voted to unionize their workplace and I urge all my colleagues to reject this legislation and vote against cloture.

Mr. LOTT. Mr. President, before the Senate votes on cloture on my motion to proceed to S. 1788, the National Right to Work Act, I want to give credit where due.

This bill represents the determination of Senator LAUCH FAIRCLOTH to bring to the national agenda a critically important issue. That issue is the question of whether an American worker can be compelled to join a union and pay dues to it.

The right to join a union is secured by law, as indeed it should be. The right not to join is another matter.

Language to that effect in the National Labor Relations Act of 1935 was vitiated in the same legislation by a provision permitting union officials to secure contracts requiring union membership as a condition of employment.

It is long past time for us to rectify that mistake.

I emphasize that this is not a matter of being pro-union or anti-union. My father was a union pipefitter in a Mississippi shipyard, and I can personally appreciate the importance of union membership to millions of our fellow Americans.

But the American people do not like compulsion, whether it is directed against them or against their neighbors. Although we are a nation of joiners, we like to join groups and organizations of our own volition, not because someone in authority tells us to do so.

That principle is especially important when it comes to earning a living for yourself and your family. We should not tolerate efforts to hinder any American from that goal.

Twenty-one States have now enshrined that principle in their own laws, to protect workers from compulsory unionism. In the remaining States, entrenched interests have thus far staved off reform efforts.

I believe it is time to give all American workers the same right, whether they live in 1 of those 21 States or in a State without a right-to-work law.

So I urge a vote for cloture on the pending motion to proceed, so that the Senate can at last reconsider the issue of compulsory unionism, and vote on it, and do right by the working men and women of this country.

CALL OF THE ROLL

The PRESIDING OFFICER. The mandatory quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to consideration of S. 1788, the National Right to Work Act, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Mississippi [Mr. COCHRAN] is necessarily absent.

The yeas and nays resulted—yeas 31, nays 68, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—31

Bennett	Gregg	Nickles
Brown	Hatch	Pressler
Burns	Helms	Shelby
Coats	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Kempthorne	Thomas
Faircloth	Kyl	Thompson
Frahm	Lott	Thurmond
Frist	Lugar	Warner
Gramm	Mack	
Grassley	McCain	

NAYS—68

Abraham	Exon	Lieberman
Akaka	Feingold	McConnell
Ashcroft	Feinstein	Mikulski
Baucus	Ford	Moseley-Braun
Biden	Glenn	Moynihan
Bingaman	Gorton	Murkowski
Bond	Graham	Murray
Boxer	Grams	Nunn
Bradley	Harkin	Pell
Breaux	Hatfield	Pryor
Bryan	Heflin	Reid
Bumpers	Hollings	Robb
Byrd	Inouye	Rockefeller
Campbell	Jeffords	Roth
Chafee	Johnston	Santorum
Cohen	Kassebaum	Sarbanes
Conrad	Kennedy	Simon
D'Amato	Kerrey	Snowe
Daschle	Kerry	Specter
DeWine	Kohl	Stevens
Dodd	Lautenberg	Wellstone
Domenici	Leahy	Wyden
Dorgan	Levin	

NOT VOTING—1

Cochran

The PRESIDING OFFICER. On this vote, the yeas are 31, the nays are 68. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

TEAMWORK FOR EMPLOYEES AND MANAGEMENT ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 295, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 295) to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dorgan modified amendment No. 4437, of a perfecting nature.

Kassebaum amendment No. 4438, of a perfecting nature.

Mr. PELL. Mr. President, I have many times made statements about my long interest in developing improved avenues of communication between employees and their bosses, often referred to as codetermination. My statement therefore, will be brief today.

When employees and employers decide to enter into workplace committees to discuss workplace-related issues, both sides must place a great amount of trust and faith in the other. But society has instilled in workers the idea that employers are not allies but adversaries. Employers, who must be concerned about the health of the company, often view their employees in a similarly skeptical fashion.

For that reason, labor and management should always be commended when they join together in sincere cooperation for the benefit of all concerned. It is, however, important that the two be really interested in cooperating with the other and that the cooperation be sincere. Both employees and employers must trust the other and be sure that their views matter to the other.

While I do not see the need to create a strict framework for these conversations to take place, I do believe it is vital that employees feel confident they will not be punished for sharing their honest views with their employer. Workers must also feel that their views and thoughts are honestly being represented by those employee members of a workplace committee.

