, commencing during fiscal year 2004;

(ii) conducted at 12 Federal correctional institutions; and

(iii) offered to 6,000 inmates, who are categorized as minimum security or less, and are within five years of release.

(C) REPORT ON RESULTS OF PROGRAM.—Not later than 60 days after completion of the demonstration program, the Director shall submit to Congress a report on the results of the program. At a minimum, the report shall include an analysis of employment stability, stability of residence, and rates of recidivism among inmates who participated in the program after 18 months of release.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $3,000,000 in each of the three fiscal years after fiscal year 2003, to remain available until expended, for the purposes of conducting the demonstration program authorized by subsection (a).

(d) PRERELEASE EMPLOYMENT ASSISTANCE.—

(1) IN GENERAL.—The Director of the Federal Bureau of Prisons shall, to the maximum extent practicable, afford to inmates opportunities to participate in programs and activities designed to help prepare such inmates to obtain employment upon release.

(2) PRERELEASE EMPLOYMENT PLACEMENT ASSISTANCE.—Such prerelease employment placement assistance required by subsection (a) shall include—

(A) training in the preparation of resumes and job applications;

(B) training in interviewing skills;

(C) training and assistance in job search techniques;

(D) conduct of job fairs; and

(E) such other methods deemed appropriate by the Director.

(3) PRIORITY PARTICIPATION.—Priority in program participation shall be accorded to inmates who are participating in work opportunities afforded by Federal Prison Industries and are within 24 months of release from incarceration.

The CHAIRMAN pro tempore. Are there any amendments to section 10?

AMENDMENT NO. 6 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. SCOTT of Virginia:

Page 29, insert after line 5 the following new subsection (and redesignate subsequent subsections accordingly):

(b) ADDITIONAL INMATE WORK OPPORTUNITIES THROUGH PUBLIC SERVICE ACTIVITIES.—

(1) IN GENERAL.—Chapter 307 of title 18, United States Code, is further amended by inserting after section 4124 the following new section:

''§ 4124a. Additional inmate work opportunities through public service activities

''(a) IN GENERAL.—Inmates with work assignments within Federal Prison Industries may perform work for an eligible entity pursuant to an agreement between such entity and the Inmate Work Training Administrator in accordance with the requirements of this section.

''(b) DEFINITION OF ELIGIBLE ENTITIES.—For the purposes of this section, the term 'eligible entity' means an entity—

''(1) that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code and that has been such an organization for a period of not less than 36 months prior to inclusion in an agreement under this section;

''(2) that is a religious organization described in section 501(d) of such Code and exempt from taxation under section 501(a) of such Code; or

''(3) that is a unit of local government, a school district, or another special purpose district.

''(c) INMATE WORK TRAINING ADMINISTRATOR.—

''(1) The Federal Prison Industries Board of Directors shall designate an entity as the Inmate Work Training Administrator to administer the work-based training program authorized by this section.

''(2) In selecting the Inmate Work Training Administrator, the Board of Directors shall select an entity—

''(A) that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; and

''(B) that has demonstrated, for a period of not less than 5 years, expertise in the theory and practice of fostering inmate rehabilitation through work-based programs in cooperation with private sector firms.

''(3) With respect to the formation and performance of an agreement authorized by this section, the Director of the Bureau of Prisons and the Chief Operating Officer of Federal Prison Industries shall be responsible only for—

''(A) maintaining appropriate institutional and inmate security; and

''(B) matters relating to the selection and payment of participating inmates.

''(d) PROPOSED AGREEMENTS.—An eligible entity seeking to enter into an agreement pursuant to subsection (a) shall submit a detailed proposal to the Inmate Work Training Administrator. Each such agreement shall specify—

''(1) types of work to be performed;

''(2) the proposed duration of the agreement, specified in terms of a base year and number of option years;

''(3) the number of inmate workers expected to be employed in the specified types of work during the various phases of the agreement;

''(4) the wage rates proposed to be paid to various classes of inmate workers; and

''(5) the facilities, services and personnel (other than correctional personnel dedicated to the security of the inmate workers) to be furnished by Federal Prison Industries or the Bureau of Prisons and the rates of reimbursement, if any, for such facilities, services, and personnel.

''(e) REPRESENTATIONS.—

''(1) ELEEMOSYNARY WORK ACTIVITIES.—Each proposed –agreement shall be accompanied by a written certification by the chief executive officer of the eligible entity that—

''(A) the work to be performed by the inmate workers will be limited to the eleemosynary work of such entity in the case of an entity described in paragraph (1) or (2) of subsection (b);

''(B) the work would not be performed but for the —availability of the inmate workers;

''(C) the work performed by the inmate workers will not result, either directly or indirectly, in the production of a new product or the furnishing of a service that is to be offered for other than resale or donation by the eligible entity or any affiliate of the such entity.

''(2) PROTECTIONS FOR NON-INMATE WORKERS.—Each proposed agreement shall also be accompanied by a written certification by the chief executive officer of the eligible entity that—

''(A) no non-inmate employee or volunteer of the eligible entity (or any affiliate of the entity) will have his or her job abolished or work hours reduced as a result of the entity being authorized to utilize inmate workers; and

''(B) the work to be performed by the inmate workers will not supplant work currently being performed by a contractor of the eligible entity.

''(f) APPROVAL BY BOARD OF DIRECTORS.—

''(1) IN GENERAL.—Each such proposed agreement shall be –presented to the Board of Directors, be subject to the same opportunities for public comment, and be publicly considered and acted upon by the Board in a manner comparable to that required by paragraphs (6) and (7) of section 4122(b).

''(2) MATTERS TO BE CONSIDERED.—In determining whether to approve a proposed agreement, the Board shall—

''(A) give priority to an agreement that provides inmate work opportunities that will provide participating inmates with the best prospects of obtaining employment paying a livable wage upon release;

''(B) give priority to an agreement that provides for maximum reimbursement for inmate wages and for the costs of supplies and equipment needed to perform the types of work to be performed;

''(C) not approve an agreement that will result in the displacement of non-inmate workers or volunteers contrary to the representations required by subsection (e)(2) as determined by the Board or by the Attorney General (pursuant to subsection (i)); and

''(D) not approve an agreement that will result, either directly or indirectly, in the production of a new product or the furnishing of a service for other than resale or donation.

''(g) WAGE RATES AND DEDUCTIONS FROM INMATE WAGES.—

''(1) IN GENERAL.—Inmate workers shall be paid wages for work under the agreement at a basic hourly rate to be negotiated between the eligible entity and Federal Prison Industries and specified in the agreement. The wage rates set by the Director of the Federal Bureau of Prisons to be paid inmates for various institutional work assignments are specifically authorized.

''(2) PAYMENT TO INMATE WORKER AND AUTHORIZED DEDUCTIONS.—Wages shall be paid and deductions taken pursuant to section 4122(b)(11)(C).

''(3) VOLUNTARY PARTICIPATION BY INMATE.—Each inmate worker to be utilized by an eligible entity shall indicate in writing that such person—

''(A) is participating voluntarily; and

''(B) understands and agrees to the wages to be paid and deductions to be taken from such wages.

''(h) ASSIGNMENT TO WORK OPPORTUNITIES.—Assignment of inmates to work under an approved agreement with an eligible entity shall be subject to the Bureau of Prisons Program Statement Number 1040.10 (Non-Discrimination Toward Inmates), as contained in section 551.90 of title 28 of the Code of Federal Regulations (or any successor document).

''(i) ENFORCEMENT OF PROTECTIONS FOR NON-INMATE WORKERS.—

''(1) CONSULTATION WITH SECRETARY OF LABOR.—The Attorney General shall carry out this subsection in consultation with the Secretary of Labor.

''(2) PRIOR TO BOARD CONSIDERATION.—Upon request of any interested person, the Attorney General may promptly verify a certification made pursuant subsection (e)(2) with respect to the displacement of non-inmate workers so as to make the results of such inquiry available to the Board of Directors prior to the Board's consideration of the proposed agreement. The Attorney General and the person requesting the inquiry may make recommendations to the Board regarding modifications to the proposed agreement.

''(3) DURING PERFORMANCE.—

''(A) IN GENERAL.—Whenever the Attorney General deems appropriate, upon request or otherwise, the Attorney General may verify whether the actual performance of the agreement is resulting in the displacement of non-inmate workers or the use of inmate workers in a work activity not authorized under the approved agreement.

''(B) SANCTIONS.—Whenever the Attorney General determines that performance of the agreement has resulted in the displacement of non-inmate workers or employment of an inmate worker in an unauthorized work activity, the Attorney General may—

''(i) direct the Inmate Work Training Administrator to terminate the agreement for default, subject to the processes and appeals available to a Federal contractor whose procurement contract has been terminated for default; and

''(ii) initiate proceedings to impose upon the person furnishing the certification regarding non-displacement of non-inmate workers required by subsection (d)(2)(B) any administrative, civil, and criminal sanctions as may be available.''.

(2) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 2004 through 2008 for the purposes of paying the wages of inmates and otherwise undertaking the maximum number of agreements with eligible entities pursuant to section 4124a of title 18, United States Code, as added by paragraph (1).

(3) CLERICAL AMENDMENT.—The table of sections for chapter 307 of title 18, United States Code, is amended by inserting after the item relating to section 4124 the following new item:

''4124a. Additional inmate work opportunities through public service activities.''.

Page 36, insert after line 5 the following (and redesignate subsequent subsections and clerical amendments accordingly):

SEC. 11. ADDITIONAL PILOT AUTHORITIES FOR INMATE WORK OPPORTUNITIES.

(a) IN GENERAL.—Chapter 307 of title 18, United States Code, as amended by section 9, is further amended by adding at the end the following new section:

''§ 4131. Additional pilot authorities for inmate work opportunities

''(a) PILOT AUTHORITIES.—Federal Prison Industries may contract with private or public sector entities for Federal inmates to produce products or perform services for those entities. Under these pilot authorities, and pursuant to the terms and conditions specified in section 4122, Federal inmates may, under the direct supervision of Federal Prison Industries staff—

''(1) produce products or perform services for commercial companies which have been otherwise produced or performed for the companies by foreign labor outside the United States for at least 3 years before the proposed effective date of the business agreement;

''(2) produce products or perform services for commercial companies which would otherwise be performed for the companies by domestic labor, if available; or

''(3) produce products or perform services for not-for-profit agencies in support of the charitable activities of those agencies.