For that reason, I strongly oppose S. 295. Workers cannot be expected to take part in any committee under the total control of their boss. In any competitive job market, what right-minded worker would take the risk of sharing unpopular views about his workplace when the boss has complete control of the work committee?

During the 103d Congress, I introduced legislation outlining my views on this issue. During Labor Committee consideration of S. 295, I worked to develop compromise legislation to allow employees to select their representatives for workplace committees, to ensure that committee agendas are open to amendment by both labor and management and to prohibit unilateral termination of a workplace committee.

Teamwork is important on the playing field or in the workplace. As a old Princeton rugby player, I know you don't win the scrum unless you and your teammates have confidence in each other and work for the benefit of all.

Mrs. MURRAY. Mr. President, I rise today in full support of teams and yet, must voice my concerns with the proposed TEAM Act. It is very difficult not to support the initial goals of S. 295.

Who doesn't want cooperation between employees and their managers? I have met with countless companies from across Washington State who have boasted of increased productivity and efficiency from these teams. Their results have been impressive and have encouraged initiative and employee participation.

However, these cooperative partnerships are currently in place and functioning without disruption. Teams today, throughout my State and across American are succeeding and thriving. In fact, 96 percent of large employers and 75 percent of all employers report using such teams and employee involvement programs. These facts lead to my confusion over the need for additional legislation.

Employee committees, work teams, and quality circles that discuss questions of efficiency, productivity, quality, and work practices are currently allowed. Nothing prevents these teams from existing today and their growing popularity in corporations everywhere is proof of their strong existence.

I am most concerned about the delicate balance between management and employees established by the National Labor Relations Act and enforced by the National Labor Relations Board. This board has been charged with investigating possible section 8(a)(2) violations which have averaged just three violations per year for the last 22 years. In fact 20 years ago, the NLRB ruled against 29 section 8(a)(2) violations. Last year, the NLRB ruled against just 24 violations. There is no growing trend to stop these partnerships. There are no attempts by the NLRB to seek out and prevent these law-abiding employee-employer teams.

These cases can be compared to the 7,478 cases in 1995 which forced employers to hire back unlawfully discharged employees and the 8,987 cases last year in which employers had to provide employees back pay.

I wholeheartedly support the cooperation fostered through teams in companies both large and small. Washington State has witnessed enormous benefits from these employee committees that discuss issued from efficiency to quality of life. Let's continue this cooperation without tipping the scale and sacrificing workplace democracy.

If the employer chooses committee representatives to discuss issues of wages and hours, we will lose the entire management-employee balance. Mr. President, I have spoken with Secretary Reich about this issue after several meetings with concerned Washington State companies. I am confident that the teams now in place will remain in place and continue to prosper.

Let's maintain this current system, which is working, without jeopardizing these critical relationships.

Mr. HATFIELD. Mr. President, I rise to speak in support of the Teamwork for Employees and Management Act, S. 295, better known as the TEAM Act. I firmly believe that to be competitive in today's marketplace managers and employees need to have open lines of communication. The TEAM Act would amend the National Labor Relations Act [NLRA] to clarify that an employer may establish and participate in worker-management organization to address matters of mutual interest; quality, productivity, and efficiency. In addition, the bill would not allow the entity to negotiate or enter into collective-bargaining agreements.

Many American businesses have discovered that including their employees in workplace decisionmaking has increased their productivity. Unfortunately, a series of rulings by the National Labor Relations Board [NLRB] has prohibited employers from meeting with employees to discuss issues such as productivity, safety, and quality. While the NLRB made a decision based upon a fair interpretation which takes into account current law, this law was written at a time when company unions were commonly used to avoid unionization. However, I do point to the NLRA's failure to account for today's work force situations where there is an honest effort to increase productivity, safety, and quality among employees and employers.

Mr. President, in my home State of Oregon we have seen tremendous growth and development, much of it attributed to the influence of the electronics industry. To be competitive in today's international electronics market, employees must act in partnership with management. These partnerships succeed in a cooperative rather than an adversarial environment. However, under the specter of litigation, companies are fearful of implementing employee involvement programs [EI] or have stopped them altogether. Under the current National Labor Relations Board interpretation of the law, the definitions are so broad as to prohibit or restrict implementing these employee involvement programs. Again, many of our Federal labor laws were written in the 1930's, at time when employers used company unions or sham unions to avoid negotiating with representatives of employee selected unions. Labor laws such as Davis-Bacon were written in the 1930's and we know that it is in dire need of reform. These laws need to be updated and employers must be able to discuss the workplace environment without the fear of litigation or violating the National Labor Relations Act.

I believe that the TEAM Act will update and improve existing law to address the issue of legitimate company efforts to include employee input and increase competition in the marketplace. As written, S. 295 only amends the section of the NLRA which prohibits employer-dominated labor organizations and specifically provides that all other rights under the NLRA remain intact. Organizations do not have the authority to enter into or negotiate collective-bargaining agreements or to amend existing agreements and the TEAM Act certainly does not affect an employee's right to choose union representation. If workers choose to work through union representation, the employer must recognize and then arbitrate with the union.

Mr. President, my father was a longshoreman and I am an advocate for the common worker. Yet, I support the TEAM Act. It is not a contradiction to support labor and management when both mutually agree to improve work force efficiency, safety, and productivity; benefiting all those involved in the process. Give credit to today's workers who know their options and know when they are being treated fairly or unfairly. The TEAM Act secures an innovative opportunity for workers to contribute to the success of their companies. Let us ensure that workers have that option by passing the TEAM Act.

Ms. MOSELEY-BRAUN. Mr. President, I rise today in opposition to the TEAM Act.

The future prosperity of the United States depends, in no small part, on fostering a cooperative partnership between labor and management, so that we can continue to produce the best products, provide the best services, and develop the best work force in the world. This partnership is built on the principal of equality.

The United States is founded on this principal of equality. We, as a Nation, have a strong sense of fair play and of the importance of a level playing field. Allowing workers a real opportunity to unionize, to elect representation, and to bargain collectively is an important and basic part of these values.

In the 1920's and 1930's companies routinely used company unions or employee representation plans, as they were called to rebuff attempts by legitimate unions to organize and seek election by the workers within the company.

These company unions were created and controlled by management and could be disbanded or disregarded at the convenience of the company. The employee representatives were handpicked so that workers would not democratically elect their own representatives.

The company unions ended with the enactment of section 8(a)(2) of the National Labor Relations Act in 1935. Section 8(a)(2) was enacted to provide workers with the opportunity to be represented by someone who was not selected by the company, but rather someone who was democratically elected. The TEAM Act erodes that essential protection, and therefore represents a step back toward the days of company unions.

Current law does not prevent any worker from discussing any subject with management. The law merely prohibits a worker or workers from acting as the representative of the employees, in an employer dominated committee, to make decisions regarding wages, hours, and conditions of employment. Workers can meet individually, in small groups, or as a whole with management to talk, express opinions, or give suggestions.

What Section 8(2)(a) prohibits is employer creation and domination of employee groups where terms and conditions of employment are worked out. This falls under the prohibition that a company may not dominate or interfere with the formation or administration of any labor organization.

The fear of a return to company unions as a means of preventing union representation is very real. In fact, a company called Executive Enterprises is holding conferences across the country this summer entitled, ''How to Stay Union-Free Into the 21st Century.'' At a session called ''What Your Company Can Do Now to Preserve its

Union-Free Status Before Organizing Starts,'' the brochure tells participants they will learn—how your employee participation and empowerment programs can be successfully modified to avoid unfair labor practices and aid in union avoidance. The intent could not be more clear, nor could a better argument be made against this legislation.

The legislation we are considering today was written based on the false premise that the protections provided to workers under section 8(a)(2) of the National Labor Relations Act prevent cooperation in the workplace. Proponents argue that the National Labor Relations Act does not allow modern management to work with employees in a cooperative manner or in teams within the workplace.

In fact, section 8(a)(2) does not need to be weakened in order for this cooperation or these teams to exist. Under the current protections provided for in the National Labor Relations Act teams are flourishing throughout the country.

There are teams operating in companies across my State of Illinois. I have had the pleasure of talking with CEO's of Illinois companies who highlighted the excellent results of having workers come together on teams to address production problems and quality problems.

Under current law, companies are allowed to delegate significant managerial responsibilities to employee work teams. Employers can put together employee committees to consider quality, efficiency, and productivity. Employers can use employee expertise to help them create better, higher quality products in less time and with less cost, so that American goods are better, cheaper, and more competitive in overseas markets.

Thirty thousand companies across the Nation have some form of employee teams operating in their factories and shops; 96 percent of large employers have employee involvement programs and 75 percent of all workplaces have such programs. The numbers speak for themselves.

This legislation goes far beyond allowing cooperative teams designed to increase quality, efficiency, and productivity. This bill would allow employer chosen teams to engage in give-and-take regarding wages, hours, and other conditions of employment. Unelected employees would have the ability to make decisions about the basic working conditions of their fellow workers.