''(b) LIMITATIONS ON USE OF AUTHORITIES.—(1) Federal Prison Industries is prohibited from directly offering for commercial sale products produced or services furnished by Federal inmates, including through any form of electronic commerce.

''(2) The number of Federal inmates working under the pilot authority provided in subsection (a)(1) shall not exceed—

''(A) 4,000 during fiscal year 2005;

''(B) 8,000 during fiscal year 2006;

''(C) 12,000 during fiscal year 2007;

''(D) 16,000 during fiscal year 2008;

''(E) 20,000 during fiscal year 2009; or

''(F) 25 percent of the work-eligible Federal inmate population in any fiscal year beginning after September 30, 2008.

''(3) The number of Federal inmates working under the pilot authority provided in subsection (a)(3) shall not exceed—

''(A) 2,000 during fiscal year 2005;

''(B) 4,000 during fiscal year 2006;

''(C) 6,000 during fiscal year 2007;

''(D) 8,000 during fiscal year 2008;

''(E) 10,000 during fiscal year 2009; or

''(F) 10 percent of the work eligible Federal inmate population in any fiscal year beginning after September 30, 2009.

''(c) INMATE WAGES.—

''(1) IN GENERAL.—Each Federal inmate worker participating in industrial operations authorized by the Corporation shall be paid at a wage rate prescribed by the Board of Directors. The Director of the Federal Bureau of Prisons shall prescribe the wage rates for other Federal inmate work assignments within the various Federal correctional institutions. The Board shall give priority to approving Federal inmate work opportunities which maximize inmate earnings. Inmate wage rates shall be reviewed by the Board at least biannually.

''(2) WORK PURSUANT TO SUBSECTION (a)(1).—For Federal inmate work performed for commercial companies pursuant to subsection (a)(1), the wage rate paid to Federal inmates must be the Federal Prison Industries wage rate in effect on the date of the enactment of this section or twice the rate paid for work of a similar nature in the foreign locality in which the work would otherwise be performed, whichever is higher.

''(3) WORK PURSUANT TO SUBSECTION (a)(2).—For work performed by Federal inmates pursuant to subsection (a)(2), the wage rate paid to inmates shall be not less than the rate paid for work of a similar nature in the locality in which the work is to be performed, but in no event less than the minimum wage required pursuant to the Fair Labor Standards Act (29 U.S.C. 201 et seq). The determination of this wage rate shall be approved by the Secretary of Labor or by the State or local government entity with authority to approve such determinations.

''(d) DEDUCTIONS FROM INMATE WAGES.—Inmate wages paid by commercial companies shall be paid to the Corporation in the name and for the benefit of the Federal inmate. Except as specified in subsection (e), the Corporation may deduct, withhold, and disburse from the gross wages paid to inmates, aggregate amounts of not less than 50 percent and not more than 80 percent of gross wages for—

''(1) applicable taxes (Federal, State, and local);

''(2) payment of fines, special assessments, and any other restitution owed by the inmate worker pursuant to court order;

''(3) payment of additional restitution for victims of the inmate's crimes (at a rate not less than 10 percent of gross wages);

''(4) allocations for support of the inmate's family pursuant to statute, court order, or agreement with the inmate;

''(5) allocations to a fund in the inmate's name to facilitate such inmate's assimilation back into society, payable at the conclusion of incarceration;

''(6) such other deductions as may be specified by the Board of Directors.

''(e) EXCEPTION FOR HIGHER DEDUCTIONS.—The aggregate deduction authorized in subsection (d) may, with the written consent of an inmate, exceed the maximum limitation, if the amounts in excess of such limitation are for the purposes described in paragraphs (4) or (5) of that subsection.

''(f) CONVERSIONS.—Commercial market services authorized by the Federal Prison Industries Board of Directors and being provided by Federal Prison Industries on the date of enactment of this section may be continued until converted to a private sector contract pursuant to the authority in this Act. The Board of Directors of Federal Prison Industries shall ensure these conversions occur at the earliest practicable date.

''(g) PROPOSALS FROM PRIVATE COMPANIES.—Federal Prison Industries may solicit, receive and approve proposals from private companies for Federal inmate work opportunities. Federal Prison Industries shall establish and publish for comment criteria to be used in evaluating and approving such proposals. In developing criteria, priority shall be given to those proposals which offer Federal inmates the highest wages, the most marketable skills, and the greatest prospects for post-release reintegration.

''(h) APPROVAL OF PROPOSALS.—The Board must approve all proposals in advance of their implementation.

''(i) CONTENT OF PROPOSALS.—Any business or eligible not-for-profit entity seeking to contract with Federal Prison Industries for Federal inmate workforce participation shall submit a detailed proposal to the Chief Operating Officer of Federal Prison Industries. Each such proposal shall specify—

''(1) the product or service to be produced or furnished;

''(2) the proposed duration of the business agreement, specified in terms of a base period and number of option period;

''(3) the number of Federal inmate workers expected to be employed during the various phases of the agreement;

''(4) the number of foreign workers, if any, outside the United States currently performing for the proposing entity the work proposed for performance by Federal inmate workers, and the wage rates paid to those workers;

''(5) the wage rates proposed to be paid to various classes of Federal inmate workers, at not less than the rates required by subsection (c); and

''(6) the facilities, services and personnel (other than correctional personnel dedicated to the security of the inmate workers) to be furnished by the Federal Prison Industries or the Bureau of Prisons and the rates of reimbursement for such facilities, services, and personnel, if any.

''(j) WRITTEN CERTIFICATION FOR PROPOSED COMMERCIAL BUSINESS AGREEMENT.—Each proposed commercial business agreement shall be accompanied by a written certification by the chief executive officer of the business entity proposing the agreement that—

''(1) no noninmate employee of the business (or any affiliate) working within the United States will have their job abolished or their work hours reduced as a direct result of the agreement;

''(2) inmate workers will be paid wages at rates in accordance with subsection (c); and

''(3) any domestic workforce reductions carried out by the business entity affecting employees performing work comparable to the work being performed by inmates pursuant to the agreement shall first apply to inmate workers employed pursuant to the agreement.

''(k) WRITTEN CERTIFICATION FOR PROPOSED AGREEMENT WITH NOT-FOR-PROFIT ENTITY.—Each proposed agreement with an eligible not-for-profit entity shall be accompanied by a written certification by the chief executive officer of the eligible entity that—

''(1) the work to be performed by the inmate workers will be limited to the eleemosynary work of such entity;

''(2) the work would not be performed on a compensated basis but for the availability of the inmate workers;

''(3) the work performed by the inmate workers will not result, either directly or indirectly, in the production of a product or the furnishing of a service that is to be offered for commercial sale by the eligible entity or any affiliate of such entity;

''(4) no noninmate employees of the eligible entity (or any affiliate of the entity) will have their job abolished or their work hours reduced as a result of the entity entering into an agreement to utilize inmate workers; and

''(5) the work to be performed by the inmate workers will not supplant work currently being performed by a contractor of the eligible entity.

''(l) PUBLIC NOTICE AND COMMENT.—

''(1) IN GENERAL.—The Board shall make reasonable attempts to provide opportunities for notice and comment to the widest audience of potentially interested parties as practicable. At a minimum, the Board shall—

''(A) give notice of a proposed business agreement on the Corporation's web site and in a publication designed to most effectively provide notice to private businesses and labor unions representing private sector workers who could reasonably be expected to be affected by approval of the proposed agreement, which notice shall offer to furnish copies of the proposal (excluding any proprietary information) and chief executive certifications and shall solicit comments on same;

''(B) solicit comments on the business proposal from trade associations representing businesses and labor unions representing workers who could reasonably be expected to be affected by approval of the proposal; and

''(C) afford an opportunity, on request, for a representative of an established trade association, labor union, or other representatives of private industry to present comments on the proposal directly to the Board of Directors.

''(2) COPIES.—The Board of Directors shall be provided copies of all comments received on the proposal.

''(3) REVISED PROPOSAL.—Based on the comments received on the initial business proposal, the business or nonprofit entity or Federal Prison Industries Chief Operating Officer may provide the Board of Directors a revised proposal. If the revised proposal presents new issues or potential effects on the private sector which were not addressed in the original proposal and comments received thereon, the Board shall provide another public notice and comment opportunity pursuant to paragraph (1).

''(4) OPEN MEETING.—The Board of Directors shall consider all inmate work opportunity proposals submitted and take any action with respect to such proposals, during a meeting that is open to the public, unless closed pursuant to section 552(b) of title 5.

''(m) BOARD APPROVAL.—(1) In determining whether to approve a proposed business agreement for Federal inmate work opportunities, the Board shall—

''(A) not approve any agreement that would result in the displacement of noninmate workers contrary to the certifications required in subsections (j) and(k) or pay less than the wages required by subsection (c).

''(B) not approve an agreement which the Board determines contains terms and conditions which would subject domestic noninmate workers to unfair competition;

''(C) request a determination from the International Trade Commission, the Department of Commerce or such other Executive Branch entities as may be appropriate, whenever the Board questions the representations by a commercial company or a not-for-profit entity regarding whether a particular product or service has been produced by foreign labor outside the United States for the commercial company or not-for profit entity for at least 3 years before the proposed effective date of the business agreement;

''(D) not approve an agreement which would cause Federal Prison Industries sales revenue derived from any specific industry to exceed 50 percent of Federal Prison Industries total revenue.

''(E) not approve any agreement which provides for direct supervision of Federal inmate workers by non-Federal Prison Industries employees; and

''(H) not approve any agreement which would provide for products or services produced by Federal inmates to be sold to agencies of State government without the written consent of the Governor or designee.

''(n) REVIEW AND ENFORCEMENT.—(1) The Attorney General shall carry out this subsection in consultation with the Secretary of Labor.