One of the key arguments many companies have made is that they are concerned that the teams operating in their shops may be found to violate section 8(a)(2) in some way. The Electromation case has been held up as an example of teams being ruled illegal by the National Labor Relations Board.

The background on this case is instructive. The employees at Electromation were unhappy over a series of changes the employer had made to compensation and work rules. The employer responded by implementing action committees. When the employees nonetheless turned to an outside union for representation, the employer suspended the committees and blamed the union for the suspension. The action committees were a vehicle to prevent union representation. A Bush administration appointed NLRB found that, in the Electromation case, the company had violated the law.

This case illustrates exactly the reason section 8(a)(2) exists, to protect against abuse. Under current law, employee teams are legal and they exist. As long as employers do not control the proceedings, employers can talk with employees about any issue they choose. Cooperation between employees and employers is vital to any successful business and the law in no way prevents this cooperation. The law merely prevents abuse.

Let us support a strong partnership between innovative employers and creative employees, and continue to let this section 8(a)(2) of the National Labor Relations Act protect the precious balance between the rights of employees and employers. I urge my colleagues to vote against the TEAM Act.

Mr. FEINGOLD. Mr. President, I rise today to speak in strong opposition of S. 295, the teamwork for employees and management bill. This bill, the so-called TEAM bill, is part of the continuing Republican assault on working families. It would virtually nullify section 8(a)(2) of the National Labor Relations Act, which forms the basis for collective bargaining procedures in the United States, and prohibits employers from dominating or interfering with the formation of labor organizations. Labor organizations, as defined by the NLRA, are composed of employee participants and exist for the purpose of dealing with employers regarding grievances, labor disputes, wages, rates of pay, hours of employment, or working conditions.

The TEAM Act would gut section 8(a)(2). In the name of promoting collaboration and communication between workers and managers, this bill would allow companies to dictate the membership and agenda of workplace teams. These teams would make recommendations to management on issues of quality, efficiency, and productivity, but could also discuss broader issues related to wages, hours, and working conditions.

Mr. President, I want to make it clear that I have no problem with the concept of employers and employees working together in crosscutting groups to develop innovative ways to improve quality or increase efficiency in the workplace. I have visited workplaces in my State that have implemented quality circles and labor-management committees, and have been impressed with their results.

An example is Master Lock, Inc., which I toured several summers ago. This leading Wisconsin company is a shining example of how employer-employee cooperation has led to improved working relationships and increased competitiveness. The company's joint labor and management coalition, comprised of various committees which address issues such as health and safety and ergonomics, has the support of the union and has resulted in improved employee morale and productivity.

Indeed, there has been a vast proliferation of such committees, or teams, in recent years. These organizations are useful, and legal, as long as they do not interfere with the collective bargaining process. Current law allows employee involvement, which I wholeheartedly support.

What I do object to is the notion that companies should appoint all members of workplace teams, particularly in cases in which teams are given broad reign to discuss issues that have been the domain of collective bargaining for the last 60 years. Under this bill, employers would have the right not only to select who belongs to teams, but would also be able to remove those members at any time, for any reason. Management could set the agenda, including discussion of wages, hours, and working conditions, as long as the employee members did not make official recommendations on behalf of their colleagues on these issues. This, I am convinced, would undermine the collective bargaining process.

Senator Robert Wagner, the original sponsor of the NLRA, recognized that employees are empowered only when they select their own representatives in a democratic process. More than 60 years ago, he said, ''[only] representatives who are not subservient to the employer with whom they deal can act freely in the interest of employees. Simple common sense tells us that a man does not possess this freedom when he bargains with those who control his source of livelihood.'' And yet, the TEAM Act threatens to take precisely that freedom away from America's workers. Allowing companies to select all worker representatives and dominate team activities would be a significant step backward in workplace democracy. It would take us back to the days of company unions.

Supporters of the TEAM Act are quick to point out that the language of the bill specifically prohibits teams from engaging in collective bargaining with management. But in fact, employees who serve on management-selected teams will represent their coworkers. That is a labor organization, and that is precisely what Congress intended to prevent when it passed the NLRA. In fact, Congress has repeatedly rejected the notion of company-dominated labor organizations—in the 1930's, and again in 1947 during debate on the Taft-Hartley Act.

This bill threatens real, democratically elected worker representation. Even though the bill says that management-dominated teams would not be allowed to negotiate with employers

about wages, benefits, or working conditions, teams can still discuss all these issues, as long as they don't make recommendations to management on behalf of workers. It is not difficult to imagine situations in which managers who prefer dealing with self-selected teams would place more weight on the ideas of teams than on the proposals of unions. In this way, the bill threatens the viability of unions.