''(2) Upon request of any interested person, the Attorney General may promptly verify a certification pursuant to subsection (j)(1) with respect to the displacement of noninmate workers or a certification with respect to the wages proposed to be paid Federal inmate workers pursuant to subsection (j)(2) so as to make the results of such inquiry available to the Board of Directors prior to the Board's consideration of the proposed agreement. The Attorney General and the person requesting the inquiry may make recommendations to the Board regarding modifications to the proposed agreement.

''(3) Whenever the Attorney General deems appropriate, the Attorney General may verify whether the actual performance of the agreement is resulting in the displacement of noninmate workers and whether the wages being paid the Federal inmate workers meet the standards of subsection (c).

''(4) Whenever the Attorney General determines that performance of the agreement has resulted in the displacement of noninmate workers or the payment of Federal inmate workers at less than the required wage rates, the Attorney General may—

''(A) direct the Chief Operating Officer of the Corporation to terminate the agreement for default, subject to the processes and appeals available to a Federal contractor whose procurement contract has been terminated for default;

''(B) direct that the Federal inmate workers be retroactively paid the wages that were due; and

''(C) initiate proceedings to impose upon the person furnishing the certifications made pursuant to subsection (j), any administrative, civil, and criminal sanctions as may be available.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 307 of title 18, United States Code, is amended by adding at the end the following new item:

''4131. Additional pilot authorities for inmate work opportunities.''.

Mr. SCOTT of Virginia. Mr. Chairman, the first item of this amendment was developed and agreed to recently with the proponents of the bill. It is a proposal to authorize FPI to develop a specific program for inmates to produce goods and provide services for charitable organizations. Although I fear that the funds authorized to develop the project may not be ever appropriated, if the funds are appropriated, I see it as a way of providing, for some of the inmates, work opportunities to compensate for the jobs lost by the passage of this bill.

So I have included that provision along with other pilot projects that I believe should be examined for their potential to make up for the job loss as well.

Mr. Chairman, the other parts of the amendment are as follows. There is an offshore repatriation, there is a Federal Prison Industry enhancement, and a not-for-profit provision. These provisions are not new to the proponents of the bill. In the last Congress, the supporters of the bill and the opponents of the bill, along with their staffs and along with the staff of FPI, worked to develop a compromise proposal on various parts of the bill restructuring FPI to present to the rest of us.

A compromise proposal was developed and many of the elements agreed to are reflected in the bill before us. These pilot authorities would complete the rest of the compromise proposal that we appeared to agree on last year.

Specifically, on the offshore repatriation provision, FPI would be authorized to produce commercial market items for private companies to sell and distribute which have been produced offshore for at least 3 years, provided inmates are paid at least twice the foreign market wage for producing the product. This is to ensure that the lower wage is not the focus of the pilot, and also provides for protections for any businesses or workers engaged in the production of these products in the United States, including a challenging procedure which would halt production

if any product that a business or worker could show is actually being produced, or has been produced in the United States in the past 3 years.

The other provision is Federal PIE. FPI would be authorized to produce items for the domestic commercial market provided inmates are paid prevailing domestic market wages. This would allow FPI to pilot a program similar to the Federal Prison Industries Enhancement programs, or PIE, already in operation under Federal law for State Prison Industries programs but not for the Federal Prison Industry program. Under this program, FPI would be allowed to pilot the production of products or services for which there is not a domestic labor force available. There are also strong protections against American worker displacements in this pilot. And again, the language is the language developed by representatives of three Members working with FPI staff.

There is a not-for-profit provision. This involves producing goods or services for not-for-profits at a negotiated rate that would not otherwise be paid for by nonprofits or done by noninmate workers for pay.

During the pilot programs this amendment would authorize, there would be extensive input from the International Trade Commission and the Department of Labor. Any activity under them would be reported to the public and any potential affected parties for comment. All actions taken by FPI relative to the projects would be done in public meetings.

We are talking about pilot programs for proposals. If the pilots do not work or create programs, as some have expressed, then we could simply put a stop to them. But if we are going to take away jobs, if we are going to take away the only reliable basis the prison system has had to ensure real work opportunities for prisoners because one-fourth of 1 percent of the Federal procurement expenditures are deemed too much of a market share for a program which has been proven to reduce crime, it would be irresponsible for us to not at least test other ways to give the program some actual continued reliability. I would hope that my colleagues would support the amendment.

Mr. WOLF. Mr. Chairman, I rise in strong support of the Scott amendment.

Mr. Chairman, it could really make all of the difference in the world with regard to this bill. So Members understand what it is, basically these are goods that are no longer made in the United States. For instance, television sets. There are no television sets made in the U.S., or the automatic car locker that we have. Most of them, I have been told, are made in China.

This would say only goods that are made outside of the United States would be repatriated back and could be made in prisons. This would create additional jobs and competition with foreign companies, and also create jobs for Americans, such as the truck drivers who bring the supplies to the prison, the people who supply the plastics and the wire, whatever the case may be.

□ 1445

This would create jobs, and it would be almost like the reintroduction of these companies and these industries that have long ago left the United States, to bring them back in. This could be a very, very powerful amendment that would help our economy create jobs, rehabilitate prisons, but create jobs by the people who make the supplies and make whatever. There are none. If you go out today and search, you cannot find a television set that is made in the United States. Maybe the prisoners could make television sets not in competition with any American company, which would really make a tremendous difference.

I strongly urge the support of the Scott amendment which would really make a big difference in rehabilitation, both with regard to our economy and also helping prisoners and helping create jobs here in the United States.

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

Reluctantly I rise in opposition to the amendment. This is something that my colleagues and I have been working on for a long period of time. The chairman and I were talking as the debate was going on. We do believe that there is some way to work through this process. The amendment as it is structured right now we are not comfortable with, but we want to work with the gentleman from Virginia (Mr. SCOTT), and we want to work with the gentleman from Virginia (Mr. WOLF) on fully exploring this. We believe that there is a reasonable expectation that as this bill moves through the Senate, whatever, we are going to be able to reach some kind of an accommodation that we can all feel good about. Because, again, as the gentleman from Virginia (Mr. SCOTT) and I and the gentleman from Virginia (Mr. WOLF) and I have talked, I really appreciate the tone and the tenor of the debate today, because we do share the same vision, we do share a lot of the same strategies for where we want to go. We do have a lot of things in common in this bill. You can see that by the different people that have been working together and have been participating in the debate.

As the gentleman from Virginia (Mr. WOLF) said, reaching an agreement on this really would make a world of difference if we can reach an accommodation. We would not have some of the disagreements we are having today. I am committed to working with these gentlemen on getting a resolution to this.

Mr. SCOTT of Virginia. Mr. Chairman, will the gentleman yield?

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

Mr. SCOTT of Virginia. I thank the gentleman for yielding.

Mr. Chairman, my goal is to make sure that we have the provision of significant job opportunities for prisoners that will reduce crime. FPI does it with no cost. The gentleman from Michigan has suggested by his assurances that we might be able to come up with alternatives that will actually provide jobs another way and reduce costs. It might cost something. But I think the main focus ought to be the provision of jobs so we can reduce crime. It has been proven that these programs reduce crime.

With the gentleman's assurance that we can work together and possibly come up with some accommodation to replace the jobs that may be lost in the underlying bill, I will ask to withdraw the amendment.

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

The CHAIRMAN pro tempore (Mr. SHIMKUS). Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. HOEKSTRA

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

The Clerk read as follows:

Amendment offered by Mr. HOEKSTRA:

Page 29, after line 5, insert the following new subsection (and redesignate subsequent subsections in section 10 accordingly):

(b) ADDITIONAL INMATE WORK OPPORTUNITIES THROUGH PUBLIC SERVICE ACTIVITIES.—

(1) IN GENERAL.—Chapter 307 of title 18, United States Code, is further amended by inserting after section 4124 the following new section:

"§ 4124a. Additional inmate work opportunities through public service activities

''(a) IN GENERAL.—Inmates with work assignments within Federal Prison Industries may perform work for an eligible entity pursuant to an agreement between such entity and the Inmate Work Training Administrator in accordance with the requirements of this section.

''(b) DEFINITION OF ELIGIBLE ENTITIES.—For the purposes of this section, the term 'eligible entity' means an entity—

''(1) that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code and that has been such an organization for a period of not less than 36 months prior to inclusion in an agreement under this section;

''(2) that is a religious organization described in section 501(d) of such Code and exempt from taxation under section 501(a) of such Code; or

''(3) that is a unit of local government, a school district, or another special purpose district.

''(c) INMATE WORK TRAINING ADMINISTRATOR.—

''(1) The Federal Prison Industries Board of Directors shall designate an entity as the Inmate Work Training Administrator to administer the work-based training program authorized by this section.

''(2) In selecting the Inmate Work Training Administrator, the Board of Directors shall select an entity—

''(A) that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; and

''(B) that has demonstrated, for a period of not less than 5 years, expertise in the theory

and practice of fostering inmate rehabilitation through work-based programs in cooperation with private sector firms.

''(3) With respect to the formation and performance of an agreement authorized by this section, the Director of the Bureau of Prisons and the Chief Operating Officer of Federal Prison Industries shall be responsible only for—

''(A) maintaining appropriate institutional and inmate security; and

''(B) matters relating to the selection and payment of participating inmates.

''(d) PROPOSED AGREEMENTS.—An eligible entity seeking to enter into an agreement pursuant to subsection (a) shall submit a detailed proposal to the Inmate Work Training Administrator. Each such agreement shall specify—

''(1) types of work to be performed;

''(2) the proposed duration of the agreement, specified in terms of a base year and number of option years;

''(3) the number of inmate workers expected to be employed in the specified types of work during the various phases of the agreement;

''(4) the wage rates proposed to be paid to various classes of inmate workers; and

''(5) the facilities, services and personnel (other than correctional personnel dedicated to the security of the inmate workers) to be furnished by Federal Prison Industries or the Bureau of Prisons and the rates of reimbursement, if any, for such facilities, services, and personnel.