Labor experts agree. The bipartisan Dunlop Commission, made up of leading business, union, and academic representatives, conducted an in-depth analysis of labor-management relations in 1993 and 1994. One of their recommendations, upon completion of the study, was: ''The law should continue to make it illegal to set up or operate company-dominated forms of employee representation.'' Members of the Dunlop Commission, including four former Cabinet Secretaries, the CEO of Xerox, a representative from the small business community, and several academics, unanimously oppose the TEAM Act. I'm sure all of my colleagues have also read the letter signed by more than 400 of the Nation's labor law and industrial relations professors opposing this bill. They say in their letter, ''we are persuaded that passage of the TEAM Act would quickly lead to the return of the kind of employer-dominated employee organization and employee representation plans which existed in the 1920's and 1930's.''

And in fact, that is the real goal of the TEAM Act. Management-dominated teams are antidemocratic mechanisms for companies to fight real worker-selected representative labor organizations. They are anti-union tools. Research has shown that employers who establish teams, or employee involvement plans, after union organizing campaigns are more likely to defeat unions than those who do not. Without exception, managers surveyed in a 1989 Harvard Business School study agreed that employee representation plans were ''a valuable and proven defense against unionization.''

Edward Miller, a former chairman of the NLRB and a current management-side labor lawyer, testified in 1993 before the Dunlop Commission, ''While I represent management, I do not kid myself. If section 8(a)(2) were repealed, I have no doubt that in not too many months or years sham company unions would again recur.''

There are many misconceptions among my colleagues about current labor law, and about what this bill would do. Fred Feinstein, the general counsel of the NLRB, investigates possible violations of the NLRA and prosecutes meritorious claims. Mr. Feinstein recently responded to a letter from the senior Senator from Massachusetts, Senator KENNEDY, to clarify what in his opinion were some inaccurate statements about the NLRA and the TEAM Act, made last week on the Senate floor. In his letter, Mr. Feinstein explained that, under current law, it is not illegal for employers to supply office supplies and meeting space to employee organizations, or to talk to employees or seek suggestions. It is not illegal for employers to discuss flexible work schedules with employees, or to seek input from them about improving productivity, or to talk to them about tornado warning procedures. Despite assertions to the contrary made by my colleagues last week, none of these procedures is illegal.

The bottom line, according to the general counsel of the NLRB, is that ''employees can provide information or ideas without engaging in dealing under the NLRA. Further, employees can make proposals through an organization, to which the employer may respond, where the employees have control of the structure and function of the organization.''

If this Congress really wanted to empower workers and encourage employee involvement and communication with management, it would allow workers to select their own representatives to teams, so that they would be accountable only to their fellow employees. More importantly, it would empower the NLRB to impose more powerful sanctions on companies that unlawfully discharge employees involved in union organizing. According to the Dunlop Commission, union supporters are fired illegally in one out of four elections. This rate is five times higher than it was in the 1950's, and remedies often take place several years after the event.

The real purpose of this bill is to undermine workplace democracy, and to bash on unions, not to empower employees. I am pleased that President Clinton has taken a stand on behalf of working men and women by pledging to veto this unwise and destructive bill. But I hope the bill never reaches his desk. I urge my colleagues to support representative democracy in the workplace, and to oppose the TEAM Act. Let's respect the right of employees to select their own representation, just as we have insisted on the right of citizens to select their own representatives to this body for over 200 years.

Mr. CHAFEE. Mr. President. I appreciate the opportunity to speak in favor of the TEAM Act, S. 295. I want to commend our able chairman of the Labor and Human Resources Committee, Senator KASSEBAUM, for her vision and tenacity in shepherding this bill to the floor.

I have closely examined the arguments made by both labor and management on the issue of teaming, and the state of current law in this area.

In my view, Congress has a responsibility to provide an unambiguous safe harbor for employers to utilize employee participation groups, quality circles, and other team concepts to advance the competitiveness of U.S. industry. The health of our economy and the jobs on which we all depend are at stake in this struggle.

The National Labor Relations Board [NLRB] has been left with the difficult task of administering a 61-year-old statute which has changed little since its enactment in 1935. The state of labor management relations was very different in those days, with unions struggling to secure their place in our industrial fabric.

The National Labor Relations Act [NLRA] was a logical response to this turbulent period in our labor management history. The provision of the NLRA aimed at preventing employers from creating sham unions, section 8(a)(2), was a direct response to this challenging period.