''(e) REPRESENTATIONS.—

''(1) ELEEMOSYNARY WORK ACTIVITIES.—Each proposed –agreement shall be accompanied by a written certification by the chief executive officer of the eligible entity that—

''(A) the work to be performed by the inmate workers will be limited to the eleemosynary work of such entity in the case of an entity described in paragraph (1) or (2) of subsection (b);

''(B) the work would not be performed but for the —availability of the inmate workers;

''(C) the work performed by the inmate workers will not result, either directly or indirectly, in the production of a new product or the furnishing of a service that is to be offered for other than resale or donation by the eligible entity or any affiliate of the such entity.

''(2) PROTECTIONS FOR NON-INMATE WORKERS.—Each proposed agreement shall also be accompanied by a written certification by the chief executive officer of the eligible entity that—

''(A) no non-inmate employee or volunteer of the eligible entity (or any affiliate of the entity) will have his or her job abolished or work hours reduced as a result of the entity being authorized to utilize inmate workers; and

''(B) the work to be performed by the inmate workers will not supplant work currently being performed by a contractor of the eligible entity.

''(f) APPROVAL BY BOARD OF DIRECTORS.—

''(1) IN GENERAL.—Each such proposed agreement shall be –presented to the Board of Directors, be subject to the same opportunities for public comment, and be publicly considered and acted upon by the Board in a manner comparable to that required by paragraphs (6) and (7) of section 4122(b).

''(2) MATTERS TO BE CONSIDERED.—In determining whether to approve a proposed agreement, the Board shall—

''(A) give priority to an agreement that provides inmate work opportunities that will provide participating inmates with the best prospects of obtaining employment paying a livable wage upon release;

''(B) give priority to an agreement that provides for maximum reimbursement for inmate wages and for the costs of supplies and equipment needed to perform the types of work to be performed;

''(C) not approve an agreement that will result in the displacement of non-inmate workers or volunteers contrary to the representations required by subsection (e)(2) as determined by the Board or by the Secretary of Labor (pursuant to subsection (i)); and

''(D) not approve an agreement that will result, either directly or indirectly, in the production of a new product or the furnishing of a service for other than resale or donation.

''(g) WAGE RATES AND DEDUCTIONS FROM INMATE WAGES.—

''(1) IN GENERAL.—Inmate workers shall be paid wages for work under the agreement at a basic hourly rate to be negotiated between the eligible entity and Federal Prison Industries and specified in the agreement. The wage rates set by the Director of the Federal Bureau of Prisons to be paid inmates for various institutional work assignments are specifically authorized.

''(2) PAYMENT TO INMATE WORKER AND AUTHORIZED DEDUCTIONS.—Wages shall be paid and deductions taken pursuant to section 4122(b)(11)(C).

''(3) VOLUNTARY PARTICIPATION BY INMATE.—Each inmate worker to be utilized by an eligible entity shall indicate in writing that such person—

''(A) is participating voluntarily; and

''(B) understands and agrees to the wages to be paid and deductions to be taken from such wages.

''(h) ASSIGNMENT TO WORK OPPORTUNITIES.—Assignment of inmates to work under an approved agreement with an eligible entity shall be subject to the Bureau of Prisons Program Statement Number 1040.10 (Non-Discrimination Toward Inmates), as contained in section 551.90 of title 28 of the Code of Federal Regulations (or any successor document).

''(i) ENFORCEMENT OF PROTECTIONS FOR NON-INMATE WORKERS.—

''(1) PRIOR TO BOARD CONSIDERATION.—Upon request of any interested person, the Secretary of Labor may promptly verify a certification made pursuant subsection (e)(2) with respect to the displacement of non-inmate workers so as to make the results of such inquiry available to the Board of Directors prior to the Board's consideration of the proposed agreement. The Secretary and the person requesting the inquiry may make recommendations to the Board regarding modifications to the proposed agreement.

''(2) DURING PERFORMANCE.—

''(A) IN GENERAL.—Whenever the Secretary deems appropriate, upon request or otherwise, the Secretary may verify whether the actual performance of the agreement is resulting in the –displacement of non-inmate workers or the use of inmate workers in –a work activity not authorized under the approved agreement.

''(B) SANCTIONS.—Whenever the Secretary determines that performance of the agreement has resulted in the displacement of non-inmate workers or employment of an inmate worker in an unauthorized work activity, the Secretary may—

''(i) direct the Inmate Work Training Administrator to terminate the agreement for default, subject to the processes and appeals available to a Federal contractor whose procurement contract has been terminated for default; and

''(ii) initiate proceedings to impose upon the person furnishing the certification regarding non-displacement of non-inmate workers required by subsection (d)(2)(B) any administrative, civil, and criminal sanctions as may be available.''.

(2) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 2004 through 2008 for the purposes of paying the wages of inmates and otherwise undertaking the maximum number of agreements with eligible entities pursuant to section 4124a of title 18, United States Code, as added by paragraph (1).

(3) CLERICAL AMENDMENT.—The table of sections for chapter 307 of title 18, United States Code, is amended by inserting after the item relating to section 4124 the following new item:

''4124a. Additional inmate work opportunities through public service activities.''.

Mr. HOEKSTRA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HOEKSTRA. Mr. Chairman, this amendment again addresses the issue that we have been working with the gentleman from Virginia (Mr. SCOTT), the gentleman from Virginia (Mr. WOLF) and others on to ensure that workers are engaged in productive and constructive work activities. What this amendment does is it further expands the inmate work opportunities in conjunction with not-for-profit organizations. As I explained earlier today, the bill allows for some partnering, but what this does now is it expands the partnership capabilities and also provides funding for those activities to take place.

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

Mr. HOEKSTRA. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I am pleased to support this amendment. There has been a program that has been operational in the State of Ohio that has worked out very well, and I think we ought to expand that success to the Federal prison system. This amendment makes a constructive addition to the bill.

Mr. HOEKSTRA. I thank the chairman for that endorsement.

Mr. SCOTT of Virginia. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I indicated in my remarks, this would be part of the amendment that I just withdrew. This would actually provide meaningful job opportunities for inmates. It would therefore reduce crime. It has the added advantage, it would help non-profit charitable organizations get goods and services they may not be able to get. It does not have the advantage that it is paid for by itself. We would have to appropriate funds. But because it accomplishes all of the goals that we all have stated as goals for the prison industries program, I would hope that we would adopt this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. HOEKSTRA).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to section 10?

If not, the Clerk will designate section 11.

The text of section 11 is as follows:

SEC. 11. RESTRUCTURING THE BOARD OF DIRECTORS.

Section 4121 of title 18, United States Code, is amended to read as follows:

"§4121. Federal Prison Industries; Board of Directors: executive management

''(a) Federal Prison Industries is a government corporation of the District of Columbia organized to carry on such industrial operations in Federal correctional institutions as authorized by its Board of Directors. The manner and extent to which such industrial operations are carried on in the various Federal correctional institutions shall be determined by the Attorney General.

''(b)(1) The corporation shall be governed by a board of 11 directors appointed by the President.

''(2) In making appointments to the Board, the President shall assure that 3 members represent the business community, 3 members represent organized labor, 1 member shall have special expertise in inmate rehabilitation techniques, 1 member represents victims of crime, 1 member represents the interests of Federal inmate workers, and 2 additional members whose background and expertise the President deems appropriate. The members of the Board representing the business community shall include, to the maximum extent practicable, representation of firms furnishing services as well as firms producing products, especially from those industry categories from which Federal Prison Industries derives substantial sales. The members of the Board representing organized labor shall, to the maximum practicable, include representation from labor unions whose members are likely to be most affected by the sales of Federal Prison Industries.

''(3) Each member shall be appointed for a term of 5 years, except that of members first appointed—

''(A) 2 members representing the business community shall be appointed for a term of 3 years;

''(B) 2 members representing labor shall be appointed for a term of 3 years;

''(C) 2 members whose background and expertise the President deems appropriate for a term of 3 years;

''(D) 1 member representing victims of crime shall be appointed for a term of 3 years;

''(E) 1 member representing the interests of Federal inmate workers shall be appointed for a term of 3 years;

''(F) 1 member representing the business community shall be appointed for a term of 4 years;

''(G) 1 member representing the business community shall be appointed for a term of 4 years; and

''(H) the members having special expertise in inmate rehabilitation techniques shall be appointed for a term of 5 years.

''(4) The President shall designate 1 member of the Board as Chairperson. The Chairperson may designate a Vice Chairperson.

''(5) Members of the Board may be reappointed.

''(6) Any vacancy on the Board shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

''(7) The members of the Board shall serve without compensation. The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, to attend meetings of the Board and, with the advance approval of the Chairperson of the Board, while otherwise away from their homes or regular places of business for purposes of duties as a member of the Board.

''(8)(A) The Chairperson of the Board may appoint and terminate any personnel that may be necessary to enable the Board to perform its duties.

''(B) Upon request of the Chairperson of the Board, a Federal agency may detail a Federal Government employee to the Board without reimbursement. Such detail shall be without interruption or loss of civil service status or privilege.

''(9) The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

''(c) The Director of the Bureau of Prisons shall serve as Chief Executive Officer of the Corporation. The Director shall designate a person to serve as Chief Operating Officer of the Corporation.''.

The CHAIRMAN pro tempore. Are there any amendments to section 11?

If not, the Clerk will designate section 12.

The text of section 12 is as follows:

SEC. 12. PROVIDING ADDITIONAL MANAGEMENT FLEXIBILITY TO FEDERAL PRISON INDUSTRIES OPERATIONS.

Section 4122(b)(3) of title 18, United States Code, is amended—

(1) by striking ''(3)'' and inserting ''(3)(A)''; and

(2) by adding at the end the following new paragraphs:

''(B) Federal Prison Industries may locate more than one workshop at a Federal correctional facility.

''(C) Federal Prison Industries may operate a workshop outside of a correctional facility if all of the inmates working in such workshop are classified as minimum security inmates.''.

The CHAIRMAN pro tempore. Are there any amendments to section 12?

If not, the Clerk will designate section 13.

The text of section 13 is as follows:

SEC. 13. TRANSITIONAL PERSONNEL MANAGEMENT AUTHORITY.

Any correctional officer or other employee of Federal Prison Industries being paid with nonappropriated funds who would be separated from service because of a reduction in the net income of Federal Prison Industries during any fiscal year specified in section 4(e)(1) shall be—

(1) eligible for appointment (or reappointment) in the competitive service pursuant to title 5, United States Code;

(2) registered on a Bureau of Prisons reemployment priority list; and

(3) given priority for any other position within the Bureau of Prisons for which such employee is qualified.

The CHAIRMAN pro tempore. Are there any amendments to section 13?

If not, the Clerk will designate section 14.

The text of section 14 is as follows:

SEC. 14. FEDERAL PRISON INDUSTRIES REPORT TO CONGRESS.

Section 4127 of title 18, United States Code, is amended to read as follows:

"§4127. Federal Prison Industries report to Congress

''(a) IN GENERAL.—Pursuant to chapter 91 of title 31, the board of directors of Federal Prison Industries shall submit an annual report to Congress on the conduct of the business of the corporation during each fiscal year and the condition of its funds during the fiscal year.

''(b) CONTENTS OF REPORT.—In addition to the matters required by section 9106 of title 31, and such other matters as the board considers appropriate, a report under subsection (a) shall include—

''(1) a statement of the amount of obligations issued under section 4129(a)(1) of this title during the fiscal year;

''(2) an estimate of the amount of obligations that will be issued in the following fiscal year;

''(3) an analysis of—

''(A) the corporation's total sales for each specific product and type of service sold to the Federal agencies and the commercial market;

''(B) the total purchases by each Federal agency of each specific product and type of service;

''(C) the corporation's share of such total Federal Government purchases by specific product and type of service; and

''(D) the number and disposition of disputes submitted to the heads of the Federal departments and agencies pursuant to section 4124(e) of this title;

''(4) an analysis of the inmate workforce that includes—

''(A) the number of inmates employed;

''(B) the number of inmates utilized to produce products or furnish services sold in the commercial market;

''(C) the number and percentage of employed inmates by the term of their incarceration; and

''(D) the various hourly wages paid to inmates employed with respect to the production of the various specific products and types of services authorized for production and sale to Federal agencies and in the commercial market; and

''(5) data concerning employment obtained by former inmates upon release to determine whether the employment provided by Federal Prison Industries during incarceration provided such inmates with knowledge and skill in a trade or occupation that enabled such former inmate to earn a livelihood upon release.

''(c) PUBLIC AVAILABILITY.—Copies of an annual report under subsection (a) shall be made available to the public at a price not exceeding the cost of printing the report.''.

The CHAIRMAN pro tempore. Are there any amendments to section 14?

If not, the Clerk will designate section 15.

The text of section 15 is as follows:

SEC. 15. INDEPENDENT STUDY TO DETERMINE THE EFFECTS OF ELIMINATING THE FEDERAL PRISON INDUSTRIES MANDATORY SOURCE AUTHORITY.

(a) STUDY REQUIRED.—The Comptroller General shall undertake to have an independent study conducted on the effects of eliminating the Federal Prison Industries mandatory source authority.

(b) SOLICITATION OF VIEWS.—The Comptroller General shall ensure that in developing the statement of work and the methodology for the study, the views and input of private industry, organized labor groups, Members and staff of the relevant Congressional committees, officials of the executive branch, and the public are solicited.

(c) SUBMISSION.—Not later than June 30, 2004, the Comptroller General shall submit the results of the study to Congress, including any recommendations for legislation.

The CHAIRMAN pro tempore. Are there any amendments to section 15?

If not, the Clerk will designate section 16.

The text of section 16 is as follows:

SEC. 16. SENSE OF CONGRESS.

It is the sense of Congress that it is important to study the concept of implementing a ''good time'' release program for non-violent criminals in the Federal prison system.

The CHAIRMAN pro tempore. Are there any amendments to section 16?

If not, the Clerk will designate section 17.

The text of section 17 is as follows:

SEC. 17. DEFINITIONS.

Chapter 307 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 4131. Definitions

''As used in this chapter—

''(1) the term 'assembly' means the process of uniting or combining articles or components (including ancillary finished components or assemblies) so as to produce a significant change in form or utility, without necessarily changing or altering the component parts;

''(2) the term 'current market price' means, with respect to a specific product, the fair market price of the product within the meaning of section 15(a) of the Small Business Act (15 U.S.C. 644(a)), at the time that the contract is to be awarded, verified through appropriate price analysis or cost analysis, including any costs relating to transportation or the furnishing of any ancillary services;

''(3) the term 'import-sensitive product' means a product which, according to Department of Commerce data, has experienced competition from imports at an import to domestic production ratio of 25 percent or greater;

''(4) the term 'labor-intensive manufacture' means a manufacturing activity in which the value of inmate labor constitutes at least 10 percent of the estimate unit cost to produce the item by Federal Prison Industries;

''(5) the term 'manufacture' means the process of fabricating from raw or prepared materials, so as to impart to those materials new forms, qualities, properties, and combinations;

''(6) the term 'reasonable share of the market' means a share of the total purchases by the Federal departments and agencies, as reported to the Federal Procurement Data System for—

''(A) any specific product during the 3 preceding fiscal years, that does not exceed 20 percent of the Federal market for the specific product; and

''(B) any specific service during the 3 preceding fiscal years, that does not exceed 5 percent of the Federal market for the specific service; and

''(7) the term 'services' has the meaning given the term 'service contract' by section 37.101 of the Federal Acquisition Regulation (48 C.F.R. 36.102), as in effect on July 1, 2002.''.

The CHAIRMAN pro tempore. Are there any amendments to section 17?

If not, the Clerk will designate section 18.

The text of section 18 is as follows:

SEC. 18. IMPLEMENTING REGULATIONS AND PROCEDURES.

(a) FEDERAL ACQUISITION REGULATION.—

(1) PROPOSED REVISIONS.—Proposed revisions to the Governmentwide Federal Acquisition Regulation to implement the amendments made by this Act shall be published not later than 60 days after the date of the enactment of this Act and provide not less than 60 days for public comment.

(2) FINAL REGULATIONS.—Final regulations shall be published not later than 180 days after the date of the enactment of this Act and shall be effective on the date that is 30 days after the date of publication.

(3) PUBLIC PARTICIPATION.—The proposed regulations required by subsection (a) and the final regulations required by subsection (b) shall afford an opportunity for public participation in accordance with section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b).

(b) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The Board of Directors of Federal Prison Industries shall issue regulations defining the terms specified in paragraph (2).

(2) TERMS TO BE DEFINED.—The Board of Directors shall issue regulations for the following terms:

(A) Prison-made product.

(B) Prison-furnished service.

(C) Specific product.

(D) Specific service.

(3) SCHEDULE FOR REGULATORY DEFINITIONS.—

(A) Proposed regulations relating to the matter described in subsection (b)(2) shall be published not later than 60 days after the date of enactment of this Act and provide not less than 60 days for public comment.

(B) Final regulations relating to the matters described in subsection (b)(2) shall be published not less than 180 days after the date of enactment of this Act and shall be effective on the date that is 30 days after the date of publication.

(4) ENHANCED OPPORTUNITIES FOR PUBLIC PARTICIPATION AND SCRUTINY.—

(A) ADMINISTRATIVE PROCEDURE ACT.—Regulations issued by the Board of Directors shall be subject to notice and comment rulemaking pursuant to section 553 of title 5, United States Code. Unless determined wholly impracticable or unnecessary by the Board of Directors, the public shall be afforded 60 days for comment on proposed regulations.

(B) ENHANCED OUTREACH.—The Board of Directors shall use means designed to most effectively solicit public comment on proposed regulations, procedures, and policies and to inform the affected public of final regulations, procedures, and policies.

(C) OPEN MEETING PROCESSES.—The Board of Directors shall take all actions relating to the adoption of regulations, operating procedures, guidelines, and any other matter relating to the governance and operation of Federal Prison Industries based on deliberations and a recorded vote conducted during a meeting open to the public, unless closed pursuant to section 552(b) of title 5, United States Code.

The CHAIRMAN pro tempore. Are there any amendments to section 18?

If not, the Clerk will designate section 19.

The text of section 19 is as follows:

SEC. 19. RULES OF CONSTRUCTION.

(a) AGENCY BID PROTESTS.—Subsection (e) of section 4124 of title 18, United States Code, as amended by section 2, is not intended to alter any rights of any offeror other than Federal Prison Industries to file a bid protest in accordance with other law or regulation in effect on the date of the enactment of this Act.

(b) JAVITS-WAGNER-O'DAY ACT.—Nothing in this Act is intended to modify the Javits-Wagner-O'Day Act (41 U.S.C. 46, et seq.).

The CHAIRMAN pro tempore. Are there any amendments to section 19?

If not, the Clerk will designate section 20.

The text of section 20 is as follows:

SEC. 20. EFFECTIVE DATE AND APPLICABILITY.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) APPLICABILITY.—Section 4124 of title 18, United States Code, as amended by section 2, shall apply to any requirement for a product or service offered by Federal Prison Industries needed by a Federal department or agency after the effective date of the final regulations issued pursuant to section 18(a)(2), or after September 30, 2004, whichever is earlier.

The CHAIRMAN pro tempore. Are there any amendments to section 20?

If not, the Clerk will designate section 21.

The text of section 21 is as follows:

SEC. 21. CLERICAL AMENDMENTS.

The table of sections for chapter 307 of title 18, United States Code, is amended—

(1) by amending the item relating to section 4121 to read as follows:

''4121. Federal Prison Industries; Board of Directors: executive management.'';

(2) by amending the item relating to section 4124 to read as follows:

''4124. Governmentwide procurement policy relating to purchases from Federal Prison Industries.'';

(3) by amending the item relating to section 4127 to read as follows:

''4127. Federal Prison Industries report to Congress.'';

and

(4) by adding at the end the following new items:

''4130. Construction of provisions.

''4131. Definitions.''.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

At the end of the bill, add the following new section:

SEC. 22. SUNSET.