It is this very provision and how it is being interpreted today by the NLRB that is the cause for this debate and the legislation now before the Senate.

Most labor management strife faded from the industrial landscape long ago. In contrast, today, American businesses and their employees are in the fight of their lives to remain competitive in this global marketplace. We have lost tens of thousands of high-paying manufacturing jobs over this past decade to foreign competition. Unfortunately, I can identify countless casualties in my own State of Rhode Island.

This troubling circumstance has forced American industry to produce better products, to become more efficient and to increase productivity. This painful, but necessary reexamination has placed an absolute premium on labor-management cooperation.

Those firms that have been able to succeed and adapt to this new environment have increasingly relied upon employee participation groups, quality circles, and other team concepts to strengthen productivity, weed out inefficiency, and respond rapidly to changing consumer attitudes and demands.

Mr. President, enactment of the TEAM Act would simply conform labor law with what is already occurring on shop floors throughout America. The fact is, employee involvement committees, quality circles and other team concepts exist in some 30,000 workplaces across the country. All but a small percentage of our largest employers stake their very survival on the ability to form team mechanisms and employee participation groups.

Here is the problem in a nutshell. Section 8(a)(2) of the NLRA prohibits employers from interfering with the formation and/or organization of any ''labor organization,'' or from contributing financial support to such entities. On the surface that seems reasonable.

However, the definition of ''labor organization'' makes illegal most of the employee involvement committees in operation today, since it stipulates that any organization which deals with hours of employment or conditions of work is a ''labor organization.''

The fact is that in today's complex workplace conditions of employment can be very broadly construed to apply

to how an assembly line is configured, to the kind of protective gear employees must wear, or even to attendance policies.

Faced with this ambiguous situation, employers need to have a safe harbor within which such employee involvement committees can operate without fear of NLRB intervention.

The Team Act is that safe harbor. It would authorize the use of employee participation teams to help strengthen the competitiveness of American firms, while making clear that such mechanisms cannot be used to subvert or replace the collective bargaining process, or an employee's right to union representation.

Employers and employees must be empowered with the necessary tools to compete in a global economy. S. 295 is a logical, balanced response, which contains the necessary safeguards to protect unions and workers, while at the same time strengthening needed employer-employee cooperation.

I am hopeful President Clinton will reconsider his staunch opposition to this critical legislation.

AMENDMENT NO. 4437

The PRESIDING OFFICER. The question occurs on amendment 4437 offered by the Senator from North Dakota [Mr. DORGAN]. There will be 1 minute of debate on the amendment equally divided in the usual form.

The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, there is not a disagreement in this Chamber about whether there ought to be teamwork in the workplace. We believe there ought to be opportunities for management and workers—those who own businesses and those who work in the businesses—to get together and establish conditions to work together to become more efficient and to find ways to do things in a better way.

There is a lack of clarity as a result of NLRB decisions. I have offered an amendment that tries to establish additional clarity that permits workplace cooperation. There is a right way to do this and a wrong way to do this.

The amendment that I have offered, I think, is the right way to enhance teamwork in the workplace to achieve those goals. I believe the underlying legislation that comes to the floor of the Senate does much more than that in a negative way.

So I ask the Chamber to support the amendment that I have offered and to oppose the proposal that is brought to the floor of the Senate in the underlying piece of legislation.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, regarding the Dorgan amendment, I would just say that I think we are better off the way things are than to try to develop a rigidity that I think would occur in the amendment offered by the Senator from North Dakota. It requires a committee structure that is very rigid and lacks the flexibility that we were trying to address. I do not believe it in any way answers the concerns and the questions that have been raised by the actions of the NLRB regarding a lack of understanding on how employees get together under the National Labor Relations Act. That was the purpose of the legislation before in the TEAM Act, and I will address my amendment later.

Mr. DORGAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. CAMPBELL). The question is on agreeing to amendment of the Senator from North Dakota. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Mississippi [Mr. COCHRAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 36, nays 63, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—36

Akaka	Dorgan	Levin
Baucus	Exon	Mikulski
Biden	Feinstein	Moynihan
Boxer	Ford	Pell
Bradley	Glenn	Pryor
Breaux	Graham	Reid
Bryan	Harkin	Robb
Bumpers	Inouye	Rockefeller
Byrd	Johnston	Sarbanes
Conrad	Kennedy	Simon
Daschle	Kerry	Wellstone
Dodd	Kohl	Wyden

NAYS—63

Abraham	Gramm	Mack
Ashcroft	Grams	McCain
Bennett	Grassley	McConnell
Bingaman	Gregg	Moseley-Braun
Bond	Hatch	Murkowski
Brown	Hatfield	Murray
Burns	Heflin	Nickles
Campbell	Helms	Nunn
Chafee	Hollings	Pressler
Coats	Hutchison	Roth
Cohen	Inhofe	Santorum
Coverdell	Jeffords	Shelby
Craig	Kassebaum	Simpson
D'Amato	Kempthorne	Smith
DeWine	Kerrey	Snowe
Domenici	Kyl	Specter
Faircloth	Lautenberg	Stevens
Feingold	Leahy	Thomas
Frahm	Lieberman	Thompson
Frist	Lott	Thurmond
Gorton	Lugar	Warner

NOT VOTING—1

Cochran

The amendment (No. 4437), as modified, was rejected.

Mrs. KASSEBAUM. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4438

The PRESIDING OFFICER. Under the previous order, the question occurs on agreeing to amendment No. 4438 offered by the Senator from Kansas [Mrs. KASSEBAUM]. There will now be 1 minute of debate on the amendment equally divided and controlled in the usual form.

The Senator from Kansas [Mrs. KASSEBAUM].

Mrs. KASSEBAUM. Mr. President, my amendment is identical with the House-passed language. I want to make a couple of points about why I believe the TEAM Act is important. One, it applies only to nonunion settings.

The PRESIDING OFFICER. The Senator will withhold her comments until we can get order in the Chamber.

The Senator may proceed.

Mrs. KASSEBAUM. This applies only to nonunion settings.

It has been misrepresented by some as applying to union companies as well.

Second, the purpose for this is in order to say to employers that they should be free to discuss with employees those issues of concern to both. It is to address an environment in the workplace that will help us meet the new reality of our competition and our productivity today that is important for good communication. It is a bill that only represents common sense. It is not in any way designed to be a destroyer of the unions, and I urge support for my amendment and the TEAM legislation.

The PRESIDING OFFICER. Is there further debate?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

May we have order in the Senate, please.

The Senator from Massachusetts [Mr. KENNEDY] is recognized.

Mr. KENNEDY. Mr. President, this is a cosmetic change to the underlying bad bill. Effectively, the TEAM Act would apply to 90 percent of American businesses. The fact is 30,000 companies now have these joint, cooperative programs in workplaces across the country. They cover 75 percent of all the employers, 96 percent of the Nation's biggest employers. There have been 224 cases that have been brought over the period of the last 4 years. There have only been 15 cases decided by the NLRB—only 15 cases; 30,000 incidents of cooperation and only 15 cases in the last 4 years.

This is a solution to a problem that does not exist. Basically, what you are doing with it is opening up the very real possibilities of companies being able to dictate who will speak for the employees on working conditions and all other matters that concern them in the workplace. It puts management in control of both sides of the bargaining table. It means management will be talking to itself instead of talking honestly with workers, and it does not deserve to pass. It deserves the veto that it will receive.

The PRESIDING OFFICER. All time has expired on the amendment.

Mr. COHEN. I ask for the yeas and nays.

Mrs. KASSEBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Mississippi [Mr. COCHRAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 61, nays 38, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—61

Abraham	Gorton	McConnell
Ashcroft	Gramm	Murkowski
Bennett	Grams	Nickles
Bond	Grassley	Nunn
Breaux	Gregg	Pressler
Brown	Hatch	Pryor
Bryan	Hatfield	Reid
Bumpers	Heflin	Roth
Burns	Helms	Santorum
Byrd	Hollings	Shelby
Chafee	Hutchison	Simpson
Coats	Inhofe	Smith
Cohen	Jeffords	Snowe
Coverdell	Kassebaum	Specter
Craig	Kempthorne	Stevens
D'Amato	Kyl	Thomas
DeWine	Lieberman	Thompson
Domenici	Lott	Thurmond
Faircloth	Lugar	Warner
Frahm	Mack	
Frist	McCain	

NAYS—38

Akaka	Feinstein	Levin
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Inouye	Pell
Campbell	Johnston	Robb
Conrad	Kennedy	Rockefeller
Daschle	Kerrey	Sarbanes
Dodd	Kerry	Simon
Dorgan	Kohl	Wellstone
Exon	Lautenberg	Wyden
Feingold	Leahy	

NOT VOTING—1

Cochran

The amendment (No. 4438) was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate bill is considered read a third time, and the House bill, H.R. 743, is discharged from the Committee on Labor and Human Resources. The clerk will report the House bill.

The assistant legislative clerk read as follows:

A bill (H.R. 743) to amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause of H.R. 743 is stricken, the text of the S. 295, as amended, is inserted in lieu thereof, and the bill is considered read a third time.

The question is, Shall the bill, H.R. 743, as amended, pass? A rollcall vote has not yet been requested.

Mr. DASCHLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Mississippi [Mr. COCHRAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—53

Abraham	Gramm	McConnell
Ashcroft	Grams	Murkowski
Bennett	Grassley	Nickles
Bond	Gregg	Nunn
Brown	Hatch	Pressler
Burns	Hatfield	Roth
Chafee	Helms	Santorum
Coats	Hollings	Shelby
Cohen	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Jeffords	Snowe
D'Amato	Kassebaum	Specter
DeWine	Kempthorne	Stevens
Domenici	Kyl	Thomas
Faircloth	Lott	Thompson
Frahm	Lugar	Thurmond
Frist	Mack	Warner
Gorton	McCain	

NAYS—46

Akaka	Feingold	Lieberman
Baucus	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Boxer	Graham	Murray
Bradley	Harkin	Pell
Breaux	Heflin	Pryor
Bryan	Inouye	Reid
Bumpers	Johnston	Robb
Byrd	Kennedy	Rockefeller
Campbell	Kerrey	Sarbanes
Conrad	Kerry	Simon
Daschle	Kohl	Wellstone
Dodd	Lautenberg	Wyden
Dorgan	Leahy	
Exon	Levin	

NOT VOTING—1

Cochran

The bill (H.R. 743), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 743) entitled ''An Act to amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Teamwork for Employees and Managers Act of 1995''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the escalating demands of global competition have compelled an increasing number of employers in the United States to make dramatic changes in workplace and employer-employee relationships;

(2) such changes involve an enhanced role for the employee in workplace decisionmaking, often referred to as ''Employee Involvement'', which has taken many forms, including self-managed work teams, quality-of-worklife, quality circles, and joint labor-management committees;

(3) Employee Involvement programs, which operate successfully in both unionized and nonunionized settings, have been established by over 80 percent of the largest employers in the United States and exist in an estimated 30,000 workplaces;

(4) in addition to enhancing the productivity and competitiveness of businesses in the United States, Employee Involvement programs have had a positive impact on the lives of such employees, better enabling them to reach their potential in the workforce;

(5) recognizing that foreign competitors have successfully utilized Employee Involvement techniques, the Congress has consistently joined business, labor and academic leaders in encouraging and recognizing successful Employee Involvement programs in the workplace through such incentives as the Malcolm Baldrige National Quality Award;

(6) employers who have instituted legitimate Employee Involvement programs have not done so to interfere with the collective bargaining rights guaranteed by the labor laws, as was the case in the 1930's when employers established deceptive sham ''company unions'' to avoid unionization; and

(7) Employee Involvement is currently threatened by legal interpretations of the prohibition against employer-dominated ''company unions''.

(b) PURPOSES.—The purpose of this Act is—

(1) to protect legitimate Employee Involvement programs against government interference;

(2) to preserve existing protections against deceptive, coercive employer practices; and

(3) to allow legitimate Employee Involvement programs, in which workers may discuss issues involving terms and conditions of employment, to continue to evolve and proliferate.

SEC. 3. EMPLOYER EXCEPTION.

Section 8(a)(2) of the National Labor Relations Act is amended by striking the semicolon and inserting the following: '': Provided further, That it shall not constitute or be evidence of an unfair labor practice under this paragraph for an employer to establish, assist, maintain, or participate in any organization or entity of any kind, in which employees who participate to at least the same extent practicable as representatives of management participate, to address matters of mutual interest, including, but not limited to, issues of quality, productivity, efficiency, and safety and health, and which does not have, claim, or seek authority to be the exclusive bargaining representative of the employees or to negotiate or enter into collective bargaining agreements with the employer or to amend existing collective bargaining agreements between the employer and any labor organization, except that in a case in which a labor organization is the representative of such employees as provided in section 9(a), this proviso shall not apply;''.

SEC. 4. LIMITATION ON EFFECT OF ACT.

Nothing in this Act shall affect employee rights and responsibilities contained in provisions other than section 8(a)(2) of the National Labor Relations Act, as amended.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. NICKLES. Mr. President, I ask unanimous consent that with respect to the previously ordered morning business period, that Senator DASCHLE