If the Attorney General makes a written determination before the end of the 3-year period beginning on the date of the enactment of this Act that the implementation of this Act creates a significant risk or adverse effect on public or prison safety, prison management, or prison rehabilitation opportunities, then this Act, and the amendments made by this Act, shall not be in effect on and after the date occurring 3 years after such date of enactment (and the law shall read as if this Act were not enacted).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I have repeatedly said in my debate and discourse on this bill that many of us have worked to put together aspects of this legislation that will respond to a number of concerns. I do not have an attitude, Mr. Chairman, that this bill is totally without merit, and I respect the gentleman from Michigan's issues as relates to certain areas of this Nation that have been impacted as many of my friends have come to the floor on a trade policy that some would call in disarray. We have lost jobs in America. We have lost 3 million manufacturing jobs. We have small businesses that are clamoring to find ways to provide health care for their employees.

I would be the first to say that the role of this Congress is to be a problem solver. I have stood with my colleagues as relates to job creation and to emphasize the importance of providing tax incentives to small businesses and also ways to assist them in securing good health insurance.

Frankly, I believe several amendments that have passed today are good amendments. The Waters/ Millender-McDonald amendment I support provides for increasing the minimum wage to help those inmates who are incarcerated have, in essence, a trust fund when they leave the Bureau of Prisons from their incarcerations to make a difference. But I think this bill is all about the competition, the loss of jobs.

I want to cite a number of figures that might speak to that issue. It relates to the number of prisoners that we have in the Federal prison population for years 2000, 2001 and 2002: 39,679, 36,000, and 36,000 persons respectively would lose opportunities to work. The State prison population for the same years is 20,200, 20,898, and 23,561. I believe that the crux of the

issue is whether or not this bill will answer the concerns and how long it should be implemented. The bill has in it a 5-year phase-out of the prison industries' effort.

What my amendment will simply do, Mr. Chairman, is put our money and our mouth and our concerns right where they should be. If the Attorney General determines that we will impact prison management, safety, the rehabilitation of prisoners, control, if that is impacted, then this will be sunsetted in 3 years. That is the crux of what this particular amendment will attempt to do.

It does not attempt to do it in a vacuum. It does not attempt to do it because there is dispute over which direction we should take. It asks the Attorney General to have a large role. Mr. Chairman, we are talking about an Attorney General that the majority knows, because this is in the context of 3 years, and right now we are suggesting that if this legislation undermines the running of our prisons, with a large number of inmates, where they do not have the opportunity to work and if we find that that opportunity supersedes the good intentions of this bill, which is to bring relief to some areas where large prisons are that are run by the Federal Government that use and have resources and that it is impacting in the area small businesses, then the Attorney General will not act. But he or she will act if he finds in good faith that public or prison safety, prison management, prison rehabilitation opportunities will be impacted negatively by this particular legislation.

This is a thoughtful amendment in that it is an amendment that is used in many of our legislative initiatives and, that is, to sunset, to bring an end to it until we can assess where we are. I simply say to my colleagues that we cannot have it all, that is, incarcerate individuals who perpetrated offenses, expect for them to be contributing members of our society, and do nothing to help that occur. If you live in communities where I live, if you live in poor rural areas, you will find many of these young men returning home to empty opportunities. Every job application, Mr. Chairman, requires an incarcerated person to note whether they have been convicted or incarcerated. Many of them are paying because they are not allowed to vote. They are not allowed to mainstream into our communities.

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And so we are looking for a chance in this legislation and we do not give them a chance if we allow the crux of their survival to be taken away from them, Mr. Chairman. Sunset this bill on the basis of the Attorney General's recommendation and do what is right not only for small businesses, but for inmates who are trying to rehabilitate.

Mr. Chairman, I rise to offer an amendment to H.R. 1829, the "Federal Prison Industries Competition in Contracting Act of 2003." The specific language of JACKSO.166 reads:

If the Attorney General makes a written determination before the end of the 3-year period beginning on the date of the enactment of this Act that the implementation of this Act creates a significant risk or adverse effect on public or prison safety, prison management, or prison management, or prison rehabilitation opportunities, then this Act, and the amendments made by this Act, shall not be in effect on and after the date occurring 3 years after such date of enactment (and the law shall read as if this Act were not enacted).

This amendment offers a safety net for an otherwise certain end to the Federal Prison Industries program, which has clearly demonstrated itself to be a positive thing for our federal inmate population. Sunsetting H.R. 1829 will give the expansion of competition in the federal prison procurement industry a fair chance to operate. Opponents of FPI who argue that it kills small businesses will have an opportunity to demonstrate whether or not FPI does impact their ability to compete. However, the important thing about this amendment is that it ensures that there is protection of the inmate population in case these opponents are wrong.

When FPI allows federal inmates to earn money to send to their wives, elderly parents, and small children, we see that the negative impact that H.R. 1829 will have is local and hard-hitting. The amendment that was offered by my colleague Ms. MILLENDER-MCDONALD would have enhanced this ability to give family support by creating a trust fund mechanism for these inmates. The conclusiveness of this bill as drafted threatens the lives and livelihood of many American families. My amendment ensures that these families won't have the doors of justice slam in their faces. If the FPI program's elimination is shown to have a negative impact on these families, we will see an immediate return to the plan that has demonstrated its viability. This is a true case of "if it isn't broken, don't fix it." I would ask that my colleagues at least follow a middle ground by voting to accept my amendment, which would change that saying to "if it isn't broken after trying something else, let's not allow it to break."

Furthermore, this bill threatens the safe environment of the federal prisons and the fight against recidivism. With the elimination of mandatory source preferences for FPI, we will take activities away from a large number of former prison employees. What will these individuals do once their jobs have been taken away from them? For many of them, the jobs were a very important diversion from anger, hate, and violence. The jobs that will be taken away from them will invite violence in the prisons as well as in the workplace for the Federal Bureau of Prisons. Moreover, the job training that will be lost will create a situation ripe for recidivism. The Jackson Lee Amendment will ensure that we can correct this situation after we have educated ourselves on the alternatives offered by the removal of mandatory source preferences.

Over 2 million offenders are incarcerated in the nation's prisons and jails. At midyear 2002, 665,475 inmates were held in the Nation's local jails, up from 631,240 at midyear 2001. Projections indicate that the inmate population will unfortunately continue to rise over the years to come. Without the protection that is offered by my amendment, these numbers can represent cultures of violence, cultures of recidivism, and cultures of liabilities to our society rather than positive contributors.

FPI is a self-supporting government operation. Revenue generated by the corporation is used to purchase equipment and raw materials, pay wages to inmates and staff, and expand facilities. Last year, FPI generated over $566 million in revenue, $418 million of which went to purchasing goods and services from the private sector, 74 percent of which went to small and minority owned businesses in local communities across this country.

The Bureau of Prisons clearly appreciates the advantage the program can have on inmates and society at large. First, there is some security benefit to FPI system because inmates are productively occupied. Second, FPI programs are said to provide inmates with training and experience that develop job skills and a strong work ethic.

The bill before us today provides for a five-year phase-out of mandatory source preference by granting to FPI's Federal agency customer's authority to first solicit on a non-competitive basis. However, at the end of the phase-out period there is no existing substitute for the services and program. Looking to the states, there simply is not enough program participation to accommodate the 25 percent that is currently accommodated under FPI.

During FY 2002, FPI spent 74 percent of its $680 million in sales revenues (that is, $503 million) on purchases of raw materials, equipment, and services from private sector companies. Some 62 percent of these purchases (that is, $311 million) were from small businesses, including businesses owned by women, minorities, and those who are disadvantaged. FPI has consistently received the U.S. Attorney General's Small Business Award for its concerted efforts to contract with the small business community, far exceeding the 23 percent government-wide requirement for contracts with small businesses. From 1997–2001, FPI has awarded $851 million in contracts to small businesses, which is a yearly average of 57 percent.

Clearly, the existing FPI program has positive effects on the economic viability of the prison inmate community by way of jobs and job training, the small, minority-, and women-owned business communities by way of offering equal access to federal procurement contracts, and to the community by way of reducing incidence of recidivism. H.R. 1829 will phase these benefits out potentially, unless my amendment is included that will provide a necessary protection mechanism.

I urge my colleagues to vote for the Jackson-Lee Amendment.

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

Mr. Chairman, not only does this amendment have the potential of tossing into the wastebasket many years of work by the Congress and by those who were contracted to do work on this issue by the Congress, but it also sets the unprecedented provision that allows an officer of the executive branch, the Attorney General, to wipe a law off the books. Article 1 of the Constitution gives the exclusive legislative authority in this country to the elected Congress of the United States, and Congress makes the laws; Congress amends the laws; and Congress repeals the

laws. And no officer of the executive branch should have the authority to make a determination that wipes the a law off the books. And that is what this amendment does. It gives the Attorney General of the United States, whether it be Mr. Ashcroft or one of his successors, the authority to actually change the statutes that have been passed by Congress. And for that reason alone, this amendment should be rejected.

But I would like to talk about the work that has been done on Prison Industries over the years. In public law 101–515, the Commerce, Justice, State Appropriations Act for fiscal year 1991, there was a 16-month review done under contract by Deloitte & Touche, 500 pages of reporting to Congress on study findings and recommendation and appendices. No action. Then there was a 2-year Federal Prison Industries summit process, from 1991 to 1993, that was led by the Brookings Institution and brought together all of the stakeholders to develop practical implementation strategies for the recommendations of the Market Survey just referred to. Nothing happened.

And then this has been studied and studied and studied. I have three recent General Accounting Office reports from 1998. Federal Prison Industries Limited Data Available on Customer Satisfaction, ignored because we did nothing. Federal Prison Industries Information on Product Pricing, ignored because we did nothing. Federal Prison Industries Delivery Performance is Improving but Problems Remain, ignored because we did nothing. And look at all the hearings that have been held in various committees of the Congress to reform Federal Prison Industries. Literally here almost ten inches of hearing transcripts that have been held before the Committee on the Judiciary, the Committee on Small Business, the Committee on Education and the Workforce. And if we do not do anything to reform Prison Industries, all of the testimony that was given on the fact that this system is broken will be ignored.

The time has come for Congress to take some action, and this bill has been the result of infinite negotiations and compromises that have been made, improvements that have been made to the legislation, including amendments adopted here on the floor today. And for the gentlewoman from Texas to propose an amendment that says that all of this work can be abolished at the stroke of the pen of the Attorney General in 3 years really does no business to our doctrine of separation of powers, as well as to all of the work that the legislative branch has either done or sponsored. For this reason, this amendment should be overwhelmingly defeated.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate the work that my colleague from Texas does on this and other issues, but in this case we disagree. I think it would be a grave error to sunset.

Sunset is a legitimate tool, but when we adopt a sunset, I think we need to calculate what incentive we are setting in motion. For example, the gentleman from Wisconsin played a very useful role here. We in the House Committee on the Judiciary, on which I then served, insisted on a sunset to the Patriot Act because a lot of new powers were being granted affirmatively, and we felt that it was important that, as we started these brand new powers, the people exercising the powers should know that they would have to come and get them renewed. There was an incentive in that sunset to the people given the grant of new authority to exercise it in a reasonable way.

Here, though, a sunset would create, I believe, perverse incentives. We know on good faith people in the Bureau of Prisons do not like this bill. The people in the Federal Prison Industries do not like the bill. The people who are now working to provide rehabilitative employment efforts to inmates, which all of us support, like the current system and do not want to have to go to a new system. For the new system to work well, we have provisions in this bill that say there will be additional training for the inmates, there will be donation programs, and that is being strengthened, there will not programs whereby we in this bill mandate the people who run the Federal prisons to find alternatives to the sale of these products. We want them to continue working, but we want a variety of things to be done so that there can be donations to charitable groups, et cetera. It is going to be more work for the people who now run the prisons. It will be the course of least resistance for them to go with the status quo. That is why, I think, a sunset creates a perverse incentive, because the people who do not want this program to work are the people who are in charge of making it work, and if they know that if we have not been able to find other work, if they can simply sit and let some of these provisions for alternative sources of employment go unused, they will make their case for getting rid of this.

So it is one thing if we give a grant of power to people and tell them, look, go use these powers wisely because they have to come back to us. It is another thing to say to a group of people who do not like what we are doing, if, in fact, the efforts to make work what they do not want to work are not very effective, then they will have achieved their goal.

So I really believe that a sunset goes in the wrong direction here. I think we need to give the Federal Prison Industries every incentive to make this work. I do not want them to have the benefit of saying we cannot find 100 day-care centers and shelters; if we cannot set up these alternatives, if we cannot do all these new jobs that have been put on us, then we will have a good argument to the Attorney General to abolish it.

I also agree with the argument made by the chairman, who is a very strong and thoughtful defender of the role of elected Representatives in our democracy. He is quite right to object to this on separation of powers grounds. This is far too great a delegation of power to the Attorney General. But there is also, I think, what I believe to be a perverse incentive. So for both reasons, because I believe we should go to a new system in which the inmates are given work but we finance that work differently, and that is going to be a complicated task to put on people in the prisons. I do not want the bureaucrats, the administrators of this, to have any incentive not to do their very best.

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

Mr. Chairman, for the reasons I have already articulated, I think this would be a good amendment, and I yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the very distinguished gentleman from Virginia for yielding and for his leadership on this bill.

Mr. Chairman, the debate today shows that good friends can agree to disagree on policy, and I rise to offer some commentary and support of my amendment to sunset and to suggest that I in no way have disagreement or would want to override the distinctiveness between the three branches of government. I am a zealot, if you will, as it relates to the responsibility of Congress to be both in the position of oversight, giving oversight to the executive, and as well to be independent. There are three independent branches of government.

But I want to speak particularly to this bill and all of the pages of research and hearings again to emphasize to my colleagues that there is no crisis here, and even though we may have worked on this for years and years, there is no crisis. My recollection is that in the course of many legislative initiatives that we have had, such as the Voter Rights Act of 1965 and the Civil Rights Act of 1964, those were hundreds of years in the making. That is a crisis. This is not.

And let me share with my colleagues these numbers. Seventy-four percent of the Federal Prison Industries, $680 million in sale revenues, that is $503 million they spend on purchases of raw materials, equipment, and services from private sector companies. Some 62 percent of these purchases, that is, $311 million, were from small businesses, including businesses owned by women, minorities, and those who are disadvantaged. FPI, the Federal Prison Industries, has consistently received the U.S. Attorney General's Small Business Award for its concerted efforts to contract with the small business community, far exceeding the 23 percent government-wide requirement for contracts with small businesses

from 1997 to 2001. FPI has awarded $851 million in contracts to small businesses, which is a yearly average of 57 percent.

I would have wanted to offer an amendment that would give us precise information continuously about the procurement process and how we can encourage more small businesses to be engaged. I will not offer that amendment. On the other hand, I think this has to do with the safety, the management, the rehabilitation aspects, and the control of our Federal prisons. With over 2 million Americans and others in the United States jails and prisons, I cannot be told that the Attorney General's involvement in determining whether this legislation in its enactment will undermine the management and control and the survival and existence and the sanctity of these prisons, with this huge number of inmates, so that he or she can determine that we should sunset this bill because it does generate a crisis of control. Then I would ask my colleagues what then is our role? Our role is to be thoughtful and it is to be instructive and it is to ensure the safety of the American people and our communities, and a disruptive prison system because we do not have order, because we have people who are without resources, without work, without ability to contribute into their trust funds to provide for their families, I think that is disruptive.

So I would say to my colleagues that this is a concertedly thoughtful amendment that deals with trying to solve the problem. It does not tell the Attorney General to do so. It gives he or she criteria, and those are: A significant risk or adverse effect on public or prison safety, prison management, or prison rehabilitation opportunities. Then this Act, and the amendments made by this Act, shall not be in effect after 3 years.

This is giving discretion. This is reasonable. This is thoughtful because we are concerned about the balance of our small businesses and the order of our prison system. And I believe when we are on the floor of the House, Mr. Chairman, that is the task of all of us, to be able to work in a thoughtful process because legislation leaving this body becomes final. It goes to the Senate and ultimately to the President's desk. Where then should we do our work to provide a reasonable response to what may be a crisis? And I do not know if anyone can manage two million of those in our prisons and jails when they do not have the opportunity to have a future and to look forward to being trained and to be able to get out and be deemed a responsible and contributing adult to this society.

I ask my colleagues to consider this amendment and to vote for the Jackson-Lee amendment that is a thoughtful way of handling this challenge that we have but not yet a crisis.

□ 1515

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

Mr. Chairman, I rise in opposition to the amendment. This bill, I am sometimes a little surprised by how it is described. Sunsetting the bill after 3 years, it is a 5-year phase-out of mandatory sourcing, so, as we are implementing the bill, midway through the process the Attorney General arbitrarily could declare the bill null and void and go back to the legislation that we have today.

The bill allows for the Attorney General under certain circumstances, if there are concerns about prison safety or the performance of the prisons, to take action in regard to mandatory sourcing and sole-source suppliers to make sure that we do not have unsafe conditions in the prisons.

It is interesting that the Attorney General is offering awards for ''small business companies of the year'' and identifying Federal Prison Industries as one of those. If you go to government procurement managers, government procurement managers are in favor of H.R. 1829 because they have clearly through their experience not had that kind of outstanding service by Federal Prison Industries. What they want is the ability to get the best product. We ask them to do more for less.

Business and labor support this. It is not a crisis to us perhaps, and it is perhaps not a crisis to the AFL–CIO in its entirety, or to the Chamber of Commerce or to NFIB or to the Teamsters. But what each of these organizations has experienced is that certain of their members, certain of the companies that they represent, have experienced the crisis, because the crisis has been their businesses have closed and their employees have lost jobs because they have been unable to compete for Federal contracts.

We have the protections in place. This amendment is not necessary. Give H.R. 1829 the opportunity to be implemented, to be monitored; and if there are changes that need to be made after it is implemented and after it is working, it is the responsibility of Congress to make those changes, to fine-tune it, not the responsibility of the Attorney General to deep-six the whole program.

The CHAIRMAN pro tempore (Mr. BONILLA). The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) will be postponed.

The CHAIRMAN pro tempore. Are there further amendments to section 21?

AMENDMENT OFFERED BY MR. STRICKLAND

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

The Clerk read as follows:

Amendment offered by Mr. STRICKLAND:

Add at the end of the bill the following new section:

SEC. 22. PROCUREMENT OF GOODS AND SERVICES MANUFACTURED IN THE UNITED STATES.

In any case in which a procurement activity proceeds to conduct a procurement for a product or service as described in paragraph (6) of section 4124(b) of title 18, United States Code, as added by section 2, the procurement must be of goods or services manufactured in the United States.

Mr. STRICKLAND. Mr. Chairman, I want to say a word about this debate today. In my judgment, it has been one of the most thoughtful, substantive debates that I have witnessed in this Chamber, and I think the reason for it is it is not based upon being a liberal or conservative or Republican or Democrat; but it is an attempt to deal with a serious matter, and I think there are people of differing opinions who want to do the right thing and are trying to do the right thing.

I intend to vote for this bill. But one of the concerns that I have had and one of the concerns that has been expressed here today is that we simply do not want to deprive work from being undertaken in our prisons and then allow that work to be performed outside of our country.

This amendment is very simple. It just simply says under those circumstances where the Federal Bureau of Prisons is permitted to bid on a procurement activity, those competing private bidders must provide whatever goods and services they are seeking to provide which are manufactured within the United States of America. I think that will solve a lot of concerns that many of us have.

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

Mr. STRICKLAND. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman from Ohio for yielding. I am happy to accept the amendment, and I hope it is adopted.

Mr. STRICKLAND. Mr. Chairman, reclaiming my time, I thank my friend.

Mr. HOEKSTRA. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I thank my colleague for working with us in structuring this amendment in a way that, again, improves the bill.

I just want to take a moment to thank a number of my colleagues, as we are coming to the conclusion of this debate. We have been down a long road to get here, but the gentleman from Massachusetts (Mr. FRANK), the gentlewoman from New York (Mrs. MALONEY), and the gentleman from Michigan (Mr. CONYERS) have been great partners on the other side of the aisle. We have been working at this effort for almost 7 years.

On this side of the aisle, the gentleman from Wisconsin (Chairman SENSENBRENNER), the gentleman from

Georgia (Mr. COLLINS), and I have worked with these and other Members to craft this legislation.

As we found out today, we still have some disagreements, but we are intent on continuing to work with the gentleman from Virginia (Mr. SCOTT), the gentleman from Virginia (Mr. WOLF), and a few others to take this bill and, hopefully, put the final pieces together. But it has been a very constructive process to get where we are today.

As the gentleman from Ohio (Mr. STRICKLAND) said, we had a great debate and great discussion. Part of it is because we have had different folks coming together from different ways, but also we worked together for 7 years in bringing this bill together. As we have gone through that process, we recognized the need for compromise, we recognized that in certain areas we have not reached there; but at all times, we have never let our disagreements impact the personal relationships and the trust we have built over the last 7 years.

So I would like to thank my colleagues for the work that we have had, for the tone and the tenor of the debate today, which has really, I think, brought credit to the House.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. STRICKLAND).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to section 21?

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: An amendment offered by Mr. GREEN of Wisconsin and an amendment offered by Ms. JACKSON-LEE of Texas.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

AMENDMENT OFFERED BY MR. GREEN OF WISCONSIN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Wisconsin (Mr. GREEN) 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 pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 91, noes 325, not voting 18, as follows:

[Roll No. 610]

AYES—91

Baca
Berry
Blumenauer
Blunt
Brown-Waite, Ginny
Capps
Capuano
Cardoza
Carson (IN)
Case
Chabot
Davis (CA)
Davis (IL)
Davis, Tom
Delahunt
Diaz-Balart, L.
Diaz-Balart, M.
Doggett
Farr
Fattah
Frost
Gilchrest
Goodlatte
Green (WI)
Hall
Harman
Harris
Hayworth
Hefley
Hensarling
Hinchey
Holden
Holt
Honda
Hunter
Hyde
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jones (NC)
Kennedy (MN)
Kline
Lampson
Larson (CT)
Lofgren
Lowey
Lucas (OK)
Lynch
Marshall
McHugh
McNulty
Millender-McDonald
Miller (NC)
Mollohan
Payne
Peterson (PA)
Petri
Pitts
Rahall
Rodriguez
Rogers (KY)
Ross
Roybal-Allard
Rush
Ryan (OH)
Sandlin
Saxton
Scott (GA)
Scott (VA)
Serrano
Sherwood
Skelton
Smith (NJ)
Stenholm
Strickland
Stupak
Tancredo
Taylor (MS)
Terry
Thomas
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Wamp
Waters
Weller
Wicker
Wolf
Woolsey

NOES—325

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Carson (OK)
Carter
Castle
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (TN)
Davis, Jo Ann
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Gordon
Goss
Granger
Graves
Green (TX)
Greenwood
Grijalva
Gutierrez
Hart
Hastings (WA)
Hayes
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Inslee
Isakson
Israel
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Majette
Maloney
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Simmons
Simpson
Slaughter
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Sullivan
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Upton
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—18

Ackerman
Bachus
Bishop (UT)
Deal (GA)
Fletcher
Gephardt
Gutknecht
Hastings (FL)
Jones (OH)
Kilpatrick
Lipinski
McInnis
Neal (MA)
Paul
Quinn
Rangel
Reyes
Towns

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. BONILLA) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1547

Ms. LINDA SÁNCHEZ of California, and Messrs. BARTLETT of Maryland, TURNER of Ohio, OTTER, LEVIN, SMITH of Washington, HOEFFEL, TOOMEY, Ms. ESHOO, Ms. HOOLEY of Oregon, Mr. WEXLER, Mr. OWENS, Ms. SLAUGHTER, Mr. GORDON, and Mrs. NORTHUP changed their vote from ''aye'' to ''no.''

Mr. HAYWORTH, Mr. DELAHUNT, Ms. HARRIS, and Messrs. ROSS, PAYNE, TOM DAVIS of Virginia, and RUSH changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. BONILLA). Pursuant to clause 6 of rule XVIII the next vote will be conducted as a 5-minute vote.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) 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 pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 100, noes 313, not voting 21, as follows:

[Roll No. 611]

AYES—100

Abercrombie
Baca
Ballance
Bell
Berman
Berry
Bishop (GA)
Blumenauer
Brady (TX)
Brown, Corrine
Brown-Waite, Ginny
Capuano
Cardoza
Carson (IN)
Case
Chabot
Clay
Clyburn
Conyers
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
Doggett
Eshoo
Etheridge
Farr
Fattah
Filner
Frost
Gilchrest
Green (TX)
Green (WI)
Grijalva
Harman
Hinchey
Holt
Honda
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kucinich
Lampson
Lantos
Larson (CT)
Lee
Lewis (GA)
Lofgren
Marshall
McCollum
McDermott
McHugh
McNulty
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (NC)
Mollohan
Moran (VA)
Napolitano
Oberstar
Obey
Olver
Ortiz
Owens
Pastor
Payne
Petri
Rahall
Rodriguez
Rogers (KY)
Ross
Roybal-Allard
Rush
Sanchez, Linda T.
Sandlin
Saxton
Schakowsky
Scott (GA)
Scott (VA)
Serrano
Solis
Spratt
Stenholm
Strickland
Taylor (MS)
Thompson (MS)
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Visclosky
Waters
Watson
Wolf

NOES—313

Aderholt
Akin
Alexander
Allen
Andrews
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Biggert
Bilirakis
Bishop (NY)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Carson (OK)
Carter
Castle
Chocola
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Evans
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Greenwood
Gutierrez
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
LaHood
Langevin
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McGovern
McKeon
Meehan
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Miller, George
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Loretta
Sanders
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stark
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Upton
Velazquez
Vitter
Walden (OR)
Walsh
Wamp
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—21

Ackerman
Bachus
Bishop (UT)
Capps
Deal (GA)
Fletcher
Gephardt
Gutknecht
Hastings (FL)
Jones (OH)
Kilpatrick
Kolbe
Lipinski
McInnis
McIntyre
Neal (MA)
Paul
Quinn
Rangel
Reyes
Towns

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1558

Mr. GILCHREST and Mr. ABERCROMBIE changed their vote from ''no'' to ''aye.''

Mr. MEEHAN changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Ms. CAPPS. Mr. Chairman, I was not able to be present for the following rollcall vote and would like the RECORD to reflect that I would have voted as follows: Rollcall No. 611—''no.''

The CHAIRMAN pro tempore. Are there other amendments?

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 pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMMONS) having assumed the chair, Mr. BONILLA, Chairman pro tempore 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. 1829) to amend title 18, United States Code, to require Federal Prison Industries to compete for its contracts minimizing its unfair competition with private sector firms and their non-inmate workers and empowering Federal agencies to get the best value for taxpayers' dollars, to provide a five-year period during which Federal Prison Industries adjusts to obtaining inmate work opportunities through other than its mandatory source status, to enhance inmate access to remedial and vocational opportunities and other rehabilitative opportunities to better prepare inmates for a successful return to society, to authorize alternative inmate work opportunities in support of non-profit organizations, and for other purposes, pursuant to House Resolution 428 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 any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1600

The SPEAKER pro tempore (Mr. SIMMONS). 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.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-

minute vote on the passage of H.R. 1829 will be followed by a 5-minute vote on the motion to instruct on H.R. 2660 by the gentlewoman from Connecticut (Ms. DELAURO), the motion to instruct on H.R. 1308 by the gentleman from California (Mr. BECERRA), the motion to instruct on H.R. 1 by the gentlewoman from California (Mrs. CAPPS).

The vote was taken by electronic device, and there were—yeas 350, nays 65, not voting 19, as follows:

[Roll No. 612]

YEAS—350

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Carter
Chocola
Clay
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Inslee
Isakson
Israel
Istook
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McDermott
McGovern
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Olver
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Rodriguez
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sanchez, Linda T.
Sanders
Sandlin
Schakowsky
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—65

Berry
Blumenauer
Blunt
Brown-Waite, Ginny
Capuano
Cardoza
Case
Castle
Chabot
Clyburn
Davis (CA)
Davis (IL)
DeGette
Delahunt
Farr
Filner
Frost
Gilchrest
Green (WI)
Hefley
Hensarling
Holden
Holt
Honda
Hunter
Hyde
Issa
Jackson (IL)
Jones (NC)
Lampson
LaTourette
Lewis (GA)
Lofgren
Lucas (OK)
McCollum
McHugh
McNulty
Mollohan
Oberstar
Obey
Owens
Payne
Peterson (PA)
Petri
Rahall
Renzi
Rogers (KY)
Ross
Rush
Sabo
Sanchez, Loretta
Saxton
Scott (GA)
Scott (VA)
Serrano
Sherwood
Shimkus
Smith (NJ)
Spratt
Tancredo
Taylor (MS)
Thompson (MS)
Turner (TX)
Waters
Wolf

NOT VOTING—19

Ackerman
Bachus
Bishop (UT)
Deal (GA)
Fletcher
Gephardt
Gutknecht
Hastings (FL)
Jones (OH)
Kilpatrick
Lipinski
McInnis
McIntyre
Neal (MA)
Ortiz
Paul
Rangel
Reyes
Towns

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMMONS) (during the vote). Members are advised 2 minutes remain to cast their votes.

□ 1617

Ms. ROYBAL-ALLARD and Mrs. NAPOLITANO changed their vote from ''nay'' to ''yea.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The remaining votes will be taken in the following order:

Motion to instruct on H.R. 2660, motion to instruct on H.R. 1308, motion to instruct on H.R. 1.

All will be the yeas and nays, and all will be 5-minute votes.

MOTION TO INSTRUCT CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

The SPEAKER pro tempore. The unfinished business is the question on the motion to instruct conferees on H.R. 2660 offered by the gentlewoman from Connecticut (Ms. DELAURO), on which the yeas and nays were ordered.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct conferees offered by the gentlewoman from Connecticut (Ms. DELAURO).

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 310, nays 101, not voting 23, as follows:

[Roll No. 613]

YEAS—310

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burr
Burton (IN)
Calvert
Camp
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Clay
Clyburn
Coble
Conyers
Cooper
Costello
Cox
Cramer
Crenshaw
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Dunn
Edwards
Ehlers
Emanuel
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Frost
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Gordon
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hayes
Hayworth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (NY)
Kirk
Kleczka
Kline
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney