

1 NATIONAL CAPITOL CONTRACTING

2 RPTS DAVIES

3 HJU146000

4 MARKUP ON:

5 H.R. 5203, THE "VISA INTEGRITY AND SECURITY ACT OF 2016";

6 H.R. 3636, THE "O-VISA ACT"; AND

7 H.R. 5283, THE "DUE PROCESS ACT"

8 Wednesday, May 25, 2016

9 House of Representatives,

10 Committee on the Judiciary,

11 Washington, D.C.

12 The committee met, pursuant to call, at 10:15 a.m., in
13 Room 2141, Rayburn House Office Building, Hon. Bob
14 Goodlatte, [chairman of the committee] presiding.

15 Present: Representatives Goodlatte, Sensenbrenner,
16 Chabot, Issa, Forbes, King Franks, Gohmert, Jordan, Poe,
17 Chaffetz, Marino, Labrador, Collins, DeSantis, Walters,
18 Buck, Ratcliffe, Trott, Bishop, Conyers, Nadler, Jackson
19 Lee, Cohen, Johnson, Chu, Gutierrez, Bass, DelBene,
20 Jeffries, Cicilline, and Peters.

21 Staff Present: Shelley Husband, Staff Director; Branden

22 Ritchie, Deputy Staff Director/Chief Counsel; Zachary
23 Somers, Parliamentarian & General Counsel; Andrea Loving,
24 Counsel, Subcommittee on Immigration and Border Security;
25 George Fishman, Counsel, Subcommittee on Immigration and
26 Border Security; Chris Grieco, Counsel, Subcommittee on
27 Crime, Terrorism, Homeland Security, and Investigations;
28 Alley Adcock, Clerk; Minority Chief Counsel, Chief of Staff,
29 Staff Director; Danielle Brown, Minority Parliamentarian and
30 Chief Legislative Counsel; Arron Hiller, Minority Chief
31 Oversight Counsel; Joe Graupensperger, Minority Chief
32 Counsel, Subcommittee on Crime, Terrorism, Homeland Security
33 and Investigations; and Veronica Eligan, Minority
34 Professional Staff.

35 Chairman Goodlatte. The committee will come to order.
36 And without objection, the chair is authorized to declare a
37 recess of the committee at any time. Pursuant to notice --
38 well, as soon as we have a clerk.

39 Pursuant to notice, I now call up H.R. 5203 for
40 purposes of markup, and move that the committee report the
41 bill favorably to the House. The clerk will report the
42 bill.

43 Ms. Adcock. H.R. 5203, to amend the Immigration and
44 Nationality Act, to provide for new procedures pertaining to
45 the processing of petitions and applications for immigrant
46 or non-immigrant visas, for the immigration benefits, and
47 for other purposes.

48 [The bill follows:]

49 ***** INSERT 1 *****

50 Chairman Goodlatte. Without objection, the bill is
51 considered as read and open for amendment at any point, and
52 I will begin by recognizing myself for an opening statement.

53 During a Judiciary Committee hearing late last year, a
54 State Department assistant secretary testified that
55 applicants to the U.S. Refugee Admissions Program are
56 currently subject to the highest level of security checks of
57 any category of traveler to the United States. And while
58 that is good to know, it begs the question as to why --
59 especially in this age, when terrorist threats are growing
60 exponentially -- we are not vetting all foreign nationals
61 seeking to enter the United States using "the highest level
62 of security checks possible."

63 I am sure that in response to such a question, the
64 administration would likely say that they have to balance
65 the potential risk with the potential rewards, and that
66 given the limited number of resources available to them,
67 combined with the enormous volume of people seeking entry to
68 the United States, they must use those resources in any way
69 so as to not unnecessarily delay those seeking entry to the
70 United States for legitimate purposes.

71 But Congress has an obligation to the American people
72 to help make sure that the administration is doing its best

73 to properly vet those seeking entry to the U.S. And over
74 the years, it seems that this administration has been
75 seeking shortcuts rather than security. Of course, the 9/11
76 hijackers are the preeminent example of fraud perpetrated
77 during the immigration process, fraud that allowed them to
78 murder over 3,000 Americans.

79 After the September 11, 2001 attacks, we tightened visa
80 processing. Congress created the visa security program,
81 starting with DHS units in the U.S. embassy and consulate in
82 Jeddah and Riyadh, Saudi Arabia. We put in place the in-
83 person interview requirement with a consular officer, for
84 the vast majority of individuals seeking entry to the United
85 States. Over the years, we have continued to use our
86 oversight role to keep tabs on how the Federal Government is
87 handling visa processing.

88 It is in that vein that as chairman of the Judiciary
89 Committee, I have requested numerous alien files from the
90 administration during the past few years. My staff and I
91 review them to see how applications are adjudicated and
92 whether we believe they are approved correctly. The most
93 notorious such alien file, of course, was that of Tashfeen
94 Malik, who, together with her husband, murdered 14 Americans
95 and seriously injured 22 more in a terrorist attack at the
96 husband's place of employment in San Bernardino, California
97 last December.

98 U.S. Citizenship and Immigration Services approved
99 Malik for a fiancée visa. She used that visa to enter the
100 United States, where she married her U.S. citizen fiancé and
101 subsequently became a conditional lawful permanent resident.
102 We learned from her alien file that U.S.C.I.S. did not even
103 follow its own protocol set out in current regulations in
104 approving Malik's visa.

105 I congratulate the gentleman from Virginia, Mr. Forbes,
106 for introducing H.R. 5203, The Visa Integrity and Security
107 Act. Some of its provisions are a direct result of lessons
108 learned from Malik's case. For instance, despite the fact
109 that current regulations require a certified English
110 translation to accompany any document containing a foreign
111 language submitted as part of an immigration benefit
112 application, Malik's file contained no such translation.
113 Yet, the visa was still approved. And DHS admitted, after
114 initial reports that Malik may have made terrorist-related
115 posts to social media websites, that DHS prevents their
116 adjudicators from conducting a simple search for publicly-
117 available posts by those who seek U.S. visas.

118 So, this bill requires DHS to take that common-sense
119 step as well. H.R. 5203 contains many other much-needed
120 reforms to strengthen our security measures for processing
121 visas. There is no doubt that many foreign nationals want
122 to do us harm, and there is no doubt that many will continue

123 to seek to exploit our immigration process in order to do
124 so. We must be vigilant. We must have common-sense
125 practices and procedures in place to protect ourselves from
126 harm. H.R. 5203 requires such procedures, and I urge my
127 colleagues to support the bill.

128 It is now my pleasure to recognize the ranking member
129 of the committee, the gentleman from Michigan, Mr. Conyers,
130 for his opening statement.

131 [The statement of Chairman Goodlatte follows:]

132 ***** COMMITTEE INSERT *****

133 Mr. Conyers. Thank you, Chairman Goodlatte. Members
134 of the committee, strengthening the security of the
135 immigration and visa issuance process is critical for all
136 Americans. As one who believes, as I think most of us do,
137 our Nation should be a beacon of freedom and liberty. I
138 very much appreciate the need to effectively combat
139 terrorism while maintaining our commitment to core values.
140 Unfortunately, H.R. 5203, The Visa Integrity and Security
141 Act, fails to honor those core values.

142 This failing can largely be attributed to the fact that
143 the bill reflects absolutely no input from Democratic
144 members of the committee, nor has this measure been the
145 subject of any legislative hearing. Bereft of informed
146 testimony and expert analysis, we have essentially no
147 information about the bill's potential costs, both fiscal
148 and social. Yet, even a superficial review of H.R. 5203
149 reveals its many flaws.

150 To begin with, without any exception for age or any
151 other factor, the bill singles out every national of Iran,
152 Syria, Iraq, Libya, Somalia, Sudan, and Yemen by requiring

153 the Department of State complete individualized security
154 opinions for visa applicants from these countries. And as a
155 result, vast amounts of agency time and resources would be
156 dedicated to completing security advisory reports -- for
157 example, on infants, toddlers, and others who clearly pose
158 no security risk.

159 An even more troublesome aspect of this provision is
160 that it singles out a handful of majority Muslim countries,
161 thereby dehumanizing entire populations by treating all of
162 their nationals as potential terrorists. Clearly, the more
163 we dehumanize entire populations based on religion, the less
164 likely they will become our allies against the real threat,
165 namely, terrorists who seek to do our Nation harm.

166 History has shown that arbitrary, across-the-board
167 judgments based on broad characteristics, such as
168 nationality, do nothing to enhance our security, and only
169 cast a cloud of suspicion over entire communities here in
170 our country. Another critical flaw of this bill is the
171 serious privacy concerns it presents.

172 Although H.R. 5203 mandates DNA testing for biological,
173 family-based immigration applications, the bill has no
174 provisions safeguarding this massive new database of DNA
175 that would include the DNA of potentially millions of non-
176 criminals and American citizens.

177 And finally, this bill would require significant costs

178 to implement, yet no comprehensive fix to our broken
179 immigration system.

180 Just one provision of this bill, the visa security
181 program, would come at the cost of \$120 million without
182 meaningfully targeting law enforcement and intelligence
183 resources on actual threats. An immigration reform bill
184 such as the measure that passed the Senate in 2013, or the
185 bill that had 201 House co-sponsors in the last Congress,
186 would allow law abiding immigrants to come out of the
187 shadows and get right with the law.

188 Measures such as those would make us safer by enabling
189 law enforcement and intelligence agencies to focus resources
190 on the most pressing cases. Rather than rushing to consider
191 legislation absolutely devoid of deliberative process, we
192 should devote our efforts to developing meaningful and
193 informed solutions. And so, I respectfully urge my
194 colleagues on both sides of the aisle to oppose H.R. 5203.
195 And Mr. Chairman, I thank you and yield back the balance of
196 my time.

197 [The statement of Mr. Conyers follows:]

198 ***** COMMITTEE INSERT *****

199 Chairman Goodlatte. Thank you, Mr. Conyers. It is now
200 my pleasure to recognize the sponsor of the bill, the
201 gentleman from Virginia, Mr. Forbes, for his opening
202 statement.

203 Mr. Forbes. Mr. Chairman, thank you. Mr. Chairman, I
204 being by saying Mohammed Atta, a September 11th hijacker and
205 pilot of American Airlines Flight 11, who murdered over
206 2,600 people in and around the World Trade Center; Ziad
207 Jarrah, a September 11th hijacker and pilot of United
208 Airlines Flight 93, who murdered 40 innocent people;
209 Tashfeen Malik, murderer of 14 Americans in San Bernardino,
210 California on December 2nd, 2015; Quazi Nafis, who planned
211 to bomb the Federal Reserve Bank building in New York;
212 Khalid Alim Ad-Asari, who planned to bomb dam reservoirs and
213 other high-profile targets around the United States.

214 What do all these individuals have in common? They all
215 weaponized U.S. visas. They all planned terrorist attacks

216 to murder Americans on U.S. soil. In some cases, they were
217 successful, and the death toll is in the thousands.

218 Thankfully, in some cases, they were detected and
219 arrested before they could follow through with their plot.
220 Of course, the list I mentioned is not comprehensive. And
221 as we sit here today, aspiring terrorists across the world
222 continue to plot to exploit U.S. immigration policy in order
223 to gain entry to the United States. However, as you all
224 know, Congress has a duty to the American people to make
225 necessary yet commonsense changes that help improve the
226 security of the visa screening process and bring it into the
227 21st century.

228 I have introduced H.R. 5203, The Visa Integrity and
229 Security Act, to make such changes. Although this bill will
230 not fix all of our vulnerabilities in the visa screening
231 process, it will make common-sense changes to help combat
232 fraudulent applications, strengthen the background checks
233 screening process, and enhance our national security.

234 The VISA Act requires immigration officials to check
235 publicly-available Internet postings of immigration benefit
236 applicants, including their postings on social media. Such
237 postings are not necessarily dispositive of visa
238 eligibility, but should be used as additional evidence to
239 support or deny visa eligibility or issuance.

240 The bill requires an applicant to submit DNA test

241 results in instances where an immigration benefit is
242 predicated on a biological relationship. This is one
243 additional step that we can take in order to help ensure
244 that those who claim a biological relationship in order to
245 gain access to the United States are, in fact, biologically
246 related.

247 The VISA Act also requires security advisory opinions
248 for nationals of certain countries that are hotbeds of
249 terrorist activity, such as Iraq, Iran, Syria, Libya, Sudan,
250 and Yemen, as well as any other country that would be
251 determined by the Secretary of State. Such a requirement is
252 already in place for applicants from some countries through
253 administrative policy, but this bill would ensure that the
254 requirement cannot be removed without Congressional
255 approval.

256 The VISA Act also raises the burden of proof for visa
257 applicants and aliens seeking other immigration benefits so
258 that they must prove by clear and convincing evidence that
259 they are eligible for the visa or immigration benefits and
260 admission to the U.S.

261 I know that there is concern over this heightened
262 standard, but in the face of an ever-increasing terrorism
263 risk, and an administration whose motto seems oftentimes to
264 be to get to "Yes" for immigration benefits, it is time for
265 a change. Evidence makes clear that the current standard,

266 which amounts to the preponderance of the evidence, is not
267 working to prevent fraud.

268 The VISA Act also forces U.S. Citizenship and
269 Immigration Services to start utilizing advanced analytic
270 software to prospectively identify patterns of fraud in
271 immigration applications. The administration staff has
272 already admitted to the committee that they can currently
273 only identify fraud patterns after benefits have been
274 approved, but it is commonsense to use tools to identify
275 fraud before benefits are issued.

276 As I previously stated, the bill is not the final
277 action that Congress will have to take on the issue of visa
278 security. And to that point, the bill contains a
279 requirement that the Government Accountability Office
280 conduct a review of the visa process and report to Congress
281 on their findings and recommendations.

282 Terrorists use travel documents as weapons. The bill
283 strengthens our visa screening security with common-sense
284 provisions to enhance national security and the integrity of
285 our immigration system. I want to thank Chairman Goodlatte
286 and Subcommittee Chairman Gowdy for their commitment to the
287 challenges we face within our visa screening process, and
288 their support in drafting this bill with me. I urge my
289 colleagues here today to support H.R. 5203.

290 Mr. Chairman, I would like to request unanimous consent

291 to insert in the record a letter from the Federation for
292 American Immigration Reform in support of this bill. And
293 with that, I yield back the balance of my time.

294 [The statement of Mr. Forbes follows:]

295 ***** COMMITTEE INSERT *****

296 Chairman Goodlatte. Without objection, the letter will
297 be made a part of the record, and I thank the gentleman.

298 And it is now my pleasure to recognize the ranking
299 member of the Subcommittee on Immigration and Border
300 Security, the gentlewoman from California, Ms. Lofgren, for
301 her opening statement.

302 Ms. Lofgren. Thank you, Mr. Chairman. Integrity and
303 security in the immigration and visa issuance process are
304 important goals that we all share. And the Republican bill
305 we are considering today may appear on its face like a
306 reasonable proposal. In fact, the bill would add multiple
307 new, onerous, and ineffective requirements, causing months
308 or years' long delay on top of already lengthy processing

309 times, and wreak havoc on the U.S. immigration system.

310 This bill treats all immigrants and visa applicants as
311 if they are criminals, notwithstanding whether the
312 individual is the parent or child of a U.S. citizen, the
313 spouse of a soldier serving in the U.S. armed forces, or a
314 skilled worker who has been legally studying and living in
315 the United States with no criminal record for over a decade.

316 The so-called Visa Integrity and Security Act of 2016
317 would do what nativists and anti-immigration interests have
318 been trying to do for years, bring legal immigration,
319 effectively, to a halt. Far from making our country safer,
320 this bill would divert agency resources and attention from
321 cases that present real threats.

322 The bill requires DNA testing at the expense of the
323 immigrant family, for all applications and petitions
324 predicated on a biological relationship. It does this even
325 when there is no indication of fraud or other questions
326 about the family relationship. Nursing mothers would be
327 required to undergo DNA testing for their babies. And
328 presumably, adopted children would be excluded? This
329 provision would result in significant additional costs,
330 prohibitive costs, for low-income families, for each family-
331 based immigration applicant.

332 And the Federal Government essentially will be
333 collecting and presumably holding DNA for millions of

334 people, including U.S. citizens who are petitioning for
335 family members abroad, and non-citizens with no criminal
336 records. There are no provisions in the bill for
337 safeguarding this massive new DNA collection.

338 The bill, as introduced, requires an in-person
339 interview for nearly all applications and petitions, with a
340 waiver only for children who would be 10 years of age or
341 younger at the time of interview. Even with the manager's
342 amendment, this would be a huge new burden on the
343 Immigration Service and cost untold millions.

344 For Republicans who claim to be in favor of small
345 government, this would mean hundreds of thousands, if not
346 millions, of new interview -- and hiring possibly thousands
347 or hundreds of thousands of new immigration officers. It
348 would apply in cases where, for example, the applicant has
349 already been interviewed at a consular post abroad, screened
350 by CBP at the point of entry, and interviewed multiple times
351 previously by U.S.C.I.S.

352 The bill requires interviews even when the individual
353 has lived legally in the U.S. with no criminal record for 10
354 or 20 years as a student, temporary visa holder, or is a
355 pending applicant waiting in years' long visa backlog lines.
356 And the bill gives no credence to this kind of proven track
357 record.

358 And let's consider for a moment the U.S. technology and

359 ag sectors. Other than both having a significant presence
360 in my district, what do these two disparate industries have
361 in common? They both need foreign workers. And they are
362 also two sectors in which time is of the essence. Growers
363 need to hire and deploy workers to keep fruits and
364 vegetables from rotting on the vine. Technology workers
365 bring their ingenuity to new employers and new ventures as
366 fast as you can send an encrypted text message.

367 The Republican bill is a blunt hammer with a host of
368 new requirements that will cause further processing delays,
369 and thereby endanger U.S. leadership in these key economic
370 sectors. The proposal significantly raises the burden of
371 proof from preponderance of the evidence, a standard in
372 almost all civil proceedings, to a much higher "clear and
373 convincing evidence" standard.

374 This may result in asylum seekers and refugees who fled
375 with no documents, and thus cannot meet this higher
376 standard, from being denied refuge in America. Foreign
377 students in their early 20s coming to pursue degrees at U.S.
378 universities may be denied because they cannot show by clear
379 and convincing evidence the required intent to return to
380 their home countries. Businesses, already frustrated by
381 inconsistent adjudications for categories that have vague
382 legal standards, such as specialized knowledge and
383 extraordinary ability, would find it harder to transfer or

384 bring on-board international talent because of this change
385 in the standard of proof.

386 The bill also includes a discriminatory section
387 requiring the Department of State to complete individualized
388 security advisory opinions on every visa applicant who is a
389 national of Iraq, Iran, Libya, Somalia, Syria, Sudan, or
390 Yemen. This arbitrary across-the-board requirement casts a
391 cloud of suspicion over entire communities.

392 As an Iranian-American organization wrote in a
393 statement in opposition to this bill, this provision is
394 counter-intuitive to U.S. policy interests in engaging
395 Muslim Americans and supporting their democratic
396 aspirations. I would note also that several members have
397 cited the 9/11 terrorist attacks as a rationale for this
398 provision. All 19 of those hijackers were Saudi Arabians,
399 but Saudi Arabia is not included on this list.

400 The bill is a heavy-handed, expensive, big government
401 plan that likely would cost hundreds of millions -- 120 for
402 2 years for just one provision -- and DHS has informed me
403 that -- a fraction of what is needed, again, just for this
404 one provision. It does nothing to target law enforcement
405 intelligence resources on actual threats or otherwise fix
406 our broken immigration system. There is no proof, or study,
407 or verifiable claim that any of these provisions would make
408 us safer.

409 Finally, the bill sadly fails to take into account the
410 enormous benefits to the economy and our society, from
411 travel, trade, family reunification, providing refuge to
412 those fleeing persecution, and attracting foreign students
413 and talent, that give us a competitive edge in the global
414 economy. This proposal jeopardizes all of that. I urge my
415 colleagues to oppose the bill and I thank the chairman and
416 yield back the balance of my time.

417 [The statement of Ms. Lofgren follows:]

418 ***** COMMITTEE INSERT *****

419 Chairman Goodlatte. Thank you, Ms. Lofgren. And
420 without objection, all the members' opening statements will
421 be made a part of the record.

422 [The statement of Ms. Lofgren follows:]

423 ***** COMMITTEE INSERT *****

424 Chairman Goodlatte. Are there any amendments to H.R.
425 5203? For what purpose does the gentleman from Virginia
426 seek recognition?

427 Mr. Forbes. Mr. Chairman, I have a manager's amendment
428 at the desk.

429 Chairman Goodlatte. The clerk will report the
430 manager's amendment.

431 Ms. Adcock. Amendment to H.R. 5203 offered by Mr.
432 Forbes of Virginia. Page 2, line 15 --

433 [The amendment of Mr. Forbes follows:]

434 ***** INSERT 2 *****

435 Chairman Goodlatte. Without objection, the amendment
436 will be considered as read and the gentleman is recognized
437 for 5 minutes on his amendment.

438 Mr. Forbes. Thank you, Mr. Chairman. This amendment
439 makes technical changes to the bill text and clarifies text
440 to match the original intent of the bill. Specifically, it
441 ensures that as we move into an age of electronic filing of
442 immigration applications, the signature of the applicant can
443 be provided in electronic form. And the amendment clarifies
444 that if a document requested by a U.S.C.I.S. adjudicator was

445 previously provided to the adjudicator, it should not have
446 to be provided for a second time.

447 The amendment also requires reasonably-established
448 deadlines for responses to requests for evidence. And
449 lastly, the amendment provides that the in-person interview
450 is only required for the initial application or petition,
451 but a subsequent interview can be required in certain
452 circumstances. The changes bring the bill in line with its
453 initial intent, and I urge my colleagues to support it, and
454 I yield back the balance of my time.

455 Chairman Goodlatte. Will the gentleman yield?

456 Mr. Forbes. I would yield.

457 Chairman Goodlatte. I thank the gentleman for
458 yielding. I just want to clarify something that was
459 referenced by both the gentleman from Michigan and the
460 gentlewoman from California, with regard to DNA testing, and
461 their statements are not accurate in that regard. Both made
462 reference to a DNA data base.

463 There is no provision whatsoever anywhere in this
464 legislation for a DNA data base. In fact, the DNA material
465 that is required with DNA testing would not even be
466 submitted to the immigration service. Only the results of
467 such test -- and I am reading from the bill -- the results
468 of such tests are submitted as part of the petition or
469 application. That is it. There is no DNA data base. Thank

470 you for yielding to me, I just want to make that clear.

471 Mr. Forbess. Mr. Chairman I would obviously agree with
472 your references, but there are a lot of things that were
473 stated in the opening remarks that are not accurate. And I
474 think we will get in those in the debate, including the fact
475 of whether or not this bill is a protection of the core
476 values of this country and where we are. And I think those
477 core values are exactly what is at stake and I look forward
478 to debating that as we talk about the bill. And with that I
479 yield back.

480 Chairman Goodlatte. The chair thanks the gentleman.

481 Mr. Conyers. Mr. Chairman.

482 Chairman Goodlatte. For what purposes does the
483 gentleman seek recognition?

484 Mr. Conyers. May I strike the last word?

485 Chairman Goodlatte. The gentleman is recognized for 5
486 minutes.

487 Mr. Conyers. Thank you very much. Mr. Chairman and
488 members of the committee, I have no objection to the
489 amendment. However, the minor revisions to H.R. 5203 that
490 would effectuate do almost nothing to address the profound
491 problems, indeed the paralysis, that this bill would cause
492 in our visa and immigration system.

493 H.R. 5203 would still discriminate against people who
494 are citizens of certain Middle Eastern predominately Muslim

495 countries such as Iraq and Iran, harming international
496 efforts to fight terrorism and law enforcement
497 collaborations with Muslim American communities here at
498 home.

499 New across the board requirements including mandatory
500 DNA testing, required interviews, and an unreasonably high
501 standard of proof would continue to apply to almost all visa
502 and immigration applications. And the cost would be
503 astronomical.

504 Ultimately, H.R. 5203 is a blunt instrument and a
505 poorly considered measure that harms our national security
506 and would wreak havoc on our immigration system.
507 Unfortunately, this amendment that we are now considering
508 does nothing to fundamentally change that. And so I thank
509 the chair and yield back the balance of my time.

510 Chairman Goodlatte. For what purpose does the
511 gentlewoman from California seek recognition?

512 Ms. Lofgren. To strike the last word.

513 Chairman Goodlatte. The gentlewoman is recognized for
514 5 minutes.

515 Ms. Lofgren. I appreciate the chairman's clarification
516 on the DNA. I was surprised at your comment, but I think to
517 the extent that the courts look at the record and we know
518 from our private meeting with the Supreme Court Justices;
519 maybe they do not give much credence to our proceedings.

520 Those comments will be very important because I do not think
521 either side of the aisle wants to compile a large DNA data
522 base. I also wanted to note, and ask unanimous consent to
523 put into the record, opposition to this bill from the United
524 States Chamber of Commerce.

525 In their letter, they note that although they are
526 pleased with the committee's willingness to address some of
527 their concerns in the manager's amendment, the Chamber
528 remains concerned of some of the provisions of the bill and
529 they oppose the bill. They oppose the higher burden of
530 proof because it is a top-down, one size fits all approach
531 and they do not believe that it would really focus on
532 potential threats. They are continued to be concerned about
533 the in-person interview provisions.

534 Although accommodations were made, they acknowledge, in
535 the manager's amendment to initial petitions alone, it would
536 still require a massive increase in personal interviews,
537 increase costs, dramatic delays really for no increase in
538 security, and what they say is a -- injects in another
539 element of uncertainty for members of the Chamber of
540 Commerce and their employees. They further object to the
541 DNA testing requirements, and I will not summarize their
542 letter, but merely ask for unanimous consent to place it
543 into the record.

544 Mr. Forbes. Would the gentlelady yield?

545 Ms. Lofgren. Yes.

546 Mr. Forbes. And I am certainly not going to object
547 because I think the letter should go in the record, but I do
548 question your characters at -- where did they say that they
549 opposed the bill? They say they have concerns about the
550 bill, but this letter is not an opposition to the bill, it
551 is expressing concerns with provisions in the bill. Is that
552 not correct?

553 Ms. Lofgren. Yes.

554 Mr. Forbes. And the Chamber was very specific that
555 this is not an opposition to the bill, it is expressing
556 concerns with provisions in the bill, which quite often
557 happens. So I have no objection to putting the letter in
558 because the letter will speak for itself.

559 Ms. Lofgren. Well I took their concerns as objection,
560 but I do not want to mischaracterize their letter.

561 Mr. Forbes. Thank you, that is all I ask.

562 Ms. Lofgren. Let us put the entire letter into the
563 record because they do object to the various provisions of
564 the bill. I would like to also ask unanimous --

565 Chairman Goodlatte. Without objection the letter will
566 be made a part of the record.

567 [The information follows:]

568 ***** COMMITTEE INSERT *****

569 Ms. Lofgren. I would also like to put into the record
570 and ask unanimous consent a letter from the ACOU that
571 outlines their concerns about the bill. And also a letter
572 from the U.S. Travel Association, their statement on the
573 bill and -- expressing tremendous concern. Appreciation,
574 obviously, for Mr. Forbes, Goodlatte, and Gowdy for their
575 interest and commitment to keeping travelers safe, but

576 raising a whole host of questions about the bill itself.
577 And I would ask unanimous consent to place that letter, as
578 well, into the record.

579 Chairman Goodlatte. Without objection it will be made
580 a part of the record.

581 [The information follows:]

582 ***** COMMITTEE INSERT *****

583 Ms. Lofgren. As I say, I do not object to the
584 manager's amendment, but I do not believe that it actually
585 fixes the various problems that remain and we will attempt
586 to do that through the amendment process. And with that, I
587 would yield back.

588 Chairman Goodlatte. The question occurs on the

589 amendment offered by the gentleman from Virginia, Mr.
590 Forbes.

591 All those in favor, respond by saying aye.

592 Those opposed, no.

593 In the opinion of the chair, the ayes have it, and the
594 amendment is agreed to. Are there any other amendments?

595 Mr. Johnson. Mr. Chairman, I have an amendment at the
596 desk.

597 Chairman Goodlatte. The clerk will report the
598 amendment.

599 Mr. Conyers. Mr. Chairman.

600 Chairman Goodlatte. We do not seem to have your
601 amendment Mr. Johnson.

602 Mr. Johnson. Then I will yield to the next available -
603 -

604 Chairman Goodlatte. I will turn to the gentleman from
605 Michigan. For what purpose does --

606 Mr. Conyers. Mr. Chairman, I have an amendment
607 labeled, "Conyers/Lofgren."

608 Chairman Goodlatte. The clerk will report the
609 amendment.

610 Ms. Adcock. Amendment to H.R. 5203 offered my Mr.
611 Conyers of Michigan. Page 4, line 17 --

612 [The amendment of Mr. Conyers follows:]

613 ***** INSERT 3 *****

614 Chairman Goodlatte. Without objection the amendment is
615 considered as read and the gentleman is recognized for 5

616 minutes on his amendment.

617 Mr. Conyers. Mr. Chairman, my distinguished colleague
618 from California, Ms. Lofgren and I have put this amendment
619 in because it would strike the provision in the bill that
620 prohibits visas from being issued to citizens of certain
621 countries without a particular security investigation known
622 as a State Department Security Advisory Opinion.

623 I would replace this provision with a requirement that
624 the Security Advisory Opinions be conducted for those who
625 pose a threat to national security and in other cases as
626 determined by the Department of State. Under H.R. 5203,
627 this requirement would apply to all citizens of Iraq, Iran,
628 Syria, Somalia, Yemen, Sudan, or Libya. It would apply even
629 to infants and young children, as well as others who pose
630 absolutely no security risk. All of these countries have
631 majority Muslim populations.

632 By subjecting only nationals of these seven countries
633 to the new requirement, our country sends that wrong message
634 to the world, that we have set aside our core commitment to
635 religious freedom and now view all Muslims as terrorists or
636 potential terrorists. This assertion may win votes, but it
637 is simply not true.

638 In fact, the victims of terrorist attacks are
639 overwhelmingly Muslim. Muslim American communities and the
640 residents of the countries named in this bill are among our

641 most critical national security allies. If we embrace this
642 discriminatory provision, we will not only burden the
643 children and the families who seek to study, work, reunite
644 or find protection on our shores, but we will have lost a
645 tremendous opportunity to share American values and freedoms
646 abroad, and to protect our own citizens.

647 And so for this reason, and because the bill would
648 drain resources from the strong and careful security
649 measures that our agencies already employ, I urge my
650 colleagues to support our amendment. And I yield back the
651 balance of my time, unless the gentlelady wants me to yield.

652 Ms. Lofgren. I appreciate it if the gentleman would
653 yield.

654 Mr. Conyers. I would be very pleased to yield, and
655 thank you for co-sponsoring this with me.

656 Ms. Lofgren. I think this is an important amendment,
657 and unfortunately the Security Advisory Opinion, although
658 important if triggered by fraud, does add delay and extra
659 time to all applications. This requirement would be applied
660 across the board whether or not the visa applicant was an
661 Iranian democratic activist, an Iraqi who fought side-by-
662 side with U.S. forces, or a baby as Mr. Conyers has said.
663 It would undermine efforts to support Democratic reforms in
664 Iran and other countries by targeting human rights activists
665 and others working to improve their own governments, and

666 would create enormous costs and delay. It would hurt
667 families and refugees and businesses.

668 Now the State Department and Department of Homeland
669 Security already conduct extensive background security
670 checks including SAOs when appropriate. This requirement is
671 a duplicative of the State Department's targeted use of
672 national security resources.

673 And, in fact, I think the concert officer and
674 U.S.C.I.S. employees are required to check inner-agency
675 national security data bases when reviewing visa
676 applications and immigration benefit applications. If any
677 national security concerns arise in the U.S.C.I.S.
678 adjudication process based on background checks or other
679 sources, the U.S.C.I.S. conducts additional reviews through
680 the Controlled Application Review and Resolution program.

681 Now this proposed new requirement, although I am sure
682 intended to make us safe, I think would make us less safe.
683 It would spread thin. The DHS and DOS and other government
684 intelligence national security and law enforcement resources
685 diverting focus away from true national security concerns.
686 The static list of countries is both under and over
687 inclusive. It would include Iranian nationals who oppose
688 their authoritarian regime, but as I mentioned in my opening
689 statement, does not include Saudi Arabia, the country where
690 the 9/11 hijackers came from.

691 By casting a cloud of suspicion over nationals of
692 entire countries, it harms our government's ability to work
693 with countries in the Middle East and by alienating
694 immigrants from the U.S. from these countries and Africa
695 with immigrant communities in the U.S., it impairs our
696 ability to fight terrorism.

697 I would note that we have letters of opposition from
698 the Public Affairs Alliance of Iranian Americans and the
699 National Iranian-American Council. And I would ask
700 unanimous consent to place those letters in the record, Mr.
701 Chairman and yield back.

702 Chairman Goodlatte. The time of the gentlewoman has
703 expired, and without objection the letters will be made a
704 part of the record.

705 [The information follows:]

706 ***** COMMITTEE INSERT *****

707 Chairman Goodlatte. For what purpose does the
708 gentleman from Virginia seek recognition?

709 Mr. Forbes. To strike the last word.

710 Chairman Goodlatte. The gentleman is recognized for 5
711 minutes.

712 Mr. Forbes. Mr. Chairman, I oppose this amendment and
713 urge my colleagues to do the same. And let's walk through
714 some of the clarifications of what have been brought
715 forward.

716 First of all, gentelady from California says this
717 would be duplicative. This would not be duplicative, it
718 would be codification of many of the things that are already
719 done. Security advisory opinions are deep dive checks
720 performed by law enforcement and other agencies into the
721 background of a visa applicant.

722 If, in fact, these are a bad idea and these would make
723 it more difficult to -- that a potential people coming to
724 the country, then the administration has been
725 misrepresenting this, because one of the reasons that the
726 administration claims that the Syrian refugees received the
727 highest possible security checks is precisely because such
728 refugees get the SAOs.

729 The second thing is, we have heard this argument about
730 listing these countries, gentelady from California did
731 support H.R. 158. While it is true the ranking member was
732 one of 17 members in Congress who objected to that bill.
733 And the Visa Waiver Program that we passed, the countries

734 listed in that bill, specifically, were the State
735 Department's list of state sponsors of terrorism.

736 But it gave the Secretary of Department of Homeland
737 Security the ability to come back and indicated to other
738 countries, "These are the countries that were brought back
739 pursuant to that provision and actually added on there."

740 The bottom line is, when you look at core values,
741 coming to this country -- whether we like it or not -- is
742 still a privilege; it is an important privilege;
743 nevertheless, it is a privilege. Being secure in this
744 country is a core value that we have to have. I think these
745 SAOs go a long way to making sure that that actually
746 happens.

747 I think it is a right the American people are entitled
748 to. And I hope that we will reject this amendment. Mr.
749 Chairman, I yield.

750 Chairman Goodlatte. I thank the gentleman for
751 yielding. I just want to, again, point out an inaccurate
752 statement by the gentlewoman from California when she
753 referred to how inappropriate it would be to subject Iraqis
754 who fight with us, who help us in our efforts in Iraq, to
755 the SAO, to the Security Advisory Opinion.

756 In point of fact, all Iraqi SIVs and Afghan SIVs right
757 now, today, are subjected to the Security Advisory Opinion,
758 the SAO. Now, these are the people who I would say, of all

759 these people in all these countries, they have done the most
760 for us. And if they are subjected to this, there is
761 absolutely nothing wrong with subjecting others to this from
762 these same countries in other --

763 Mr. Forbes. And, Mr. Chairman, you correctly state the
764 SAOs are currently required by the administration for visa
765 applicants or nationals of certain countries. The provision
766 simply codifies that practice to ensure the nationals of
767 countries that are hotbeds of terrorist activity are subject
768 to a heightened level of scrutiny during the visa issuance
769 process.

770 And, Mr. Chairman, this is just a common sense measure
771 that we think gives another layer of protection for security
772 of the American people. And with that I yield back.

773 Chairman Goodlatte. I thank the gentleman.

774 Ms. Lofgren. Mr. Chairman?

775 Chairman Goodlatte. For what purpose does the
776 gentlewoman from California seek recognition?

777 Ms. Lofgren. To strike the last word.

778 Chairman Goodlatte. The gentlewoman is recognized for
779 5 minutes.

780 Ms. Lofgren. I just wanted to comment further on the
781 list in the bill on Page 4. I think it is a mistake to
782 codify this list and probably it was a mistake to do so in
783 the bill that we previously so widely supported. I do think

784 that in the case of the visa waiver bill, we were able to
785 proceed because of the very ample waiver provisions provided
786 to the executive branch, which have been used since the
787 passage of that bill.

788 And it was with that in mind that we were able to
789 proceed. I would note that since the passage of that bill,
790 certain other complications have become more apparent to all
791 of us.

792 One is the issue of so-called "dual nationals." Now,
793 it is, I think, the position of United States -- and obvious
794 it should be -- that if we have an American citizen, the
795 mere fact that some other country claims that they are a
796 citizen of that other country is immaterial to us. But
797 there are certain countries that claim Americans as their
798 citizens, whether or not the American agrees.

799 For example, it is not on this list, but in Greece, if
800 you are of eligible age for the army, you can be drafted if
801 you are an American, even though you do not think you are
802 Greek. Iran is another situation, and I mention that
803 because it is on the list.

804 We have Americans of Iranian descent who left Iran when
805 the Shah was deposed by the radicals. Iran considers those
806 Americans Iranians, even though those Americans do not
807 consider them that. It is because the State Department, I
808 think, has been slow in issuing its guidance on this matter.

809 The status of so-called dual nationals remains ambiguous,
810 perhaps to some. And that itself is a problem.

811 For example, I talked to a terrific engineer in
812 California who was born in the United States, whose parents
813 were Iranians. And he was having trouble in a job interview
814 that required travel because of the question of how Iran
815 looked at him.

816 And I think this compounds that problem, especially in
817 the absence of guidance from the Department of State on the
818 issue of dual nationals. And without the kind of robust
819 waiver, I do not see it here -- the robust waiver provisions
820 that were present in the visa waiver program.

821 I would note that there is a further issue on the so-
822 called dual nationals, which is American citizens who need
823 to get to certain countries -- and I will use Iran again as
824 an example -- and the only way to get in is to have an
825 Iranian passport in addition to American passport. To throw
826 these Americans under the bus, you know, I think is
827 problematic. And I think it is aggravated, to some extent,
828 by this bill. At least it is unclear --

829 Chairman Goodlatte. Would the gentlewoman yield?

830 Ms. Lofgren. Yes. Certainly. I think --

831 Chairman Goodlatte. I thank the gentlewoman for
832 yielding.

833 Ms. Lofgren. I would like to make sure that --

834 Chairman Goodlatte. Americans do not need visas to
835 come to America.

836 Ms. Lofgren. No, they do not.

837 Chairman Goodlatte. If you are a joint American-
838 Iranian citizen, you do not need a visa to come to the
839 United States.

840 Ms. Lofgren. No, you do not. But if you have a family
841 member who is, for example, a French citizen, but also of
842 Iranian descent, I think you have that kind of situation
843 that is brought to the fore here, because who is considering
844 -- does the U.S. consider the French person an Iranian
845 national because Iran does? Or what is our policy? And
846 that is why I say "the State Department guidance," which is
847 lagging, would be very helpful.

848 Chairman Goodlatte. Well, to answer your question, if
849 the individual -- it has both a claim of citizenship with
850 Iran and France, they would fall under the dual citizenship
851 requirement that they apply for a visa. It does not
852 prohibit them from coming to the U.S. It just says, "You
853 have got to apply for a visa."

854 Ms. Lofgren. No, but the question is here, let's say
855 that I am -- your daughter is or my daughter is -- well, she
856 is already married, but we have an American citizen -- one
857 of our offspring -- who falls in love and wants to get
858 married with a citizen of France who is an Iranian of

859 Iranian descent. The Iranians consider that French person
860 an Iranian. I think the U.S. considers that person French.
861 But under this, they would have to go through an
862 extraordinary review --

863 Chairman Goodlatte. If the gentlewoman yields.

864 Ms. Lofgren. I would be happy to yield.

865 Chairman Goodlatte. The answer would be the same. And
866 until that spouse of the U.S. citizen avails themselves of
867 the opportunity to become a citizen of the United States,
868 which they can through their spouse, they would be required
869 to get a visa to enter the United States. It would
870 certainly not be a prohibition on their entering the U.S.

871 Ms. Lofgren. That is not the question. The question
872 is, are they subject to the extraordinary security advisory
873 opinion that is required? And I think, under the bill, they
874 are. And I think that is unreasonable.

875 Chairman Goodlatte. Much like Tashfeen Malik should
876 have been subject to that, as --

877 Ms. Lofgren. Well, she is not --

878 Chairman Goodlatte. -- the respective spouse of a
879 permanent resident of the United States, I think -- someone
880 who is coming here who is married to a United States
881 citizen.

882 Ms. Lofgren. Well, that is --

883 Chairman Goodlatte. But from a country that has been

884 the source of terrorist activity should be subject to that
885 higher scrutiny.

886 Ms. Lofgren. I think that misses the point that I was
887 making, but I see that my time has expired and I would just
888 close by saying, this is considerably more complicated than
889 has -- it has been held out to be.

890 Chairman Goodlatte. Okay. Thank you.

891 Ms. Lofgren. And also, I would note, she was
892 Pakistani. She would not be on this list.

893 Chairman Goodlatte. The chair recognizes the gentleman
894 from Iowa, Mr. King, for 5 minutes.

895 Mr. King. Mr. Chair, I move to strike the last word.
896 Thank you, Mr. Chairman.

897 First I would say that it is has been my position for
898 some time that our ability to thoroughly vet refugees coming
899 into this country applying for asylum, especially the ones
900 we have received most recently, is really very limited. Our
901 ability to be able to heighten that, though, is improved by
902 the Forbes legislation.

903 So, even though I am skeptical that we can bring --
904 protect Americans by vetting the refugees that come in with
905 some level of thoroughness, I also am not skeptical that the
906 Forbes bill improves that security. And I would like to
907 yield to the gentleman from Virginia.

908 Mr. Forbes. Mr. Chairman, I thank the gentleman for

909 yielding. And you know, it is okay to suggest that this
910 bill does not do everything, but the problem you cannot
911 continue to do is blend apples and oranges. We started out
912 by saying that you could not designate countries that you
913 should not be doing that. But yet, we did it in the visa
914 waiver program, and seemed to have no problem with that.

915 The second thing is we say, "Oh, but this is not a
916 bipartisan bill," when the visa waiver program, it was
917 overwhelmingly bipartisan, except still the ranking member
918 joined 16 other individuals to vote against that bill. And
919 then we say, after we point both of those things out, "Well,
920 maybe we made a mistake in the visa waiver program that was
921 overwhelmingly bipartisan." I do not think we did.

922 And then to be able to look and come back and to say
923 that the -- we need not to do this because the
924 administration has been slow on getting some of the stuff --
925 that is the exact reason why we need to do this, Mr.
926 Chairman, because we need to make sure we are codifying this
927 and make sure that we are enforcing some of these
928 protections.

929 And coming back to what my friend from Iowa said, this
930 bill does not stop everything. This bill is simply another
931 layering to give us some protections. And when we talk
932 about the burden that we may put on a few situations as we
933 sit here and try to think of every hypothetical in the

934 world, I come back, Mr. Chairman, to what you just said.
935 What about the burden of the 14 Americans that died because
936 we did not do everything we could do to try to protect them?
937 That is a pretty big burden, Mr. Chairman. That is a burden
938 that we hope to try to protect a little bit about with this
939 bill. And with that, I yield back.

940 Mr. King. I am reclaiming my time, and I thank the
941 gentleman from Virginia. I would add to this that, you
942 know, we should be asking the question, when we are
943 establishing immigration policy, expanding visas, or
944 whatever the agenda might be around here, how does this
945 category of people that are defined in any particular visa
946 category -- how do they help the United States of America?
947 What is the upside for our country?

948 And there seems to be an idea that if you cannot live
949 in America, somehow you have suffered some kind of an
950 eternal curse if you cannot live in America. Well, there
951 are a lot of places in the world that people can be happy.
952 But we know this: that if everybody in the world lived in
953 America, none of us would be happy. We would be so
954 overloaded with people.

955 And so, I would suggest this, that this committee, this
956 judiciary committee, and the Immigration Subcommittee, go to
957 work to set about an immigration policy that is designed to
958 enhance the economic, the social, and the cultural well-

959 being of the United States of America. And realize, we do
960 want to help people.

961 Exporting our values helps people a lot more than
962 importing their problems. And for the money that we spend
963 here in this country to bring some relief to a refugee, and
964 nearly every one of these cases, you can find some merit.
965 If you want to dig deep enough, you will find some merit in
966 nearly everyone. But eventually, some of them will come and
967 kill us. It is cheaper for us to help them in their own
968 country than it is to bring them here. And somebody put out
969 a number the other day, around -- we could help 12 people in
970 the Middle East for every one that we would bring here.

971 And I make my trips over there. In the Nineveh Plains
972 region, we need to provide an international safe zone so
973 that people who have lived there since antiquity can
974 continue to live there and re-establish their culture and
975 their civilization same from ISIS. And in doing so, we can
976 promote American values there and establish and grow allies
977 in that part of the world.

978 So, I just think that sometimes we get our priorities
979 upside down here. But improving the vetting process is what
980 the Forbes bill does, and I support it and I encourage the
981 gentleman for bringing this before this committee. And I
982 would urge its adoption.

983 I will yield back the balance of my time.

984 Mr. Nadler. Mr. Chairman?

985 Chairman Goodlatte. For what purpose does the
986 gentleman from New York seek recognition?

987 Mr. Nadler. Strike the last word.

988 Chairman Goodlatte. The gentleman is recognized for 5
989 minutes.

990 Mr. Nadler. Thank you. I yield my time to the
991 gentlelady from California.

992 Ms. Lofgren. Thank you, Mr. Nadler. I just wanted to
993 make a couple of points. First, the comparison to the visa
994 waiver program that we did -- almost all of us -- vote for,
995 I think, is flawed because of a key element that is missing
996 in this bill, which is a robust waiver for the executive
997 branch.

998 Knowing that common-sense could be added into the
999 provisions through the waiver provision was a key element
1000 for agreeing to that bill. And in fact, we have exempted
1001 humanitarian workers and certain others because of the
1002 waiver provision. I looked in vain -- maybe I have missed
1003 it. I do not see a waiver provision in this bill.

1004 Secondly, I think it is a mistake to suggest that we
1005 are always doing a favor to someone else who is coming in to
1006 help build our economy and country. And I will just use
1007 Iranian-Americans as an example, because Iranian-Americans
1008 in the Silicon Valley have played a substantial, positive

1009 role in the creation of technology companies, in the venture
1010 capital world. I mean, it is really -- to think that our
1011 country has not greatly benefited from that community would
1012 be a huge mistake. I mean, just --

1013 Mr. Conyers. Will the --

1014 Ms. Lofgren. -- a huge mistake.

1015 Mr. Conyers. Would the gentlelady yield?

1016 Ms. Lofgren. I would be happy to yield.

1017 Mr. Conyers. I think she is on the right track,
1018 because I think that the gentleman from Virginia, Mr.
1019 Forbes, for noting my opposition to H.R. 158 -- and I
1020 continue to oppose these types of discriminatory provisions
1021 under analysis because they are antithetical to our
1022 interests. We lose friends and create enemies. And I thank
1023 the gentlelady for yielding.

1024 Ms. Lofgren. I am happy to. Actually, it is Mr.
1025 Nadler's time. Thank Mr. Nadler --

1026 Mr. Conyers. Oh, excuse me.

1027 Ms. Lofgren. -- allowing the yielding. Yeah. I would
1028 note other -- the rigidity of this list. It is Iran, Iraq,
1029 Libya, Somalia, Syria, Sudan, or Yemen. As has been
1030 mentioned earlier, you know, the terrorist in San Bernardino
1031 was Pakistani. Pakistan is not on this list. The 9/11
1032 terrorists were mainly Saudi Arabians. They -- Saudi Arabia
1033 is not --

1034 Mr. Forbes. Will the gentlelady yield?

1035 Ms. Lofgren. Let me finish, and then I will let -- see
1036 -- if Mr. Nadler wishes to yield. I am not saying that a
1037 security advisory opinion should not, in some cases, be
1038 selected. What I am saying is that there ought to be a
1039 reason to do that, that there ought to be a trigger, that
1040 there ought to be some reason to go through that process.

1041 This is a very -- it is a lot of work, and it ought to
1042 be targeted towards those who would do us harm, as it is
1043 done now. And, you know, it may be that we want to have a
1044 workshop with the State Department to go through -- we do
1045 not want to do that in public, because we certainly do not
1046 want potential terrorists to know what the triggers might be
1047 -- but to have a better understanding of what indicators
1048 would initiate an SAO.

1049 And it may be that there should be improvements made
1050 administratively in that, but that should not be codified
1051 because we need to be nimble and flexible, as we deal with
1052 the terrorist threat. We cannot put something in a code and
1053 expect that, you know, 15 years from now, as the terrorist
1054 threat morphs, it is going to be the same.

1055 I will just note, as we mentioned the other day, an
1056 oversight -- executive oversight hearing, I had occasion to
1057 go back recently and re-read section 1201 of the Digital
1058 Millennium Copyright Act.

1059 And at the end of the statute, there is an extensive
1060 provision about piracy, which we all oppose. And it talked
1061 about Betamax, and VCRs, and magnetic strips, and the
1062 different kinds of magnetics. We put that into code. I
1063 mean, that looks ridiculous. And we need to set principles
1064 and then have the administration fulfill those principles.
1065 The drafting of this falls short of that general policy, and
1066 I think, is defective because of that.

1067 And so, I would yield to Mr. Nadler and thank him for
1068 yielding me the time.

1069 Mr. Nadler. And if I have any time left, I will yield
1070 to the gentleman from --

1071 Chairman Goodlatte. Without objection, the gentleman
1072 from New York is recognized for an additional minute, for
1073 the purpose of yielding to the gentleman from Virginia.

1074 Mr. Forbes. And I thank my friend for yielding. I
1075 just wanted to clarify that if additional countries need to
1076 be put on here, we do the same thing we did with the visa
1077 waiver program. The Secretary of State can add those
1078 programs on the -- or those additional States on there. So,
1079 that is just a misreading of the bill, that they did not
1080 have that flexibility. I thank the gentleman for yielding.

1081 Mr. Nadler. You are quite welcome. Just reclaiming my
1082 time, I simply want to say -- this whole provision makes
1083 mandatory a very burdensome and costly provision, where it

1084 should be discretionary on cause. It is discretionary on
1085 cause now.

1086 As the gentlelady from California said, maybe we should
1087 hold some talks with the State Department, the Department of
1088 Homeland Security, about changing some of the guidelines.
1089 But to block -- to waste huge amounts of money and time by
1090 making this mandatory across the board makes no sense at
1091 all. I oppose it and I therefore yield back.

1092 Chairman Goodlatte. For what purpose does the
1093 gentleman from Tennessee seek recognition?

1094 Mr. Cohen. Thank you. To strike the last word.

1095 Chairman Goodlatte. The gentleman is recognized for 5
1096 minutes.

1097 Mr. Cohen. One concern I have had -- and there are
1098 many -- I am concerned about the bill in general, but I did
1099 vote for the bill we passed earlier. And I was -- thought
1100 about it later -- which is a bad time to think about it --
1101 and why we did not have Saudi Arabia in it. And would Mr.
1102 Forbes yield and explain to me why Saudi Arabia -- where all
1103 of the 9/11 murderers came from -- is not included here?

1104 Mr. Forbes. I would be happy to. First of all, as we
1105 pointed out, the same process we use in the visa waiver
1106 program, that we allow the Secretary -- the Secretary of
1107 State could designate additional states in here if they deem
1108 that appropriate to do. And so, we have allowed that

1109 flexibility that was in here.

1110 If you think Saudi Arabia should be in here, you
1111 certainly can offer an amendment to put Saudi Arabia in
1112 here. If you do not want to do that, you can allow the
1113 Secretary of State to add that if he thinks that is
1114 appropriate to put in there.

1115 Mr. Cohen. Well, I understand the Secretary of State
1116 could add, and that is good, but the Secretary of State
1117 would not probably have any of these countries. So, I mean,
1118 to say they could add is --

1119 Mr. Forbes. Well, if you look at the visa waiver
1120 program, we started out with some -- and many of these
1121 countries were added in by the Secretary at a later point in
1122 time. So, I would disagree with you. In fact, I think you
1123 will find that many of these SAOs are already being
1124 conducted in these countries right -- today, as we speak.
1125 And there has been an argument, the gentleman from New York
1126 just pointed it out, about the additional cost and whether
1127 or not we should not have huge latitude with the
1128 administration not to do that.

1129 The very reason we need to do this is because the
1130 administration took that latitude when it came in and said
1131 it did not have to enforce existing immigration laws because
1132 of prosecutorial discretion. We think these are commonsense
1133 things that we need to do and they should be codified.

1134 Mr. Cohen. When would you foresee this bill going into
1135 effect, if it was passed in a rather expeditious fashion?

1136 Mr. Forbes. Well, I take it you are asking me?

1137 Mr. Cohen. Yes, sir.

1138 Mr. Forbes. As the gentleman knows, this committee can
1139 only control when we pass it out of here. I have no idea
1140 when it will come to the floor, whether it passes the
1141 Senate. And I certainly do not know if or when the
1142 President would sign it into law. But that does not mean
1143 that I do not think it is the right thing to do, and I hope
1144 that it will pass out of this committee today.

1145 Mr. Cohen. Well, I understand that. It just seems
1146 that it -- I know it takes a while, and the Senate would
1147 have to pass it, and the President would veto it -- we come
1148 back -- but it would take a long time. And it presupposes,
1149 I guess, Mr. Trump is not going to be President, because he
1150 is not going to let any of these folks in unless they can
1151 prove they are Christians or Jews.

1152 Mr. Forbes. Well, if the gentleman has spoken to Mr.
1153 Trump about this bill, he has done more than I have. I have
1154 only worked on the bill for this committee because I think
1155 this is the right thing for this committee to do.

1156 Mr. Cohen. But he is not --

1157 Mr. Forbes. I hope we get it passed today.

1158 Mr. Cohen. -- he is not going to let any Muslims in

1159 the country. And most of these people are Muslim -- unless
1160 they are Christians or Jews. They could convert and they
1161 could come over, you know, and show that they are Christians
1162 or Jews. But if not, they are not going to get in the
1163 country. So we --

1164 Mr. Forbes. I do not think when these -- many of these
1165 countries were designated in the visa waiver program, that
1166 anybody was looking at getting either Secretary Clinton's
1167 approval, or Mr. Trump's approval, or Mr. Sanders' approval
1168 for that bill. We did it because we thought it was the
1169 right thing to do. It was done on an overwhelming
1170 bipartisan basis because it was the right thing to do. I
1171 believe this is the right thing to do, and hopefully we will
1172 have a bipartisan vote for it.

1173 Mr. Cohen. Thank you. I would just like to comment on
1174 one other thing. Mr. King, my friend Mr. King said
1175 something about "these people bring us their troubles and
1176 problems." And sometimes they do. They are refugees. But
1177 you know, Einstein -- and I think Jonas Salk -- and quite a
1178 few other people that brought a lot of great things to this
1179 country were immigrants. And so, sometimes immigrants bring
1180 us that resources that -- put together with American
1181 ingenuity and opportunity -- can create vaccines, and
1182 theories, and -- for the benefit of mankind, and it was
1183 wonderful to have him here sometimes. Thank you.

1184 Chairman Goodlatte. Will the gentleman yield?

1185 Mr. Cohen. Yeah. I will.

1186 Mr. Chabot. Thank you.

1187 Chairman Goodlatte. Mr. Chabot. You are welcome.

1188 Mr. Chabot. I was just contemplating what you were
1189 saying about the next President not allowing certain groups
1190 into the country, and I just hope that our next President,
1191 whether it is a Republican or a Democrat, understands that
1192 they are in the executive branch of the government, and
1193 there is a legislative branch, and we are an equal branch in
1194 power -- and the judicial branch as well.

1195 And the President should not be, and I think,
1196 constitutionally cannot make a lot of the decisions that
1197 this President has made. So, when it comes to who comes
1198 into this country and who does not come into this country, I
1199 would hope that maybe the next President includes the
1200 elected representatives of the American people to be
1201 involved in that decision. And I thank the gentleman for
1202 yielding.

1203 Mr. Cohen. And I do not disagree with you, and I know
1204 Mr. King has got a committee and I am ranking, and there are
1205 some things there that are valid that need to be looked at.
1206 I understand. Thank you. I yield back.

1207 Chairman Goodlatte. The question occurs on the
1208 amendment offered by the gentleman from Michigan and the

1209 gentlewoman from California.

1210 All those in favor, respond by saying aye.

1211 Those opposed, no.

1212 Opinion of the Chair, the noes have it and the
1213 amendment is not agreed to.

1214 A recorded vote is requested, and the clerk will call
1215 the roll.

1216 Ms. Adcock. Mr. Goodlatte?

1217 Chairman Goodlatte. No.

1218 Ms. Adcock. Mr. Goodlatte votes no.

1219 Mr. Sensenbrenner?

1220 Mr. Sensenbrenner. No.

1221 Ms. Adcock. Mr. Sensenbrenner votes no.

1222 Mr. Smith?

1223 [No response.]

1224 Mr. Chabot?

1225 Mr. Chabot. No.

1226 Ms. Adcock. Mr. Chabot votes no.

1227 Mr. Issa?

1228 Mr. Issa. No.

1229 Ms. Adcock. Mr. Issa votes no.

1230 Mr. Forbes?

1231 Mr. Forbes. No.

1232 Ms. Adcock. Mr. Forbes votes no.

1233 Mr. King?

1234 Mr. King. No.

1235 Ms. Adcock. Mr. King votes no.

1236 Mr. Franks?

1237 [No response.]

1238 Mr. Gohmert?

1239 [No response.]

1240 Mr. Jordan?

1241 [No response.]

1242 Mr. Poe?

1243 Mr. Poe. No.

1244 Ms. Adcock. Mr. Poe votes no.

1245 Mr. Chaffetz?

1246 [No response.]

1247 Mr. Marino?

1248 [No response.]

1249 Mr. Gowdy?

1250 [No response.]

1251 Mr. Labrador?

1252 [No response.]

1253 Mr. Farenthold?

1254 [No response.]

1255 Mr. Collins?

1256 [No response.]

1257 Mr. DeSantis?

1258 [No response.]

1259 Ms. Walters?
1260 [No response.]
1261 Mr. Buck?
1262 Mr. Buck. No.
1263 Ms. Adcock. Mr. Buck votes no.
1264 Mr. Ratcliffe?
1265 Mr. Ratcliffe. No.
1266 Ms. Adcock. Mr. Ratcliffe votes no.
1267 Mr. Trott?
1268 Mr. Trott. No.
1269 Ms. Adcock. Mr. Trott votes no.
1270 Mr. Bishop?
1271 Mr. Bishop. No.
1272 Ms. Adcock. Mr. Bishop votes no.
1273 Mr. Conyers?
1274 Mr. Conyers. Aye.
1275 Ms. Adcock. Mr. Conyers votes aye.
1276 Mr. Nadler?
1277 Mr. Nadler. Aye.
1278 Ms. Adcock. Mr. Nadler votes aye.
1279 Ms. Lofgren?
1280 Ms. Lofgren. Aye.
1281 Ms. Adcock. Ms. Lofgren votes aye.
1282 Ms. Jackson Lee?
1283 [No response.]

1284 Mr. Cohen?
1285 Mr. Cohen. Aye.
1286 Ms. Adcock. Mr. Cohen votes aye.
1287 Mr. Johnson?
1288 Mr. Johnson. Aye.
1289 Ms. Adcock. Mr. Johnson votes aye.
1290 Mr. Pierluisi?
1291 [No response.]
1292 Ms. Chu?
1293 Ms. Chu. Aye.
1294 Ms. Adcock. Ms. Chu votes aye.
1295 Mr. Deutch?
1296 [No response.]
1297 Mr. Gutierrez?
1298 [No response.]
1299 Ms. Bass?
1300 [No response.]
1301 Mr. Richmond?
1302 [No response.]
1303 Ms. DelBene?
1304 Ms. DelBene. Aye.
1305 Ms. Adcock. Ms. DelBene votes aye.
1306 Mr. Jeffries?
1307 [No response.]
1308 Mr. Cicilline?

1309 [No response.]

1310 Mr. Peters?

1311 [No response.]

1312 Chairman Goodlatte. The gentleman from Arizona, Mr.

1313 Franks.

1314 Mr. Franks. No.

1315 Ms. Adcock. Mr. Franks votes no.

1316 Chairman Goodlatte. The gentleman from Florida, Mr.

1317 DeSantis.

1318 Mr. DeSantis. No.

1319 Ms. Adcock. Mr. DeSantis votes no.

1320 Chairman Goodlatte. The gentleman from Utah, Mr.

1321 Chaffetz.

1322 Mr. Chaffetz. No.

1323 Ms. Adcock. Mr. Chaffetz votes no.

1324 Chairman Goodlatte. The gentleman from Pennsylvania.

1325 Mr. Marino. No.

1326 Ms. Adcock. Mr. Marino votes no.

1327 Chairman Goodlatte. Has every member voted who wishes

1328 to vote? The clerk will report.

1329 Ms. Adcock. Mr. Chairman, 7 members voted aye, 15

1330 members voted no.

1331 Chairman Goodlatte. And the amendment is not agreed

1332 to.

1333 Are there other amendments? For what purpose does the

1334 gentleman from New York seek recognition?

1335 Mr. Nadler. Mr. Chairman, I have an amendment at the
1336 desk.

1337 Chairman Goodlatte. The clerk will report the
1338 amendment.

1339 Ms. Adcock. Amendment to H.R. 5203, offered by Mr.
1340 Nadler, Page 12, strike line 18 and all that follows --

1341 [The amendment of Mr. Nadler follows:]

1342 ***** INSERT 4 *****

1343 Chairman Goodlatte. Without objection, the amendment
1344 will be considered as read and the gentleman is recognized
1345 for 5 minutes on his amendment.

1346 Mr. Nadler. Thank you, Mr. Chairman. My amendment
1347 would strike section 5 of the bill, an unnecessary provision
1348 that requires all visa and immigration applicants to meet a
1349 much higher burden of proof than is required under current
1350 law. It is just one more in a long line of provisions
1351 advanced by the majority that would essentially grind the
1352 immigration system to a halt and reverse our proud history
1353 of welcoming immigrants to our shores.

1354 Under current law, any person applying to enter the
1355 United States has the burden of showing to the satisfaction
1356 of the consular officer -- that is the statutory language --
1357 reviewing their case that he or she is eligible to receive a
1358 visa or other document required for entry.

1359 Under well-established case law, Immigration Service
1360 officers make decisions on applications and petitions using
1361 the preponderance of the evidence standard, which is
1362 generally understood to mean that a fact "is more likely
1363 than not."

1364 This is the standard used in nearly all civil
1365 proceedings, and calls for an applicant to bring forth
1366 relevant, probative, and credible evidence. We then trust
1367 the highly-trained and dedicated men and women of the State
1368 Department and the Department of Homeland Security, who
1369 serve as consular and immigration officers, to reach a
1370 reasonable conclusion about the application before them.
1371 This bill, however, would significantly increase the burden
1372 of proof that an applicant must meet to the much more
1373 restrictive standard of clear and convincing evidence.

1374 By elevating the burden of proof across the board so
1375 dramatically, this bill will lead consular and immigration
1376 officers to deny legitimate applications, even when there
1377 are no security concerns, and even when, based on the
1378 officer's expertise, experience, and judgment, they have

1379 concluded that the application should be approved. As the
1380 Niskanen Center notes in its statement for the record on
1381 today's markup, this will injure U.S. citizen sponsors and
1382 impose significant costs on the U.S. economy.

1383 Consular and Immigration Service officers do not take
1384 their jobs lightly. They apply their current standard
1385 rigorously and they already deny thousands of applications
1386 every year. But this bill offers no guidance as to how they
1387 should apply this new higher standard, which will inevitably
1388 lead to endless litigation and confusion.

1389 We all appreciate the need to keep Americans safe and
1390 to carefully screen anyone who wishes to enter this country.
1391 But rather than taking a targeted approach to enhance our
1392 security, this provision is overly broad and will have
1393 serious consequences across the immigration system.

1394 For example, asylum seekers and refugees forced to flee
1395 their home countries under the most extreme circumstances
1396 would face an almost impossible task. They most likely have
1397 fled with little or no documentation in their possession and
1398 no ability to access such documents once they arrive here.
1399 This bill would now ask them to prove with clear and
1400 convincing evidence that they have a legitimate claim.
1401 Well, all the documents that might be used for such proof
1402 are not available. That is nothing more than an invitation
1403 to be denied and sent back to the horrific conditions they

1404 so desperately tried to escape.

1405 Meanwhile, this legislation would dilute the talent
1406 pool in higher education and in the workforce by requiring
1407 foreign students and potential employees to overcome this
1408 needlessly elevated burden of proof. Foreign students who
1409 wish to attend our elite universities would somehow, at age
1410 18 or 19, need to demonstrate with clear and convincing
1411 evidence that they intend to return to their home countries.
1412 How could that be done?

1413 So would the millions of foreign tourists who visit the
1414 United States each year, generating billions of dollars for
1415 our economy. They would have to prove by clear and
1416 convincing evidence that they intend to return. How could
1417 that be done? And employers who wish to sponsor exceptional
1418 talent to work in their company would have to prove with
1419 clear and convincing evidence that potential employees
1420 satisfy what are already amorphous legal standards, like
1421 "specialized knowledge" and "extraordinary ability."

1422 This heightened standard would only serve to make us
1423 less competitive in the global economy. I do not think that
1424 this is the intention of the bill's sponsors. I hope their
1425 intention is not simply to make it so difficult to enter
1426 this country that the entire flow of immigrants will be
1427 reduced to a trickle.

1428 But I fear that this may be the case, considering the

1429 other measures they have brought forward, which treat all
1430 immigrants as criminals, as threats to our national
1431 security, and as a drain on our nation's resources, instead
1432 of the boon to our economy and our society that many are.

1433 We should defeat the underlying legislation. But I
1434 particularly urge my colleagues to support this amendment,
1435 to strike from this bill this misguided provision increasing
1436 the burden of proof to what in many cases are impossible
1437 levels for no good reason. I yield back.

1438 Mr. Conyers. Will the gentleman yield?

1439 Ms. Lofgren. Will the gentleman yield?

1440 Mr. Nadler. I will yield to the gentleman from
1441 Michigan.

1442 Mr. Conyers. I just wanted to concur with the
1443 gentleman and I am going to submit some remarks in support
1444 of your position. I think you are absolutely correct.

1445 Mr. Nadler. I thank the gentleman. I yield to the
1446 gentlelady from California.

1447 Ms. Lofgren. I just want to speak briefly in support
1448 of the amendment. This higher evidentiary standard would be
1449 on -- for everything, and it really has nothing to do with
1450 terrorism. It would -- I think it is the reason why the
1451 National Association of International Educators has come out
1452 in opposition to this.

1453 I would like to ask unanimous consent to place in the

1454 record letters from the Refugee Council, the Church World
1455 Services, the Christian Reform Church, the NAFSA, the
1456 Association of International Educators, along with the
1457 Niskanen Center and the American Immigration Lawyers
1458 Association, all of whom are concerned about the bill, but
1459 also this provision, which, as the gentleman from New York
1460 has pointed out, would, in effect, likely prevent or at
1461 least greatly confuse the capacity of 18-year-old hotshots
1462 who have been admitted to Stanford to study physics.

1463 At 18, you are not going to be able to meet this
1464 evidentiary standard that you are going to be able to return
1465 home. There is no dual intent provision for students as
1466 there is for H1B visa applicants.

1467 I think it is really not a good idea, and I support the
1468 gentleman's amendment.

1469 Mr. Issa. Mr. Chairman --

1470 Mr. Nadler. I am reclaiming my time. I want to make
1471 one further comment. And that is --

1472 Chairman Goodlatte. The gentleman's time has expired.
1473 Without objection, the gentleman is recognized for an
1474 additional minute.

1475 Mr. Nadler. I thank the Chairman. I just point out
1476 that as the gentlelady pointed out, this is not restricted
1477 to possible security cases. This is in every case, and that
1478 means that you have to prove by clear and convincing

1479 evidence, if you are coming for a wedding, if you are coming
1480 as a student, if you are coming as a whatever, clear and
1481 convincing evidence and that you intend to return home.

1482 This is almost an impossible burden of proof and will
1483 really shut a lot of visas that ought not to be shut, for no
1484 benefit at all to our security. I thank the gentleman. I
1485 yield back.

1486 Mr. Issa. Mr. Chairman?

1487 Chairman Goodlatte. For what purpose does the
1488 gentleman from California seek recognition?

1489 Mr. Issa. I rise in opposition to the -- move to
1490 strike the last word.

1491 Chairman Goodlatte. The gentleman is recognized for 5
1492 minutes.

1493 Mr. Issa. Mr. Chairman, I am pleased and honored to
1494 also serve on the Foreign Affairs Committee. And in that
1495 capacity, I remember the late Henry Hyde preserving the
1496 State Department's ability to have the consular section.
1497 And when we preserved it, we preserved it knowing that
1498 consulars are almost always in their first term, their first
1499 overseas assignment. They are the most junior of State
1500 Department personnel. And they do a wonderful job, but they
1501 do so only with the tools we provide them.

1502 The tools include the ability to say "No" when they
1503 have a feeling something is not right. Often, they lack the

1504 tools to say no, even though they know this is going to be
1505 fraud. They deny whenever possible when they believe it is
1506 fraud and they have grounds for it. And I think there are
1507 two things that we need to bear in mind.

1508 First of all, those elite students: One of those elite
1509 students said he was coming here to go to school and he was
1510 a 9/11 hijacker and murderer. Schools are not all the
1511 University of California at San Diego or Berkeley. Schools
1512 include podunk junior college in Nowheresville, Ohio, as an
1513 Ohioan. The fact is, these are not all elite schools. And
1514 40 percent of all undocumented persons in this country came
1515 here under visas. They did not all come here to hurt us,
1516 but they did come here and they overstayed.

1517 So, whether it is a wedding -- and I am blessed to have
1518 simply just recently had my son get married to a woman whose
1519 family came from Edinburgh, and from Africa, and from around
1520 the world, including Canada also -- and they went through
1521 this process, and they demonstrated through clear and
1522 convincing evidence, although not required, that they had
1523 permanent contacts in their home country and that they had a
1524 likelihood of return.

1525 So, I want to speak very much in opposition to the
1526 gentleman's intent to, in fact, weaken this bill so as to
1527 deny the tools to these mostly young men and women who are
1528 standing there, have a few moments to evaluate somebody, and

1529 in fact, often lack the tools to say no.

1530 Now, having said that, this committee has the ability -
1531 - if, for any reason, these tools are found to actually
1532 limit the capability of getting students through in an
1533 expeditious fashion -- we have the ability to act again.
1534 But I think to not act when we see the threat and the result
1535 throughout Europe and even to the United States, of people
1536 slipping through a system, is in fact simply wrong.

1537 Ms. Lofgren. Well --

1538 Mr. Issa. Lastly, and I will yield in a moment,
1539 lastly, "clear and convincing" is not all, as was said, all
1540 in the hands of the applicant. If there had been
1541 atrocities, if there are in fact direct harm to individuals,
1542 that can be documented by the State Department and other
1543 NGOs. They do not rely exclusively on the individual to
1544 carry those documents.

1545 But as we all know, on both sides of the dais, claiming
1546 asylum, or claiming refugee status, or claiming fear of
1547 return to their home is often -- very often -- a fraudulent
1548 claim that the applicant is coached to use. This is not a
1549 surprise to any of us that that happens.

1550 And I think, for that reason, we need to have the tools
1551 necessary for State Department junior personnel working
1552 under the consular section to be able to say, "No." There
1553 is an appeal process. There is additional information.

1554 People can come back. The fact is, no one is stopped from
1555 coming back with additional information, and they often do,
1556 and they make their case.

1557 So, I thank the chair. Obviously, I will be speaking
1558 in opposition, and I will yield to the lady, while reminding
1559 people that what I heard said was, "I urge you to vote for
1560 this amendment and then vote down the final bill."

1561 Ms. Lofgren. Will the gentleman --

1562 Mr. Issa. An amendment that does not make the bill
1563 passable would seem to serve very little purpose. I yield
1564 to my colleague from California.

1565 Ms. Lofgren. Just for clarification purposes, the
1566 decisions of the consular officers are unreviewable. I
1567 mean, they are not justiciable. No court can overturn them.

1568 Mr. Issa. It is not about a court. And reclaiming my
1569 time, let us remember one thing. There is no right to come
1570 to America. It is a privilege to come to America.

1571 Ms. Lofgren. That is correct.

1572 Mr. Issa. The rights are ours. The privilege is those
1573 we allow in our country, just as it is when we travel to
1574 other countries.

1575 Ms. Lofgren. If I just may further --

1576 Mr. Issa. Of course.

1577 Ms. Lofgren. The point is that consular officers are
1578 free to turn down applicants today, and they do often. Now,

1579 I am sure all of us in our offices sometimes get called by
1580 constituents, where you have a situation that appears to be
1581 very unreasonable where the officer may have made mistake.
1582 In many, many cases, the officer is unwilling to consider
1583 additional information.

1584 Chairman Goodlatte. The time of the gentleman has
1585 expired.

1586 Ms. Lofgren. Then I --

1587 Mr. Issa. I thank the gentlelady.

1588 Ms. Lofgren. I would ask to strike the last word.

1589 Chairman Goodlatte. For what purpose does the
1590 gentlewoman from California seek recognition?

1591 Ms. Lofgren. To strike the last word.

1592 Chairman Goodlatte. The gentlewoman is recognized for
1593 5 minutes.

1594 Ms. Lofgren. I just think that for those of us who
1595 have dealt with this -- and I assume most of us have -- the
1596 consular officers basically are completely free to do what
1597 they think is right. And certainly, when the issue is
1598 security, but also for any other reason. And the point here
1599 is that in the Immigration Act, an F-1 applicant, which is
1600 for a student visa, has to have an intent to return to their
1601 home country. It has nothing to do with terrorism. It has
1602 nothing to do with security. It has to do with their
1603 intent. They cannot intend to want to become an American.

1604 So, right now, there is a preponderance of the
1605 evidence. And you can interview an 18-year-old kid. His
1606 parents are sending him and paying a large amount of money
1607 to go to the University of California and study engineering,
1608 and you can make that judgment on a preponderance of
1609 evidence, "more likely than not" standard.

1610 If you have a clear and convincing standard, it is
1611 going to be very tough for that 18-year-old to prove. He
1612 does not own a home. He does not have a, you know, a spouse
1613 or children. He does not own a business. He does not have
1614 ties. How is he going to meet that standard? And I think
1615 if the consular officers are required to apply that standard
1616 to students, they are going to find it very difficult to
1617 admit students who are legitimate students. And I think
1618 that is problematic and I think it is unnecessary.

1619 Chairman Goodlatte. Will the gentlewoman yield?

1620 Ms. Lofgren. I certainly would be happy to yield to
1621 the chairman and the --

1622 Chairman Goodlatte. I wonder if the lack of that
1623 standard would be the reason why we have 35 to 40 percent
1624 visa overstays and people who are illegally in the country,
1625 many of whom came here on F-1 visas and simply never
1626 bothered to go home.

1627 Ms. Lofgren. Reclaiming my time, it would have been
1628 great to have had a hearing on this bill to examine that

1629 very issue. But I do know that our country is greatly
1630 enriched by those who study in our universities. And I
1631 would note also the salutatory impact of the leaders of
1632 other countries who have studied in the United States. Last
1633 year, a number of us accompanied the chairman to a very
1634 interesting visit to the Middle East.

1635 And we discovered that, really, the leaders of
1636 democracy that we met had all been educated in the United
1637 States. They love the United States. And it is really very
1638 important to have people from other countries educated here.
1639 And I think that this provision will provide a barrier that
1640 is unnecessary and really does nothing to enhance security.

1641 And for that reason, among many others, I would urge
1642 support of the amendment. And I would yield back.

1643 Chairman Goodlatte. The chair thanks the gentlewoman.
1644 For what purpose does the gentleman from Virginia seek
1645 recognition?

1646 Mr. Forbes. Strike the last word, Mr. Chairman.

1647 Chairman Goodlatte. The gentleman is recognized for 5
1648 minutes.

1649 Mr. Forbes. Mr. Chairman, I obviously oppose this
1650 amendment and urge my colleagues to do the same. Once
1651 again, we are seeing apples and oranges. We are seeing
1652 things written in that are not there that treats immigrants
1653 as criminals. That is your language, not ours. To say that

1654 immigrants, that we are doing them a favor to come into this
1655 country, it is your language, not ours.

1656 Let me be specific on what our language is. It is what
1657 the gentleman from California said, which is this. Coming
1658 into this country is a privilege. Being secure in this
1659 country is a right. When the two of those are in the
1660 balance, this bill says, "We side on the part of that
1661 equation that protects American lives." When we look at
1662 this, the reality is that fraud does enable terrorism.

1663 When we look at this, the gentleman from New York said
1664 that these were not even possible security cases. That is
1665 the whole issue. We do not know which ones are possible
1666 security cases. That is why we cannot afford to have the
1667 fraud.

1668 Then, when we say that in the face of an ever-
1669 increasing terrorism risk, an administration whose motto is,
1670 "Let's just get the yes for immigration benefits," it is
1671 clear it is time for a change. Let's walk through what this
1672 current standard has done for us. This current standard
1673 granted visas to 19 men who hijacked four airplanes and
1674 murdered close to 3,000 innocent people on 9/11.

1675 This current standard granted a K-visa and conditional
1676 lawful permanent resident status to a Pakistani national,
1677 who, together with her U.S. citizen husband, murdered 14
1678 innocent Americans and seriously injured 22 more. Under

1679 this current standard, we granted a student visa to a
1680 Bangladesh national who planned to bomb the Federal Reserve
1681 Bank building in New York.

1682 Under the current standard, we granted temporary visas
1683 to hundreds of thousands of subsequent visa overstayers.
1684 Under the current standard, we have granted scores of visa
1685 and immigration benefits to individuals who turned out to be
1686 criminals.

1687 Yet, we have done nothing to raise the burden of proof.
1688 In fact, even a statement by an applicant can be clear and
1689 convincing evidence. It is not unreasonable to require
1690 someone seeking a visa or immigrant benefit to prove that it
1691 is substantially more probable than not that a fact they
1692 assert in support of their applications actually exist.
1693 What this bill does, what this amendment would strike out,
1694 is to strike a balance between the privilege to come into
1695 this country and the right to be secure in this country. I
1696 am very comfortable we have struck the right balance and we
1697 hope that we will oppose this amendment.

1698 And with that, I yield back, Mr. Chairman.

1699 Chairman Goodlatte. For what purpose does the
1700 gentlewoman from California seek recognition?

1701 Ms. Bass. Mr. Chair, I would move to strike the last
1702 word.

1703 Chairman Goodlatte. The gentlewoman is recognized for

1704 5 minutes.

1705 Ms. Bass. I would like to yield now to the gentleman
1706 from New York, Mr. Nadler.

1707 Mr. Nadler. I thank the gentlelady for yielding. Mr.
1708 Chairman, we grant millions and millions of visas every
1709 year. Millions of people come to this country. Our economy
1710 is dependent on it. Our tourism is dependent on it. Lots
1711 of our economy is dependent on it. Our educational system
1712 is dependent on it.

1713 Do we sometimes admit people who turn out to be
1714 mistakes? Yes. Can you cite a few score? Yes. That is
1715 human inability to be perfect. But to raise the standard as
1716 this bill would do, as this provision would do, would
1717 essentially say almost nobody would be admitted as a
1718 student. Almost nobody. Because how are you going to show
1719 by clear and convincing evidence the intent to return when
1720 you are 18 years old or 19 years old, you live your family,
1721 you have no independent source of income, you have gone to
1722 school, you have no employment history, you have no ties,
1723 other than your family lives there. How are you going to
1724 show by clear and convincing evidence the intent to return?

1725 The gentleman from California said that his relatives
1726 who came to the wedding met the standard of clear and
1727 convincing evidence. No, they did not. They met the
1728 preponderance of evidence standard. That is the standard

1729 used now. Now, the consular officer, if he has any grounds
1730 for suspicion, may even, on the standard that is the law now
1731 may say, "No," and that is an unreviewable decision. You
1732 cannot appeal.

1733 If your application for a visa is denied because the
1734 consul did not like the glint in your eye, or thought there
1735 was something suspicious, you cannot appeal to anybody.
1736 There is no appeal to court. The consular official, his
1737 word is final. You can call your Congressman, and maybe the
1738 Congressman can persuade the consular official. But that is
1739 the extent of it. There is no appeal. So, we have the
1740 safeguards needed. But to apply a higher standard, to say
1741 he may not admit someone for whom there is no reason to
1742 suspect anything, who wants to be a student or is to be
1743 admitted because he has a special engineering skill or
1744 whatever, but cannot meet the clear and convincing standard
1745 which is very difficult to meet, especially on the return
1746 home provision, will cut the visas to a small trickle.

1747 It does not serve security because any suspicion on
1748 security now, you can already deny. Any suspicion. So,
1749 this is a provision that does not help security, will hurt
1750 us economically, will hurt us in terms of education, and
1751 will hurt us in many, many ways. It makes no sense, and I
1752 urge the adoption of the amendment. And I thank the
1753 gentlelady for yielding to me, and I yield back to her.

1754 Chairman Goodlatte. The question occurs on the
1755 amendment offered by the gentleman from New York.

1756 All those in favor, respond by saying aye.

1757 Those opposed, no.

1758 Opinion of the chair, the noes have it and the
1759 amendment is not agreed to.

1760 A recorded vote is requested, and the clerk will call
1761 the roll.

1762 Ms. Adcock. Mr. Goodlatte?

1763 Chairman Goodlatte. No.

1764 Ms. Adcock. Mr. Goodlatte votes no.

1765 Mr. Sensenbrenner?

1766 [No response.]

1767 Mr. Smith?

1768 [No response.]

1769 Mr. Chabot?

1770 Mr. Chabot. No.

1771 Ms. Adcock. Mr. Chabot votes no.

1772 Mr. Issa?

1773 Mr. Issa. No.

1774 Ms. Adcock. Mr. Issa votes no.

1775 Mr. Forbes?

1776 Mr. Forbes. No.

1777 Ms. Adcock. Mr. Forbes votes no.

1778 Mr. King?

1779 Mr. King. No.

1780 Ms. Adcock. Mr. King votes no.

1781 Mr. Franks?

1782 Mr. Franks. No.

1783 Ms. Adcock. Mr. Franks votes no.

1784 Mr. Gohmert?

1785 [No response.]

1786 Mr. Jordan?

1787 [No response.]

1788 Mr. Poe?

1789 Mr. Poe. No.

1790 Ms. Adcock. Mr. Poe votes no.

1791 Mr. Chaffetz?

1792 [No response.]

1793 Mr. Marino?

1794 Mr. Marino. No.

1795 Ms. Adcock. Mr. Marino votes no.

1796 Mr. Gowdy?

1797 [No response.]

1798 Mr. Labrador?

1799 [No response.]

1800 Mr. Farenthold?

1801 [No response.]

1802 Mr. Collins?

1803 [No response.]

1804 Mr. DeSantis?
1805 [No response.]
1806 Ms. Walters?
1807 Ms. Walters. No.
1808 Ms. Adcock. Ms. Walters votes no.
1809 Mr. Buck?
1810 Mr. Buck. No.
1811 Ms. Adcock. Mr. Buck votes no.
1812 Mr. Ratcliffe?
1813 [No response.]
1814 Mr. Trott?
1815 Mr. Trott. No.
1816 Ms. Adcock. Mr. Trott votes no.
1817 Mr. Bishop?
1818 Mr. Bishop. No.
1819 Ms. Adcock. Mr. Bishop votes no.
1820 Mr. Conyers?
1821 [No response.]
1822 Mr. Nadler?
1823 Mr. Nadler. Aye.
1824 Ms. Adcock. Mr. Nadler votes aye.
1825 Ms. Lofgren?
1826 Ms. Lofgren. Aye.
1827 Ms. Adcock. Ms. Lofgren votes aye.
1828 Ms. Jackson Lee?

1829 Ms. Jackson Lee. Aye.

1830 Ms. Adcock. Ms. Jackson Lee votes aye.

1831 Mr. Cohen?

1832 [No response.]

1833 Mr. Johnson?

1834 Mr. Johnson. Aye.

1835 Ms. Adcock. Mr. Johnson votes aye.

1836 Mr. Pierluisi?

1837 [No response.]

1838 Ms. Chu?

1839 Ms. Chu. Aye.

1840 Ms. Adcock. Ms. Chu votes aye.

1841 Mr. Deutch?

1842 [No response.]

1843 Mr. Gutierrez?

1844 Mr. Gutierrez. Aye.

1845 Ms. Adcock. Mr. Gutierrez votes aye.

1846 Ms. Bass?

1847 Ms. Bass. Aye.

1848 Ms. Adcock. Ms. Bass votes aye.

1849 Mr. Richmond?

1850 [No response.]

1851 Ms. DelBene?

1852 Ms. DelBene. Aye.

1853 Ms. Adcock. Ms. DelBene votes aye.

1854 Mr. Jeffries?
1855 [No response.]
1856 Mr. Cicilline?
1857 Mr. Cicilline. Aye.
1858 Ms. Adcock. Mr. Cicilline votes aye.
1859 Mr. Peters?
1860 [No response.]
1861 Chairman Goodlatte. The gentleman from Wisconsin.
1862 Mr. Sensenbrenner. No.
1863 Ms. Adcock. Mr. Sensenbrenner votes no.
1864 Mr. Chaffetz. Mr. Chairman?
1865 Chairman Goodlatte. The gentleman from Utah.
1866 Mr. Chaffetz. No.
1867 Ms. Adcock. Mr. Chaffetz votes no.
1868 Chairman Goodlatte. Has every member voted who wishes
1869 to vote? The clerk will report. The gentleman from
1870 Tennessee.
1871 Mr. Cohen. Aye.
1872 Ms. Adcock. Mr. Cohen votes aye.
1873 Chairman Goodlatte. The clerk will report.
1874 Ms. Adcock. Mr. Chairman, 10 members voted aye, 14
1875 members voted no.
1876 Chairman Goodlatte. And the amendment is not agreed
1877 to.
1878 Are there further amendments? For what purpose does

1879 the gentlewoman from Texas seek recognition?

1880 Ms. Jackson Lee. Mr. Chairman, I have a few amendments
1881 at the dais. I would like to do them quickly but
1882 separately. Amendment Number 6, please.

1883 Chairman Goodlatte. The clerk --

1884 Mr. Forbes. Mr. Chairman, I reserve a point of order.

1885 Chairman Goodlatte. The clerk will report. Point of
1886 order is noted.

1887 Ms. Adcock. Amendment to H.R. 5203, offered by Ms.
1888 Jackson Lee. Page 6, line 8.

1889 [The amendment of Ms. Jackson Lee follows:]

1890 ***** INSERT 5 *****

1891 Chairman Goodlatte. Without objection, the amendment
1892 is considered as read, and the gentlewoman is recognized on
1893 her amendment for 5 minutes. The gentlewoman is recognized.

1894 Ms. Jackson Lee. Mr. Chairman, thank you very much --
1895 to the ranking member. Let me indicate that we all want the
1896 Nation to be secure, and we certainly want the visa program,
1897 which is a legal way of accessing the nation. But I would
1898 make the argument that we are not moving in the right
1899 direction.

1900 My amendment would strike mandatory DNA testing
1901 requirement in section 2 of H.R. 5203 and replace it with a
1902 requirement that DNA testing be conducted only in those
1903 cases where there are fraud triggers or otherwise, where the
1904 consular or Immigration Service officer determines it is
1905 warranted.

1906 Under current law, the Department of State and
1907 U.S.C.I.S. may accept DNA test results as evidence of
1908 biological relationship, but generally do not have the
1909 authority to require it. H.R. 5203 does not just permit
1910 U.S.C.I.S. to require DNA testing where appropriate, but
1911 rather requires it even where there are no indications of
1912 fraud, or other questions about the family relationship, or
1913 a terrorist situation.

1914 This proposal will result in enormous costs,
1915 prohibitive costs for low-income families, for each family-
1916 based immigrant applicant, and months added on already
1917 lengthy processing. Without this amendment, U.S.C.I.S. will
1918 be required to do DNA testing for nursing mothers, for the

1919 family of those serving in the U.S. armed forces. H.R. 5203
1920 absurdly would require DNA testing in sibling-to-sibling
1921 cases, where the testing technology is simply unable to show
1922 the required relationship, and there is a risk of false
1923 negative test results that would lead to the denial of some
1924 visa petitions.

1925 I am not sure what the DNA testing would do with
1926 respect to the tragedy and terrorist acts that occurred in
1927 San Bernardino.

1928 The Jackson Lee Amendment would provide the State
1929 Department and U.S.C.I.S. with the authority to require DNA
1930 testing, but only in circumstances where it is warranted due
1931 to fraud triggers; otherwise, as determined by the consular
1932 or Immigration Service. Rather than the Federal Government
1933 collecting and presumably holding DNA for thousands of non-
1934 criminals, including U.S. citizens who are petitioning for
1935 family members abroad, this amendment would target the use
1936 of DNA testing.

1937 DNA is highly intrusive personal medical information.
1938 But more importantly, what is the ultimate results that we
1939 want? We want to stop terrorists, and there are many other
1940 ways that have been successful in doing that.

1941 I ask my colleagues to support this amendment. I
1942 reserve for --

1943 Ms. Lofgren. Would you yield for a second?

1944 Ms. Jackson Lee. I would be happy to yield.

1945 Ms. Lofgren. I do have one technical question, and
1946 perhaps the author could answer it. I know someone who
1947 recently had a child. She and her husband, because of
1948 fertility problems, had a donor egg. And so, while this
1949 woman gave birth to the child, you would not see a DNA link
1950 because of the donor egg. We also know of situations where
1951 there is fertility problems on the part of the husband and
1952 there is a donation. But even though it is a family
1953 relationship, you would not see it in a DNA test. How would
1954 that work, here?

1955 Mr. Forbes. I would say to the gentlelady that this
1956 references only a biological relationship. In your
1957 situation, it is more like an adoption situation. It would
1958 not --

1959 Ms. Lofgren. No. The woman has given birth, but the
1960 egg was donated.

1961 Mr. Forbes. Yeah. But I think, in that particular
1962 situation, it would not be classified as a biological
1963 relationship.

1964 Ms. Lofgren. But the DNA would not show it.

1965 Mr. Forbes. I do not think it would be. Yeah.

1966 Ms. Lofgren. Well, it is a biological relationship if
1967 you give birth to a baby.

1968 Mr. Forbes. I do not believe it would be covered under

1969 this provision, but certainly, I am happy, as we move
1970 forward, if there is clarification we need to do of the
1971 language. But I do not think that situation would be
1972 covered under the provision in here, because this is
1973 predicated on a biological relationship between the two of
1974 them. So I do not think that would be covered under this
1975 particular provision.

1976 Ms. Lofgren. I do not --

1977 Mr. Forbes. Yeah. That is the same language that we
1978 are currently using for the programs that are requiring DNA
1979 by the administration right now. And I am happy to go into
1980 those and just --

1981 Ms. Lofgren. Well, if I may, I thank the gentleman for
1982 yielding. We have gone into DNA testing in the refugee
1983 program because of fraud potential. And I agree with that.
1984 But I will say that the likelihood that a penniless refugee
1985 in a refugee camp has been the recipient of an egg donor is
1986 remote, probably nonexistent. So, this is a Western
1987 European or U.S. type of issue for advanced economies, where
1988 people get in. And I do not want to belabor it, but it is a
1989 real issue, and it really happens. And the question is, if
1990 you give birth but you have had assistance with your
1991 fertility, you are going to flunk the DNA test, but it is,
1992 in fact, a biological relationship.

1993 Ms. Jackson Lee. I am reclaiming my time.

1994 Ms. Lofgren. I yield back to the --

1995 Ms. Jackson Lee. Just in closing, because my time is -
1996 - just in closing, the inquiry that Congresswoman Lofgren
1997 has raised is exactly the confusion that I think will be
1998 generated, and I ask my colleagues -- and maybe we can go
1999 back to the drawing board on this particular provision, to
2000 be clear.

2001 I would ask my colleagues to support the Jackson Lee
2002 Amendment. And Mr. Chairman, I would like to put into the
2003 record, I ask unanimous consent, a letter from NIAC Action,
2004 fearful about the legislation targeting certain groups --

2005 Chairman Goodlatte. Without objection, the letter will
2006 be made a part of the record.

2007 [The information follows:]

2008 ***** COMMITTEE INSERT *****

2009 Ms. Jackson Lee. I ask that my colleagues to support
2010 Jackson Lee Number 6. Thank you.

2011 Chairman Goodlatte. The question occurs on the
2012 amendment offered by the gentlewoman from Texas.

2013 All those in favor, respond by saying aye.

2014 Those opposed, no.

2015 Being the Chair, the noes have it and the amendment is
2016 not agreed to.

2017 Ms. Jackson Lee. I would like to call up Jackson Lee
2018 Amendment Number 17.

2019 Mr. Forbes. Mr. Chairman, I reserve a point of order
2020 on this.

2021 Chairman Goodlatte. The clerk will report the
2022 amendment.

2023 Ms. Adcock. Amendment to H.R. 5203 offered by Ms.
2024 Jackson Lee, Page 6, line 18, strike --

2025 [The amendment of Ms. Jackson Lee follows:]

2026 ***** INSERT 6 *****

2027 Chairman Goodlatte. Without objection, the amendment
2028 is considered as read and the gentlewoman is recognized for
2029 5 minutes on her amendment.

2030 Ms. Jackson Lee. Mr. Chairman, I also urge the
2031 adoption of Jackson Lee Amendment 17, which will require the
2032 Department of the Treasury to establish fee guidelines for
2033 any expenses associated with genetic testing, in
2034 consideration of the ability of the individual petitioner or
2035 applicant to pay. H.R. 5203 does nothing to account for the
2036 enormous costs of DNA testing for low-income families.
2037 Currently, DNA testing may cost more than \$500 per test per
2038 individual.

2039 This cost will have to be assumed by many low-income
2040 families, including members of the United States armed
2041 forces, refugees, asylees, and survivors of domestic
2042 violence and trafficking who are already struggling to make
2043 ends meet.

2044 In addition to the test costs, families living in
2045 remote locations will have the added burden or ancillary
2046 travel costs required to complete genetic testing
2047 obligation. We are here committed, all of our colleagues,

2048 all of the committee -- Judiciary, of which I have the
2049 privilege of sitting -- and as well, Homeland Security, in
2050 securing and protecting this country.

2051 However, this is a burdensome and probably with little
2052 results requirement. By having the Department of the
2053 Treasury establish guidelines for DNA testing fees, which
2054 will take into consideration an applicant's ability to pay,
2055 the financial burden of this amendment will be ameliorated
2056 and will not disproportionately burden low-income families.

2057 Accordingly, I urge my colleagues to support both the
2058 Jackson Lee amendment Number 17, and I ask unanimous consent
2059 to put into the record "Families Under Siege: The Hidden
2060 Costs of Refugee Crisis," which are not terrorists. This is
2061 a proven burden that slows the process down and does not
2062 stop the terrorists of whom one would like to block. Should
2063 my colleagues know that terrorist do not usually come
2064 without the resources provided by their outside groups, and
2065 I do not imagine any terrorist would have any inability to
2066 pay the costs.

2067 Chairman Goodlatte. Without objection, the document
2068 will be made a part of the record.

2069 [The information follows:]

2070 ***** COMMITTEE INSERT *****

2071 Ms. Jackson Lee. Thank you.

2072 Chairman Goodlatte. Does the gentleman from Virginia
2073 insist upon his point of order?

2074 Mr. Forbes. I do, Mr. Chairman.

2075 Chairman Goodlatte. The gentleman is recognized.

2076 Mr. Forbes. Mr. Chairman, this amendment is not
2077 germane because it specifically requires the Secretary of
2078 the Treasury shall establish fee guidelines for any expenses
2079 associated herewith. We have no referral. This is the
2080 Judiciary Committee. The proper jurisdiction of that would
2081 be the Financial Services Committee. And with that, I hope
2082 that the chairman will find that the amendment is not in
2083 order.

2084 Ms. Jackson Lee. Will the gentleman yield?

2085 Mr. Forbes. I will be happy to --

2086 Chairman Goodlatte. Well, the gentlewoman will be
2087 recognized.

2088 Ms. Jackson Lee. All right. Thank you, Mr. Chairman.

2089 Chairman Goodlatte. Does the gentlewoman wish to be

2090 recognized in response to the point of order?

2091 Ms. Jackson Lee. I do, Mr. Chairman.

2092 Chairman Goodlatte. The gentlewoman is recognized.

2093 Ms. Jackson Lee. The gentleman may have a point. I
2094 would like to offer a friendly amendment to amend it to DHS
2095 or Financial Services. I think DHS has dual jurisdiction
2096 because it is visa. And that would certainly be an
2097 appropriate assessment of the fees, because they understand
2098 the fee process.

2099 Chairman Goodlatte. I do not believe we can change
2100 which agency opposes the fee, and therefore the jurisdiction
2101 of which committee --

2102 Ms. Jackson Lee. I am suggesting DHS because they have
2103 a direct corollary relationship. The gentleman suggested
2104 Financial Services, and the Treasury is under Financial
2105 Services, so --

2106 Chairman Goodlatte. Right. So, no matter who is
2107 collecting the fee, Financial Services is going to have
2108 jurisdiction over waiving the fee or adjusting the fee --

2109 Ms. Jackson Lee. Adjusting the fee --

2110 Chairman Goodlatte. -- as the gentlewoman's amendment
2111 provides and therefore, it is not germane.

2112 Ms. Jackson Lee. So, my -- there -- my argument is
2113 two-pronged. Treasury comes under Financial Services to
2114 accept a friendly amendment to have the language such that

2115 the Financial or Department of Homeland Security Committee -
2116 -

2117 Chairman Goodlatte. The chair is prepared to rule. It
2118 is the opinion of the chair that the amendment is not
2119 germane. If the gentlewoman crafts an amendment that is
2120 germane, the committee can consider that at a later time.

2121 The committee will stand in recess until 1:00 p.m.

2122 [Recess.]

2123 Chairman Goodlatte. The committee will come to order.
2124 When the committee recessed, we were considering amendments
2125 to H.R. 5203. Are there other amendments to H.R. 5203? For
2126 what purpose does the gentleman from Georgia seek
2127 recognition?

2128 Mr. Johnson. I have an amendment at the desk, 005.

2129 Chairman Goodlatte. The clerk will report the
2130 amendment

2131 Ms. Adcock. Amendment to H.R. 5203 officered by Mr.
2132 Johnson, Page 6, strike line 8 and all that follows through
2133 line 19, and redesignates the seating provisions
2134 accordingly.

2135 Chairman Goodlatte. The gentleman is recognized for 5
2136 minutes on his amendment.

2137 Mr. Johnson. Thank you Mr. Chairman. This bill
2138 hearkens me back to the day that Donald Trump rode the
2139 elevator down to make the announcement that he was running

2140 for President of the United States and he took that occasion
2141 to whip up public sentiment against Hispanic immigrants.
2142 And later he took every opportunity he could to whip up
2143 public sentiment against Muslims. And this bill as
2144 currently drafted represents the current Republican agenda
2145 that uses the same Trump-style tactic of vilifying
2146 immigrants. This bill requires sweeping DNA collection,
2147 even when familial relationships are not in question, such
2148 as with nursing mothers. And in cases when DNA has been
2149 proven to give false readings, such as with sibling to
2150 sibling cases.

2151 To make matters worse, we will be expecting these
2152 families to pay for the cost of the testing, which can run
2153 into the thousands of dollars. By forcing U.S.C.I.S. to
2154 require DNA testing, even when there is no question of
2155 familial relationship, fraud, or national security concerns,
2156 subjects innocent immigrants and U.S. citizens to unfair and
2157 onerous collection requirements.

2158 If we are to require mandatory DNA collection, we must
2159 insist on appropriate data security protocols like we do
2160 with personal medical records. How the DNA is collected,
2161 preserved, stored, and eventually destroyed must be
2162 addressed. U.S.C.I.S. needs the funding to sustain such
2163 security protocols.

2164 We cannot just pawn the cost off onto those who seek

2165 our shores in search of freedom and a better life, including
2166 refugees. There is also a broader privacy issue at stake.
2167 Under this legislation, the Federal Government will have to
2168 store millions of individual private -- millions of
2169 individual's private information.

2170 Similar to personal medical records, information as
2171 private and personal as our DNA must have the necessary
2172 safeguards in place to make sure it is not stolen or
2173 misused. The bill not only sacrifices the privacy of the
2174 immigrants, but also of any American citizen or legal alien
2175 who participates in the visa process.

2176 My amendment would strike the DNA requirements in
2177 section 2, until we can create a framework that addresses
2178 these concerns, so as not to violate the dignity, privacy,
2179 and constitutional rights of legal aliens, current and
2180 future citizens, and to put further burdens on the already
2181 burdened and underfunded agency hurt by sequestration.

2182 Even members of our armed services would be required to
2183 provide a DNA sample as part of their visa application
2184 process. The U.S. leads the world in foreign born military
2185 personnel, with more than 65,000 immigrants servicing active
2186 duty in our Armed Forces. Some of these individuals become
2187 full citizens and others remain permanent, legal residents.
2188 As a member of the Armed Services Committee, I want to
2189 ensure we take care of those who serve. Unfortunately, this

2190 bill is a disservice to those individuals, and puts them at
2191 risk of deportation.

2192 My amendment will strike the DNA collection provision,
2193 that will make U.S. citizenship unfairly cost prohibitive
2194 and invasive. We should not be creating such insurmountable
2195 barriers for people such as refugees, lawfully seeking entry
2196 into this country, often to escape persecution and death in
2197 their home countries. Thank you, Mr. Chairman, and I yield
2198 back.

2199 Chairman Goodlatte. The chair thanks gentleman. For
2200 what purpose does gentleman from Virginia seek recognition?

2201 Mr. Forbes. Move to strike the last word.

2202 Chairman Goodlatte. Gentleman is recognized for 5
2203 minutes.

2204 Mr. Forbes. Mr. Chairman, I hope we will oppose this
2205 amendment and I urge my colleagues to do the same. Once
2206 again, if we could just stick to the bill instead of trying
2207 to write other bills, I think we could have a much clearer
2208 debate. The gentleman from Georgia talks about needing all
2209 of these collection processes that we need, and how we store
2210 data.

2211 There is nothing in this bill that talks about
2212 collection of DNA data. It talks about simply the result.
2213 The gentleman wants to deal with these databases. He needs
2214 to write a bill that actually stores or collects the data,

2215 because this bill does not do it. When he talks about Armed
2216 Forces special immigrants, this is table one from the State
2217 Department, and it shows how many of those are in existence
2218 and the number zero is all across the tables. And we will
2219 put that into the record. I want to also talk about --

2220 Chairman Goodlatte. Without objection it will be made
2221 a part of the record.

2222 [The information follows:]

2223 ***** COMMITTEE INSERT *****

2224 Mr. Forbes. The gentleman talking about how this is a
2225 Republican agenda to somehow push the presidential races.
2226 The current administration, which I believe still is
2227 President Obama, requires DNA testing in its Central America
2228 Minor CAM Program. Under the CAM Program, DNA relationship
2229 testing must occur between the qualifying parent in the
2230 U.S., and his or her biological children for whom the parent
2231 files for relief.

2232 The other point I would make, Mr. Chairman, is that
2233 this is not the only indicator. It is one indicator. When
2234 we talk about DNA not being accurate, it is simply one of

2235 the elements that go into proving, but a pretty substantial
2236 one.

2237 And let me tell you why that is the case. This is not
2238 a new idea, for DNA testing, requiring that a DNA test as
2239 part of an application for immigration benefits, is not a
2240 new idea. In fact, DHS has started requiring such evidence
2241 in at least two immigration programs during the current
2242 administration. I mentioned one of them, the Central
2243 American Minors Program.

2244 But let me mention another one. The Priority 3 Family
2245 Reunification Refugee Category, the Bush Administration
2246 found overwhelming evidence of fraud in the program, meaning
2247 that individuals were claiming people were not relatives, as
2248 relatives on immigration applications. Specifically, they
2249 started DNA testing as part of the program, and based on
2250 that, were able to confirm all biological relationships in
2251 fewer than 20 percent of family unit cases that they had
2252 previously been doing. So they temporarily halted the
2253 program.

2254 And when the Obama Administration restarted the program
2255 a couple years later, it was with the requirement that DNA
2256 testing results be submitted, along with an application in
2257 order to help verify family relationship claims. So there
2258 is precedent for the use of DNA testing, when an immigration
2259 benefit is predicated on a biological relationship. It is a

2260 smart, common sense requirement that helps create an extra
2261 layer of security and prevents fraud.

2262 The idea that we should wait to close a potential fraud
2263 avenue until someone successfully abuses that loophole in
2264 order to bring over a terrorist, is ludicrous. Congress has
2265 the duty to close such loopholes in the process. This helps
2266 to do that. Once again, this test is not dispositive. It
2267 is simply another assurance, given to an adjudicator, that
2268 the adjudicator can use to help determine eligibility for
2269 the immigration benefit. So with that, Mr. Chairman --

2270 Chairman Goodlatte. Would the gentleman yield?

2271 Mr. Forbes. I am happy to yield.

2272 Chairman Goodlatte. I thank him for yielding. I just
2273 went online and I found DNA testing for \$79, so I think the
2274 claims of the vast cost of this is not relative. Prices are
2275 dropping precipitously, and this is a very reasonable thing
2276 to include. I thank the gentleman.

2277 Mr. Forbes. But Ms. Chairman, I would also say that
2278 it is, I think it is a very reasonable thing. But look,
2279 reasonable people can disagree. And I think the question is
2280 the balance of risk between the enormous damage to American
2281 lives and things that can happen in the United States if we
2282 are not addressing the potential fraud that is there. And
2283 with that, I am happy to yield to my friend from Georgia.

2284 Mr. Johnson. Thank you. And I appreciate the

2285 gentleman's rebuttal comments. It is one thing to have a
2286 program that is suited for a particular need versus an
2287 across-the-board requirement of DNA testing. That opens up
2288 a totally different can of worms. And, you know, \$79 for
2289 DNA testing, I do not know how sufficient that would be for
2290 Federal testing purposes.

2291 But I would assume that the cost would be much more, as
2292 opposed to going through some fly by night internet-based
2293 testing firm. And the fact that we do not provide for data
2294 storage in this bill is something that necessitates my
2295 amendment. We need to look at how we are going to store the
2296 data.

2297 Mr. Forbes. Mr. Chairman, I reclaim my time, since I
2298 do not have much left. You cannot have it both ways. You
2299 cannot say I am worried about data collection and storage
2300 and then all of a sudden say, "Oh my gosh, now that I find
2301 out you do not have data collection storage, we need to do
2302 something to have data collection and storage." You know,
2303 this is a pretty simple process. You know, somebody says "I
2304 am connected on a biological reason; I need to get these
2305 benefits." You get a DNA test.

2306 The cost, fair argument, you say the taxpayers of the
2307 United States maybe should pay it. We say it is fair to ask
2308 the people who want to come here to pay it, that is a fair
2309 debate. But basically you walk in here and you say, "Here

2310 is the DNA test." And if it cuts down the fraud the way we
2311 believe it will cut down the fraud, if it is good for these
2312 other programs, we think it would be good for these
2313 programs. And with that, Mr. Chairman, I yield back.

2314 Ms. Lofgren. Mr. Chair?

2315 Chairman Goodlatte. For what purpose does the
2316 gentleman from California seek recognition?

2317 Ms. Lofgren. Move to strike the last word.

2318 Chairman Goodlatte. Gentlewoman is recognized.

2319 Ms. Lofgren. I support the gentleman from Georgia's
2320 amendment, for the following reason. Not because it is
2321 always wrong to have DNA testing when fraud is suspected.
2322 In fact, as I mentioned earlier, I think the whole committee
2323 was concerned about fraud, when it came to the refugee
2324 program in Africa. The refugee admissions were suspended as
2325 a consequence. DNA testing was initiated, and the fraud
2326 problem disappeared. And so that is an example of a, you
2327 know, smart use of technology, when there is a fraud
2328 concern.

2329 For the Central American refugee children, I understand
2330 that the interest, because of the disorder in Honduras,
2331 Guatemala, and El Salvador, is to make sure that with so
2332 many people fleeing for their lives, that these children are
2333 in fact connected with the people who are their parents.
2334 And here is the issue.

2335 You know, I met with the Department of State on this
2336 question. And the DNA tests are running about \$1,000 a
2337 test. So that is the dollar amount. And I think it is why
2338 the Chamber of Commerce and others express concern about the
2339 increased costs across the board.

2340 That is not to say that there are not specific times
2341 when it is necessary. In fact I think reasonable people
2342 would agree when there is an indication of fraud, we should
2343 use technology. But not in every case, because fraud is not
2344 present in every case.

2345 And just a final point, this is pretty much unrelated
2346 to terrorism. If you are trying to prove a family
2347 relationship between a mother and her 12 year old, it really
2348 does not have anything to do with terrorism. And I think it
2349 is really misplaced in this bill if the rationale for the
2350 bill is safety and security. This has nothing to do with
2351 it. So I think Mr. Johnson's amendment is a sound one. It
2352 would not preclude the use of DNA when there are indicators
2353 of fraud. That is possible today. But it would make sure
2354 that we do not incur this expense and delay when there is no
2355 good reason to do it. And with that, I would be happy to
2356 yield to Mr. Johnson.

2357 Mr. Johnson. Thank you. I would also point out that
2358 for all of the farm workers to do temporary worker, they
2359 would have to go through this process and incur a \$1,000

2360 expense, just to be able to come into this country and pick
2361 the produce that we all enjoy for dinner every day. It is
2362 going to hurt our farmers. It is going to hurt business
2363 people, and that is another reason why we should stop and
2364 take a close look at this one size fits all approach that is
2365 sought to be applied to persons coming in, seeking visas to
2366 enter this country lawfully; not unlawfully, but lawfully.

2367 Ms. Lofgren. I reclaim my time and yield back, Mr.
2368 Chairman.

2369 Chairman Goodlatte. The question occurs on the
2370 amendment offered by the gentleman from Georgia. All those
2371 in favor, respond by saying aye.

2372 Those opposed, no.

2373 In the opinion of the chair, the noes have it.
2374 Amendment is not agreed to. A recorded vote is requested,
2375 and the clerk will call the role.

2376 Ms. Adcock. Mr. Goodlatte?

2377 Chairman Goodlatte. No.

2378 Ms. Adcock. Mr. Goodlatte votes no.

2379 Mr. Sensenbrenner?

2380 Mr. Sensenbrenner. No.

2381 Ms. Adcock. Mr. Sensenbrenner votes no.

2382 Mr. Smith?

2383 [No response.]

2384 Mr. Chabot?

2385 [No response.]
2386 Mr. Issa?
2387 [No response.]
2388 Mr. Forbes?
2389 Mr. Forbes. No.
2390 Ms. Adcock. Mr. Forbes votes no.
2391 Mr. King?
2392 [No response.]
2393 Mr. Franks?
2394 [No response.]
2395 Mr. Gohmert?
2396 [No response.]
2397 Mr. Jordan?
2398 [No response.]
2399 Mr. Poe?
2400 [No response.]
2401 Mr. Chaffetz?
2402 [No response.]
2403 Mr. Marino?
2404 Mr. Marino. No.
2405 Ms. Adcock. Mr. Marino votes no.
2406 Mr. Gowdy?
2407 [No response.]
2408 Mr. Labrador?
2409 Mr. Labrador. No.

2410 Ms. Adcock. Mr. Labrador votes no.
2411 Mr. Farenthold?
2412 [No response.]
2413 Mr. Collins?
2414 [No response.]
2415 Mr. DeSantis?
2416 [No response.]
2417 Ms. Walters?
2418 Ms. Walters. No.
2419 Ms. Adcock. Ms. Walters votes no.
2420 Mr. Buck?
2421 Mr. Buck. No.
2422 Ms. Adcock. Mr. Buck votes no.
2423 Mr. Ratcliffe?
2424 Mr. Ratcliffe. No.
2425 Ms. Adcock. Mr. Ratcliffe votes no.
2426 Mr. Trott?
2427 Mr. Trott. No.
2428 Ms. Adcock. Mr. Trott votes no.
2429 Mr. Bishop?
2430 Mr. Bishop. No.
2431 Ms. Adcock. Mr. Bishop votes no.
2432 Mr. Conyers?
2433 [No response.]
2434 Mr. Nadler?

2435 Mr. Nadler. Aye.

2436 Ms. Adcock. Mr. Nadler votes aye.

2437 Ms. Lofgren?

2438 Ms. Lofgren. Aye.

2439 Ms. Adcock. Ms. Lofgren votes aye.

2440 Ms. Jackson Lee?

2441 [No response.]

2442 Mr. Cohen?

2443 [No response.]

2444 Mr. Johnson?

2445 Mr. Johnson. Aye.

2446 Ms. Adcock. Mr. Johnson votes aye.

2447 Mr. Pierluisi?

2448 [No response.]

2449 Ms. Chu?

2450 [No response.]

2451 Mr. Deutch?

2452 [No response.]

2453 Mr. Gutierrez?

2454 Mr. Gutierrez. Aye

2455 Ms. Adcock. Mr. Gutierrez votes aye.

2456 Ms. Bass?

2457 Mr. Richmond?

2458 [No response.]

2459 Ms. DelBene?

2460 Ms. DelBene. Aye.

2461 Ms. Adcock. Ms. DelBene votes aye.

2462 Mr. Jeffries?

2463 Mr. Jeffries. Aye.

2464 Ms. Adcock. Mr. Jeffries votes aye.

2465 Mr. Cicilline?

2466 Mr. Cicilline. Aye.

2467 Ms. Adcock. Mr. Cicilline votes aye.

2468 Mr. Peters?

2469 [No response.]

2470 Chairman Goodlatte. The gentleman from California, Mr.

2471 Issa.

2472 Mr. Issa. No.

2473 Ms. Adcock. Mr. Issa votes no.

2474 Chairman Goodlatte. The gentleman from Michigan?

2475 Mr. Conyers. Aye.

2476 Ms. Adcock. Mr. Conyers votes aye.

2477 Chairman Goodlatte. Has every member votes who wishes

2478 to vote? The clerk will report. The gentleman from Ohio?

2479 Mr. Chabot. No.

2480 Ms. Adcock. Mr. Chabot votes no.

2481 Chairman Goodlatte. The clerk will report.

2482 Ms. Adcock. Mr. Chairman, 8 members vote aye, 12

2483 members votes no.

2484 Chairman Goodlatte. And the amendment is not agreed

2485 to. Are there further amendments to H.R. 5203?

2486 Mr. Johnson. Mr. Chairman, there is another amendment
2487 at the desk.

2488 Chairman Goodlatte. The clerk will report the
2489 amendment.

2490 Ms. Adcock. Amendment to H.R. 5203, offered by Mr.
2491 Johnson. Page 6, line --

2492 [The amendment of Mr. Johnson follows:]

2493 ***** INSERT 7 *****

2494 Chairman Goodlatte. Without objection, the amendment
2495 is considered as read, and the gentleman is recognized for 5
2496 minutes on his amendment.

2497 Mr. Johnson. Thank you, Mr. Chairman. In its current
2498 form, H.R. 5203 requires the Department of Homeland Security
2499 to engage in in-depth social media screening for every
2500 immigration application. While this is a seemingly
2501 understandable response, especially in light of the San
2502 Bernardino shootings, as drafted, it is a waste of valuable
2503 DHS resources that will undermine our broader national
2504 security efforts.

2505 This bill requires DHS staff to vet individually the
2506 social media presence of any applicant, including legal
2507 aliens, US citizens, and members of our military. This will
2508 generate a nearly insurmountable volume of information for
2509 the agency to shift through and decipher. Imagine having to
2510 individually Google every visa applicant that came to your
2511 desk; that is not practical, nor is it remotely feasible.

2512 DHS does not have the physical manpower or the tools in
2513 place to analyze this plethora of data without using an
2514 automatic tool that would help avoid common problems, such
2515 as flagging individuals with common names. Unfortunately,
2516 at this time, DHS staff can only vet every applicant by
2517 manually reviewing the data. All this new social media
2518 process will do is further delay an already overburdened
2519 immigration system and unnecessarily target innocent
2520 parties.

2521 Finally, and perhaps most profoundly, the bill does not

2522 address the critical issue of social media activity in a
2523 foreign language, or in password-protected forums; an arena
2524 of concern with the San Bernardino shootings. Rather than
2525 providing funding so that DHS may hire trained translators,
2526 the agency will be forced to divert its limited number of
2527 linguists to vet the social media accounts for millions of
2528 applicants. I would much rather these highly skilled,
2529 highly valued translators focus their talents on analyzing
2530 more pressing homeland security threats.

2531 Unfortunately, we have, with this section of the bill,
2532 another section that creates more barriers to immigration
2533 and US citizenship. My amendment looks to alleviate some of
2534 the burden on DHS by requiring social media screening only
2535 upon fraud or national security triggers, or an agency
2536 determination.

2537 This allows DHS to prioritize its screenings, so as to
2538 ensure Homeland Security concerns are met without burying
2539 the immigration process in even more delays. If this
2540 Congress wishes to reform the social media vetting process,
2541 we should call in the DHS officials in charge of the agency
2542 pilot programs that explored social media vetting options.
2543 We should actually seek the opinion of the very individuals
2544 who will have to do the work, identify the best practices,
2545 and then move forward with legislation. Sweeping mandates
2546 interfering with DHS discretion will add to the immigration

2547 backlog and interfere with our national security priorities.
2548 So, I would ask the members to support my amendment, and
2549 with that, I will yield back.

2550 Mr. Forbes. Mr. Chairman?

2551 Chairman Goodlatte. For what purpose does the
2552 gentleman from Virginia seek recognition?

2553 Mr. Forbes. Move to strike the last word, Mr. Chair.

2554 Chairman Goodlatte. The gentleman is recognized for 5
2555 minutes.

2556 Mr. Forbes. Mr. Chairman, this is about as common
2557 sense as you can get. The databases that we are checking on
2558 currently will show if these individuals have done something
2559 in the past. But there are no predictors of what they may
2560 do in the future.

2561 One of the best ways for us to do that is simply to
2562 check social media; what every employer would do if they
2563 were hiring an employee and doing it with due diligence. It
2564 is a common practice in today's world that when employers
2565 look to hire new employees, they type that person's name
2566 into a search engine to see if that person has an internet
2567 footprint.

2568 It is also common practice in today's world for people
2569 to air their opinions on social media or other websites.
2570 So, the American people were more than surprised to learn
2571 after the San Bernardino terrorist attacks that neither DHS

2572 nor the State Department require even a cursory check of
2573 social media or other publically available websites to learn
2574 about the person applying for a visa or other immigrant
2575 immigration benefit.

2576 Not every terrorist is going to make public postings to
2577 social media. But many do. And at the very least, the
2578 Administration should be checking for such posts prior to
2579 proving and issuing visas and other immigration benefits. I
2580 know that DHS has conducted a few pilot programs requiring
2581 social media checks, and they have concluded that the
2582 benefits do not outweigh the costs.

2583 But even if one terrorist is denied entry into the
2584 United States because of a suspicious social media post,
2585 that alerts a judicator of potential mal-intent, then, the
2586 benefit far exceeds any cost. If you do not believe that,
2587 ask the families of the 14 people who were murdered in San
2588 Bernardino whether or not this is a common sense thing that
2589 we need to do. With that, Mr. Chairman, I yield to my
2590 friend from California.

2591 Mr. Issa. And I just want to support the member's wise
2592 objection to this amendment. It is amazing that, in the
2593 private sector, we would never consider hiring individuals
2594 and considering a background check complete without
2595 utilizing the tools available.

2596 And I just want to share with my collogue from Georgia

2597 one thing -- the first time that I visited General Petraeus
2598 in theater, he very proudly took me to his open-source
2599 facility that he had developed there, a few feet from his
2600 headquarters, where he had, basically, two dozen desks and
2601 computers. And he was scanning the Internet to learn what
2602 he needed to know to make us safe.

2603 He did so because, in fact, he was saving lives and he
2604 was protecting them. So, it is no surprise that when we say
2605 -- and you use the word "social media," and I appreciate it
2606 -- but broadly, the internet contains a vast amount of
2607 information that shows lies, that shows people's statements
2608 that they have done one thing; they have not done another.
2609 They have been one place; they have not been another.

2610 You know, the fact is, it may not always be a
2611 terrorist. It might just be somebody who says, "I am coming
2612 for vacation. I intend to return." And then, you see their
2613 wedding site for their upcoming wedding the day they arrive
2614 in the United States. And you go, "Oh, you are not applying
2615 for the right visa."

2616 So, are all the tools terrorism? No. But is it
2617 important that we enable them to have the tools? Yes. And
2618 as Congressman Forbes said, we would have saved 14 lives if
2619 we had been able to look and see that we had a terrorist
2620 plot underway by people who clearly were radicalized. We
2621 did not see it because we did not look.

2622 And so, I thank the gentleman from Virginia for
2623 yielding, and I thank him for his thoughtful bill that is so
2624 important for American security.

2625 Mr. Johnson. Would the gentleman yield?

2626 Mr. Forbes. It is my time, and I am happy to yield.

2627 Mr. Johnson. Well, thank the gentleman. You know,
2628 certainly every employer employs a search of social media to
2629 determine whether or not their potential employee measures
2630 up to standards. And that is certainly not something that
2631 is useless. I think it is very useful.

2632 But the fact is there is no employer that I know of
2633 that has to screen for -- 16 million visas, I think, were
2634 applied for in 2015; perhaps more so during this fiscal
2635 year. That is a whole lot of social media or internet
2636 searches -- whatever you want to call it. It is certainly
2637 quite a few. And we are not providing one iota of -- not
2638 even a pin head's worth of funding in this --

2639 Mr. Forbes. Well, people disagree. I think my friend
2640 is a reasonable person, and the question here is this --
2641 whether or not the American people have the right to think
2642 that we should at least check social media so that we can
2643 get an idea before people come in here as to whether or not
2644 they intend to harm and hurt Americans. We think that is a
2645 very reasonable, common sense approach; gentleman disagrees.
2646 But that is why I hope we will reject his amendment and keep

2647 this very common sense, very reasonable, very balanced
2648 approach in this bill. And with that, Mr. Chairman, I yield
2649 back.

2650 Chairman Goodlatte. Question occurs on the amendment
2651 offered by the gentleman from Georgia.

2652 All those in favor, respond by saying aye.

2653 Those opposed, no.

2654 In the opinion of the chair, the noes have it. The
2655 amendment is not agreed to.

2656 Mr. Johnson. Mr. Chairman, I ask for a recorded vote.

2657 Chairman Goodlatte. Recorded vote is requested. The
2658 clerk will call the roll.

2659 Ms. Adcock. Mr. Goodlatte?

2660 Chairman Goodlatte. No.

2661 Ms. Adcock. Mr. Goodlatte votes no.

2662 Mr. Sensenbrenner?

2663 Mr. Sensenbrenner. No.

2664 Ms. Adcock. Mr. Sensenbrenner votes no.

2665 Mr. Smith?

2666 [No response.]

2667 Mr. Chabot?

2668 Mr. Chabot. No.

2669 Ms. Adcock. Mr. Chabot votes no.

2670 Mr. Issa?

2671 Mr. Issa. No.

2672 Ms. Adcock. Mr. Issa votes no.
2673 Mr. Forbes?
2674 Mr. Forbes. No.
2675 Ms. Adcock. Mr. Forbes votes no.
2676 Mr. King?
2677 [No response.]
2678 Mr. Franks?
2679 Mr. Franks. No.
2680 Ms. Adcock. Mr. Franks votes no.
2681 Mr. Gohmert?
2682 Mr. Gohmert. No.
2683 Ms. Adcock. Mr. Gohmert votes no.
2684 Mr. Jordan?
2685 [No response.]
2686 Mr. Poe?
2687 [No response.]
2688 Mr. Chaffetz?
2689 [No response].
2690 Mr. Marino?
2691 Mr. Marino. No.
2692 Ms. Adcock. Mr. Marino votes no.
2693 Mr. Gowdy?
2694 [No response.]
2695 Mr. Labrador?
2696 [No response.]

2697 Mr. Farenthold?
2698 [No response.]
2699 Mr. Collins?
2700 [No response.]
2701 Mr. DeSantis?
2702 [No response.]
2703 Ms. Walters?
2704 Ms. Walters. No.
2705 Ms. Adcock. Ms. Walters votes no.
2706 Mr. Buck?
2707 Mr. Buck. No.
2708 Ms. Adcock. Mr. Buck votes no.
2709 Mr. Ratcliffe?
2710 [No response.]
2711 Mr. Trott?
2712 Mr. Trott. No.
2713 Ms. Adcock. Mr. Trott votes no.
2714 Mr. Bishop?
2715 Mr. Bishop. No.
2716 Ms. Adcock. Mr. Bishop votes no.
2717 Mr. Conyers?
2718 Mr. Conyers. Aye.
2719 Mr. Conyers votes aye. Mr. Nadler?
2720 Mr. Nadler. Aye.
2721 Ms. Adcock. Mr. Nadler votes aye.

2722 Ms. Lofgren?
2723 [No response.]
2724 Ms. Jackson Lee?
2725 [No response.]
2726 Mr. Cohen?
2727 [No response.]
2728 Mr. Johnson?
2729 Mr. Johnson. Aye.
2730 Ms. Adcock. Mr. Johnson votes aye.
2731 Mr. Pierluisi?
2732 [No response.]
2733 Ms. Chu?
2734 [No response.]
2735 Mr. Deutch?
2736 [No response.]
2737 Mr. Gutierrez?
2738 Mr. Gutierrez. Aye
2739 Ms. Adcock. Mr. Gutierrez votes aye.
2740 Ms. Bass?
2741 [No response.]
2742 Mr. Richmond?
2743 [No response.]
2744 Ms. DelBene?
2745 Ms. DelBene. Aye.
2746 Ms. Adcock. Ms. DelBene votes aye.

2747 Mr. Jeffries?

2748 [No response.]

2749 Mr. Cicilline?

2750 Mr. Cicilline. Aye.

2751 Ms. Adcock. Mr. Cicilline votes aye. Oh, Mr. Jeffries

2752 votes aye. Mr. Cicilline?

2753 Mr. Cicilline. Aye

2754 Ms. Adcock. Mr. Cicilline votes aye.

2755 Mr. Peters?

2756 [No response.]

2757 Chairman Goodlatte. The gentleman from Idaho.

2758 Ms. Adcock. Mr. Labrador votes no.

2759 Chairman Goodlatte. Has every member voted who wishes

2760 to vote? The clerk will report.

2761 Ms. Adcock. Mr. Chairman, 7 members voted aye, and 13

2762 members voted no.

2763 Chairman Goodlatte. And the amendment is not agreed

2764 to. Are there further amendments to H.R. 5203?

2765 Mr. Gutierrez. Speaker, I have an amendment.

2766 Chairman Goodlatte. The Clerk will report the

2767 amendment.

2768 Ms. Adcock. Amendment to H.R. 5203 offered by Mr.

2769 Gutierrez, Page 6, line 20 --

2770 [The amendment of Mr. Gutierrez follows:]

2771 ***** INSERT 8 *****

2772 Chairman Goodlatte. Without objection, the amendment
2773 is considered as read, and the gentleman is recognized for 5
2774 minutes on his amendment.

2775 Mr. Gutierrez. My amendment would strike the
2776 requirement in section 2 of the Republican bill, that no
2777 immigration application or petition filed with DHS can be
2778 approved without an interview. It would replace it with a
2779 requirement that interviews be required in cases where there
2780 are foreign or national security triggers and upon agency
2781 determination, and it preserves the waiver only for children
2782 who would be 10 years of age or younger at the time of the
2783 interview, and an exception to the interview requirement for
2784 work authorization.

2785 Under current law, when the interview is conducted is
2786 dependent on the type of application. Some applications,
2787 such as family-based green card applications and asylum
2788 application, require in-person interviews. Others, such as
2789 an employment-based non-immigrant petitions are adjudicated
2790 at U.S.C.I.S. Service Processing Center without an
2791 interview.

2792 These cases, U.S.C.I.S. adjudicators review
2793 applications along with submitted written documentation, and

2794 the beneficiary generally interview before arrival in the
2795 U.S. by the Department of State counselor offices at a post
2796 abroad. The interview requirement in the Republican bill
2797 would apply in cases where, for example, the applicant has
2798 already been interviewed at the counselor post aboard;
2799 screened by CBB at the port of entry, and multiple times
2800 previously by U.S.C.I.S. This would be a huge new burden on
2801 DHS and cost untold millions.

2802 We know what is going on here. The majority who have
2803 been obsessed with illegal immigration are now turning their
2804 sites to legal immigration. Your son's fiancé, your mom's
2805 doctor, your neighbor's nanny, your grocery store's
2806 janitorial crew; if they are coming legally, the majority
2807 wants to stop it, slow it down, make it cost a lot more.
2808 The party of Trump has launched an all-out radical assault
2809 on legal immigration, in hopes that everybody is so scared
2810 of the rapey Mexicans or the sex-crazed Italians, or the
2811 Vietnamese immigrants with Ebola on the one hand, and Zika
2812 flies on the other hand, or whatever it is that the main
2813 governor is scared of at the time of immigrants.

2814 Remember a couple of years ago when the Republican
2815 majority said that the kids from Central America, the
2816 refugees, were carrying the Ebola? This is all the same
2817 stuff; no Ebola, but we still have this. Lockdown the whole
2818 system. Lady Liberty, lower your lamp; cover up your palm,

2819 and take a seat, because terrorists got in once, which is
2820 enough to keep everyone out, from the computer programmer to
2821 the ski instructor to the refugee fleeing systematic
2822 violence.

2823 The new steps and routines in this bill, U.S.C.I.S.
2824 estimates, will require millions of new interviews.
2825 Interviews could be required for routine adjudication, such
2826 as a change of status from student to an employment-based,
2827 non-immigrant category, or temporary protected status.
2828 There are 300,000 people who have temporary protective
2829 status in the United States, and they must reapply routinely
2830 every year. To do 300,000 more a year, it would require
2831 U.S.C.I.S. to hire thousands of new officers. You think the
2832 TSA is bad? Wait until you hear from your pals at the
2833 Chamber of Commerce when it comes to their complaint about
2834 immigrations for their employees. Your bill would add
2835 months, if not years, on top of already lengthy processing
2836 delays. According to U.S.C.I.S. website, the current
2837 processing time for a naturalization application at New
2838 York, Chicago, Washington D.C., is approximately 8 to 9
2839 months.

2840 We cannot add another 6 months so that someone can
2841 become a citizen of the United States. Like Mr. Trump, the
2842 Republican nominee, this bill treats all immigrants and visa
2843 applicants with suspicion, like they are criminals or

2844 rapists. This amendment, by requiring U.S.C.I.S. to conduct
2845 interviews in cases where there are foreign or national
2846 security triggers, or otherwise where the agency determines
2847 it necessary, would ensure that resources are targeted. We
2848 need risk-based approaches to national security immigration
2849 vetting, but the interview requirement in this bill, as
2850 introduced, is a blunt hammer. It could result in agency
2851 resources and attention being diverted from cases where real
2852 threats to our Nation are being presented.

2853 Chairman Goodlatte. I think you are yielding back, but
2854 the gentleman from Virginia, for what purpose do you seek
2855 recognition?

2856 Mr. Forbes. I move to strike the last word.

2857 Chairman Goodlatte. Gentleman is recognized for 5
2858 minutes.

2859 Mr. Forbes. Mr. Chairman, I oppose the amendment and
2860 urge my colleagues to do the same, and I want to try to
2861 distinguish from the political rant that we just heard to
2862 actually looking at what the bill said. Then I --

2863 Mr. Gutierrez. [inaudible]

2864 Mr. Nadler. Well, Chairman, regular order --

2865 Chairman Goodlatte. The gentleman from Virginia has
2866 the time. The gentleman can characterize statements.

2867 Mr. Gutierrez. I want that on the record.

2868 Mr. Nadler. Mr. Chairman, I call for the regular

2869 order. The gentleman from Illinois is out of order.

2870 Chairman Goodlatte. No, no. No.

2871 Mr. Gutierrez. Regular order.

2872 Chairman Goodlatte. No, I am not. No, I am not. The
2873 gentleman -- the gentleman will be in order.

2874 Mr. Gutierrez. I will be in order when you're in
2875 order.

2876 Chairman Goodlatte. I am in order.

2877 Mr. Gutierrez. Okay, then I'll be in order. I object.

2878 Chairman Goodlatte. I hear your objection. Your
2879 objection is overruled. The gentleman may continue.

2880 Mr. Gutierrez. I object. I object.

2881 Mr. Nadler. Mr. Chairman?

2882 Chairman Goodlatte. I did not say you could not
2883 object.

2884 Mr. Nadler Mr. Chairman?

2885 Chairman Goodlatte. For what purpose the gentleman
2886 from New York seek recognition?

2887 Mr. Nadler. I think the proper procedural motion is to
2888 take down the gentleman's words.

2889 Chairman Goodlatte. That motion has not been made.

2890 Mr. Gutierrez. I move to take down the gentleman's
2891 words.

2892 Chairman Goodlatte. The motion is not timely. The
2893 gentleman is out of order. The gentleman from Virginia may

2894 proceed.

2895 Mr. Forbes. Chairman, thank you. What we are going to
2896 do is try to look at the actual facts that are in here.
2897 What the gentleman has said is that we want to do in person
2898 interviews when we already know what could have been
2899 determined by the in person interviews that we did not do.
2900 Because basically a highly-trained counselor officer can
2901 often note discrepancies in the interview that would open a
2902 line of inquiry and lead to the denial of the visa. But
2903 what the gentleman is arguing is that we should only do them
2904 when we actually know there is fraud. When it became
2905 apparent that the State Department Bureau of Counselor
2906 Affairs did not exercise their discretion to conduct in
2907 person interviews with the 9/11 terrorists prior to issuing
2908 them visas, Congress required such interviews for the vast
2909 majority of visa applicants. We did so because as any law
2910 enforcement official will tell you, a face-to-face interview
2911 is perhaps the best way to determine mal intent on the part
2912 of a person being interviewed. Even Counselor Affairs
2913 officials have noted the immense importance of an in person
2914 interview in the visa issuance process.

2915 In 2011, then then-acting Deputy Assistant Secretary of
2916 Counselor Affairs noted in Congressional testimony that
2917 despite a fraudulent document being submitted a highly-
2918 trained counselor officer can often note discrepancies in

2919 the interview that would open a line of inquiry and lead to
2920 the denial of a visa. While U.S.C.I.S. does require in
2921 person interviews in order to obtain some immigration
2922 benefits, it does not do so for all such benefits. But
2923 rampant fraud and national security concerns necessitate
2924 that the in person interview requirement to which we subject
2925 visa applicant at the State Department level also be applied
2926 at the immigration benefit level. Once again, Mr. Chairman,
2927 as I have said all throughout this process, reasonable
2928 people can disagree; we think this is a balanced, common
2929 sense approach to simply say we want someone actually doing
2930 the interview. And let me also point out we are only
2931 talking about the initial application process. This is not
2932 as the gentleman mentioned every single application along
2933 the way. And with that, Mr. Chairman, I yield back the
2934 balance of my time.

2935 Chairman Goodlatte. The question occurs on the
2936 amendment offered by the gentleman from Illinois.

2937 All those in favor respond by saying aye.

2938 Those opposed no.

2939 In the opinion of the chair, the noes have it. The
2940 amendment is not agreed to.

2941 Mr. Gutierrez. May I ask for a recorded vote?

2942 Chairman Goodlatte. A record of vote is requested.

2943 The clerk will call the roll.

2944 Ms. Adcock. Mr. Goodlatte.
2945 Chairman Goodlatte. No.
2946 Ms. Adcock. Mr. Goodlatte votes no. Mr.
2947 Sensenbrenner.
2948 Mr. Sensenbrenner. No.
2949 Ms. Adcock. Mr. Sensenbrenner votes no.
2950 Mr. Smith.
2951 [No response.]
2952 Mr. Chabot.
2953 Mr. Chabot. No.
2954 Ms. Adcock. Mr. Chabot votes no.
2955 Mr. Issa?
2956 [No response.]
2957 Mr. Forbes?
2958 Mr. Forbes. No.
2959 Ms. Adcock. Mr. Forbes votes no.
2960 Mr. King?
2961 [No response.]
2962 Mr. Franks?
2963 [No response.]
2964 Mr. Gohmert.
2965 Mr. Gohmert. No.
2966 Ms. Adcock. Mr. Gohmert votes no.
2967 Mr. Jordan.
2968 [No response.]

2969 Mr. Poe.
2970 [No response.]
2971 Mr. Chaffetz.
2972 [No response.]
2973 Mr. Marino.
2974 Mr. Marino. No.
2975 Ms. Adcock. Mr. Marino votes no.
2976 Mr. Gowdy.
2977 [No response.]
2978 Mr. Labrador.
2979 Mr. Labrador. No.
2980 Ms. Adcock. Mr. Labrador votes no.
2981 Mr. Farenthold.
2982 [No response.]
2983 Mr. Collins.
2984 [No response.]
2985 Mr. DeSantis.
2986 [No response.]
2987 Ms. Walters.
2988 Ms. Walters. No.
2989 Ms. Adcock. Ms. Walters votes no.
2990 Mr. Buck.
2991 Mr. Buck. No.
2992 Ms. Adcock. Mr. Buck votes no.
2993 Mr. Ratcliffe.

2994 [No response.]

2995 Mr. Trott.

2996 Mr. Trott. No.

2997 Ms. Adcock. Mr. Trott votes no.

2998 Mr. Bishop?

2999 Mr. Bishop. No.

3000 Ms. Adcock. Mr. Bishop votes no.

3001 Mr. Conyers.

3002 Mr. Conyers. Aye.

3003 Ms. Adcock. Mr. Conyers votes aye.

3004 Mr. Nadler.

3005 Mr. Nadler. Aye.

3006 Ms. Adcock. Mr. Nadler votes aye.

3007 Ms. Lofgren.

3008 [No response.]

3009 Ms. Jackson Lee.

3010 Ms. Jackson Lee. Aye.

3011 Ms. Adcock. Ms. Jackson Lee votes aye.

3012 Mr. Cohen.

3013 [No response.]

3014 Mr. Johnson.

3015 Mr. Johnson. Aye.

3016 Ms. Adcock. Mr. Johnson votes aye.

3017 Mr. Pierluisi.

3018 [No response.]

3019 Ms. Chu.

3020 Ms. Chu. Aye.

3021 Ms. Adcock. Ms. Chu votes aye.

3022 Mr. Deutch.

3023 [No response.]

3024 Mr. Gutierrez.

3025 Mr. Gutierrez. Aye.

3026 Ms. Adcock. Mr. Gutierrez votes aye.

3027 Ms. Bass.

3028 [No response.]

3029 Mr. Richmond.

3030 [No response.]

3031 Ms. DelBene.

3032 Ms. DelBene. Aye.

3033 Ms. Adcock. Ms. DelBene votes aye.

3034 Mr. Jeffries.

3035 Mr. Jeffries. Aye.

3036 Ms. Adcock. Mr. Jeffries votes aye.

3037 Mr. Cicilline.

3038 Mr. Cicilline. Aye.

3039 Ms. Adcock. Mr. Cicilline votes aye.

3040 Mr. Peters.

3041 [No response.]

3042 Chairman Goodlatte. The gentleman from Arizona.

3043 Mr. Franks. No.

3044 Ms. Adcock. Mr. Franks votes no.

3045 Chairman Goodlatte. Has every member voted who wishes
3046 to vote? Clerk will report.

3047 Ms. Adcock. Mr. Chairman, nine members voted aye. 12
3048 members voted no.

3049 Chairman Goodlatte. And the amendment is not agreed
3050 to. Are there further amendments to H.R. 5203?

3051 Ms. Jackson Lee. Mr. Chairman?

3052 Chairman Goodlatte. What purpose does the gentlewoman
3053 from Texas seek recognition?

3054 Ms. Jackson Lee. Chairman, I have an amendment. It is
3055 amendment number 17. We had unfinished business before the
3056 break. I believe that we have reached an agreement on the
3057 structure of the amendment.

3058 Chairman Goodlatte. Clerk will report the amendment.

3059 Ms. Adcock. Amendment to H.R. 5203 offered by Ms.
3060 Jackson Lee of Texas. Page 6, line 18, strike any such and
3061 all that follows through line 19 --

3062 [The amendment of Mr. Gutierrez follows:]

3063 ***** INSERT 9 *****

3064 Chairman Goodlatte. Without objection, the amendment
3065 is considered as read. The gentlewoman is recognized for 5
3066 minutes on her amendment.

3067 Ms. Jackson Lee. I thank you, Mr. Chairman. I have
3068 raised concerns about the underlying bill, but I recognize
3069 that if the bill is to be structurally sound, we can have a
3070 backlog and a clog of unparalleled amounts if we are
3071 depending on individuals of economic means that would not be
3072 able to match and pay for this genetic testing.

3073 So my amendment would require the Department of
3074 Homeland Security establish fee guidelines for any expenses
3075 associated with genetic testing taking into consideration
3076 the ability of the petitioner or applicant to pay. Many of

3077 these individuals may be refugees. We have taken in
3078 refugees for decades. We have taken them in safely and
3079 securely.

3080 They have later become statused onward to citizenship.
3081 I have seen their emotional statements and been with them as
3082 they have finally taken the oath of office as a citizen.
3083 Some of them may go onto the United States military. They
3084 love this country.

3085 But this structure of this bill now would effectively
3086 treat all immigrants, temporary visa applicants, as if they
3087 are criminals even if the individual is an immediate
3088 relative of a U.S. citizen, a spouse of a member of the U.S.
3089 Armed Forces, or a skilled worker who has been legally
3090 studying and living in the United States, of which I have
3091 heard many Republicans say we want them to stay here. All
3092 of those who are now building huge companies in Silicon
3093 Valley. And living in the United States with no criminal
3094 record for over a decade.

3095 My amendments would alleviate significant concerns with
3096 this bill; notably, the requirement's previous amendment on
3097 DNA testing at the expense of the petitioner for all
3098 applications and petitions predicated on biological
3099 relationship.

3100 I also on the 17 -- I was just reviewing my previous
3101 amendment -- would require the Department of Homeland

3102 Security to establish a fee guideline for any expenses
3103 associated with the genetic testing part of this legislation
3104 taking into consideration the ability of the petitioner or
3105 applicant to pay. H.R. 5203 does nothing to account for the
3106 enormous cost of DNA testing for those low-income
3107 individuals who again are coming from very serious
3108 circumstances.

3109 Currently, DNA testing may cause more than \$500 test
3110 per person. This cost will have to be assumed by many low-
3111 income families including members of the U.S. Armed Forces,
3112 refugees, asylees, and survivors of domestic violence and
3113 trafficking who are already struggling to make ends meet.

3114 In addition to the test cost, families living in remote
3115 locations will have the additional burden of ensuing a
3116 travel cost required to complete the genetic testing
3117 obligation. By having the Department of Homeland Security
3118 establish guidelines for DNA testing fees which would take
3119 into consideration the applicant's ability to pay, the
3120 financial burden of this amendment will be ameliorated and
3121 will not be disproportionately a burden on low-income
3122 families.

3123 I, again, say we do not want to see any more San
3124 Bernardinos, but we want bills that are going to respond to
3125 that particular crisis among others. Now that we have this
3126 bill in place, I do think my amendment on the DHS is an

3127 important contribution, and I have asked my colleagues to
3128 support this amendment. I yield back.

3129 Chairman Goodlatte. The chair thanks gentlewoman.
3130 What purpose does the gentleman from Virginia seek
3131 recognition?

3132 Mr. Forbes. I move to strike the last word.

3133 Chairman Goodlatte. Gentleman is recognized for 5
3134 minutes.

3135 Mr. Forbes. Thank you, Mr. Chairman. Mr. Chairman, I
3136 oppose this amendment. And first of all I want to address
3137 the fact that DNA treats people as if they are criminals.
3138 If we took that position, then the current administration
3139 requirement that DNA testing be used in essential American
3140 Minors Program would be treating those individuals as
3141 criminals, and I certainly do not think that that is what
3142 the administration is doing, or that is the effect of their
3143 DNA testing.

3144 The second thing is if you look at the way this
3145 amendment is worded, I do not really understand totally what
3146 it means, but I secondly do not understand how it could be
3147 enforced. It says the Secretary of Homeland Security shall
3148 establish fee guidelines for any expenses associated with
3149 the genetic test taking into consideration the ability of
3150 the petitioner or applicant to pay.

3151 Well, how is the Secretary of Homeland Security going

3152 to force guidelines -- fee guidelines -- on private entities
3153 that may be doing these testing or other countries that may
3154 be doing this kind of testing? They could not do it.
3155 Secondly, how would the fee structure even work based on the
3156 ability of the petitioner or the applicant to pay?
3157 Department of Homeland Security does not have that right to
3158 impose that burden on other entities that would be doing
3159 this testing. So with all of that said, Mr. Chairman, I
3160 hope that we will --

3161 Ms. Jackson Lee. Will the gentleman yield?

3162 Mr. Forbes. I will be happy to yield.

3163 Ms. Jackson Lee. I appreciate the gentleman's inquiry.
3164 I think those are important inquiries. As I understand it,
3165 they would be testing on the basis of meeting Federal
3166 requirements or requirements dealing with a visa. And so as
3167 other private entities who have to operate under code of law
3168 or Federal law, though they may be a contractor, then they
3169 would simply follow the fee guidelines that would be given
3170 by the DHS dealing with these under the criteria of the
3171 ability of the petitioner to pay.

3172 If the petitioner had 10 family members, I mean, that
3173 is obviously an extreme. They would be able to deal with
3174 that. If the petitioner came recently from a refugee camp
3175 and was still in the status of seeking an asylum and was not
3176 able to meet those tests, the DHS is at most position to be

3177 able to assess that.

3178 Mr. Forbes. But would the gentlelady -- I do not want
3179 to cut her off.

3180 Ms. Jackson Lee. I will just finish my sentence then
3181 yield back to you. And so I think that would be an easy fix
3182 to -- an easy process for the DHS to abide that to whoever
3183 the contractor is dealing with the testing because they are
3184 doing it under code of Federal law. I yield back.

3185 Mr. Forbes. Thank you. I thank the gentlelady for her
3186 response, but the reality is that many of these tests would
3187 be done in other countries, not in the United States. The
3188 testing would not be taking place here. The Secretary of
3189 Homeland Security would not have the ability to impose those
3190 guidelines because it is not something the Federal
3191 government is paying for or authorizing. It is something
3192 these individuals are acquiring and paying for outside of
3193 those parameters, so it would be a totally different
3194 situation.

3195 Again, I do not know how the Secretary of Homeland
3196 Security would have the authority or the ability to impose
3197 these kind of fees on other entities. And then I would say
3198 it would be more problematic because what would happen then
3199 -- what happens if they have to pay more and they bring that
3200 DNA test to get their visa application? Does the individual
3201 that is doing the interview then say I cannot accept it

3202 because this is outside the fee arrangement? So I think
3203 with all of that once again, Mr. Chairman, I hope we will
3204 reject this amendment and stick with the underlying bill.
3205 And with that I yield. I yield back.

3206 Chairman Goodlatte. What purpose does the gentleman
3207 from Georgia seek recognition?

3208 Mr. Johnson. Move to strike the last word.

3209 Chairman Goodlatte. Gentleman is recognized for 5
3210 minutes.

3211 Mr. Johnson. Mr. Chairman, I yield to the gentlelady
3212 from Texas.

3213 Ms. Jackson Lee. Thank you. To the gentleman's point,
3214 there are family members here in the United States that are
3215 going to be required to have the DNA testing, so I guess the
3216 underlying bill needs to have a modification of which this
3217 amendment offers to ensure that there is some recognition of
3218 the potential exorbitant cost that will have to be addressed
3219 and to set the kinds of fee guidelines that can both be
3220 guidance for DNA testing here and be guidance for DNA
3221 testing elsewhere.

3222 I can assure most persons that if these individuals are
3223 testing overseas in certain jurisdictions, they will
3224 probably be going to one entity because that is what happens
3225 with business. When they see an opportunity, there is
3226 probably going to be just like passport picture taking

3227 people, and they can be -- they can fall under the
3228 guidelines. There could be guidance that could be because
3229 that is what this amendment says. That will be helpful to
3230 not eliminate people simply because of the cost issue. So I
3231 ask my colleagues to support the Jackson Lee amendment. I
3232 yield. I yield back to the gentleman.

3233 Chairman Goodlatte. The chair thanks the gentlewoman
3234 and the gentleman.

3235 The question occurs on the amendment offered by the
3236 gentlewoman from Texas.

3237 All those in favor respond by saying aye.

3238 Those opposed no.

3239 In the opinion of the chair, the noes have it. A roll
3240 call vote is requested, and the clerk will call the role.

3241 Ms. Adcock. Mr. Goodlatte?

3242 Chairman Goodlatte. No.

3243 Ms. Adcock. Mr. Goodlatte votes no.

3244 Mr. Sensenbrenner?

3245 Mr. Sensenbrenner. No.

3246 Ms. Adcock. Mr. Sensenbrenner votes no.

3247 Mr. Smith?

3248 [No response.]

3249 Mr. Chabot?

3250 Mr. Chabot. No.

3251 Ms. Adcock. Mr. Chabot votes no.

3252 Mr. Issa?
3253 [No response.]
3254 Mr. Forbes?
3255 Mr. Forbes. No.
3256 Ms. Adcock. Mr. Forbes votes no.
3257 Mr. King?
3258 [No response.]
3259 Mr. Franks?
3260 [No response.]
3261 Mr. Gohmert?
3262 [No response.]
3263 Mr. Jordan?
3264 [No response.]
3265 Mr. Poe?
3266 [No response.]
3267 Mr. Chaffetz?
3268 [No response.]
3269 Mr. Marino?
3270 [No response.]
3271 Mr. Gowdy?
3272 [No response.]
3273 Mr. Labrador?
3274 Mr. Labrador. No.
3275 Ms. Adcock. Mr. Labrador votes no.
3276 Mr. Farenthold?

3277 [No response.]
3278 Mr. Collins?
3279 [No response.]
3280 Mr. DeSantis?
3281 [No response.]
3282 Ms. Walters?
3283 Ms. Walters. No.
3284 Ms. Adcock. Ms. Walters votes no.
3285 Mr. Buck?
3286 Mr. Buck. No.
3287 Ms. Adcock. Mr. Buck votes no.
3288 Mr. Ratcliffe?
3289 [No response.]
3290 Mr. Trott?
3291 Mr. Trott. No.
3292 Ms. Adcock. Mr. Trott votes no.
3293 Mr. Bishop?
3294 Mr. Bishop. No.
3295 Ms. Adcock. Mr. Bishop votes no.
3296 Mr. Conyers?
3297 Mr. Conyers. Aye.
3298 Ms. Adcock. Mr. Conyers votes aye.
3299 Mr. Nadler?
3300 Mr. Nadler. Aye.
3301 Ms. Adcock. Mr. Nadler votes aye.

3302 Ms. Lofgren?

3303 Ms. Lofgren. Aye.

3304 Ms. Adcock. Ms. Lofgren votes aye.

3305 Ms. Jackson Lee?

3306 Ms. Jackson Lee. Aye.

3307 Ms. Adcock. Ms. Jackson Lee votes aye.

3308 Mr. Cohen?

3309 [No response.]

3310 Mr. Johnson?

3311 Mr. Johnson. Aye.

3312 Ms. Adcock. Mr. Johnson votes aye.

3313 Mr. Pierluisi?

3314 [No response.]

3315 Ms. Chu?

3316 Ms. Chu. Aye.

3317 Ms. Adcock. Ms. Chu votes aye.

3318 Mr. Deutch?

3319 [No response.]

3320 Mr. Gutierrez?

3321 [No response.]

3322 Ms. Bass?

3323 [No response.]

3324 Mr. Richmond?

3325 [No response.]

3326 Ms. DelBene?

3327 Ms. DelBene. Aye.

3328 Ms. Adcock. Ms. DelBene votes aye.

3329 Mr. Jeffries?

3330 Mr. Jeffries. Aye.

3331 Ms. Adcock. Mr. Jeffries votes aye.

3332 Mr. Cicilline?

3333 Mr. Cicilline. Aye.

3334 Ms. Adcock. Mr. Cicilline votes aye.

3335 Mr. Peters?

3336 [No response.]

3337 Mr. Issa. No.

3338 Ms. Adcock. Mr. Issa votes no.

3339 Chairman Goodlatte. Gentleman from Pennsylvania.

3340 Mr. Marino. No.

3341 Chairman Goodlatte. Gentleman from Texas.

3342 Mr. Gohmert. No.

3343 Ms. Adcock. Mr. Gohmert votes no.

3344 Chairman Goodlatte. Gentleman from Arizona.

3345 Mr. Franks. No.

3346 Ms. Adcock. Mr. Franks votes no.

3347 Chairman Goodlatte. Has every member voted who wishes

3348 to vote?

3349 Ms. Jackson Lee. Mr. Chairman?

3350 Chairman Goodlatte. For what purpose does the

3351 gentlewoman from Texas seek --

3352 Ms. Jackson Lee. Could I have mine recorded?

3353 Ms. Adcock. Aye.

3354 Ms. Jackson Lee. Thank you.

3355 Chairman Goodlatte. The clerk will report.

3356 Ms. Adcock. Mr. Chairman, 9 members voted aye, 13
3357 members voted no.

3358 Chairman Goodlatte. And the amendment is not agreed
3359 to. Are there further amendments to H.R. 5203?

3360 Ms. Chu. Mr. Chairman, I have an amendment at the
3361 desk.

3362 Chairman Goodlatte. The clerk will report the
3363 amendment of Ms. Chu.

3364 Ms. Adcock. Amendment to H.R. 5203 offered by Ms. Chu
3365 of California. Page 6, line 7, insert after the period the
3366 following --

3367 [The amendment follows:]

3368 ***** INSERT 10 *****

3369 Chairman Goodlatte. Without objection, the amendment
3370 is considered as read and the gentlewoman is recognized for
3371 5 minutes on her amendment.

3372 Ms. Chu. Mr. Chairman, the amendment that I offer
3373 today would require the Department of Homeland Security to

3374 establish procedural safeguards to protect victims of
3375 domestic abuse prior to conducting social media screenings
3376 in the immigration process. I am introducing this amendment
3377 because these safeguards are necessary to prevent abusers
3378 using social media to deny victims the opportunity to obtain
3379 the humanitarian immigration relief that they otherwise
3380 deserve.

3381 While reviewing social media postings should be a part
3382 of every immigration and visa education, social media has
3383 opened the door to new ways for abusers to keep control over
3384 the victims. Abusers routinely use social networks to
3385 stalk, harass, and gain information about their victims.
3386 Unbeknownst to victims, abusers can post information about
3387 them, including information on their friends, family,
3388 including children and current and former partners,
3389 employers, churches, and community groups, schools,
3390 government, and others. Unbelievably, this bill does
3391 nothing to prevent this type of abuse from infiltrating the
3392 visa review process.

3393 Personal information is increasingly ending up online.
3394 While many of us have concerns over security and privacy and
3395 social media, victims of domestic violence, sexual violence,
3396 and stalking have even more complex safety risks and
3397 concerns when their personal information ends up on the
3398 internet. The underlying bill does nothing to deal with

3399 situations where an abuser may impersonate a victim with a
3400 new social media profile or hijack a victim's existing
3401 social media profile.

3402 In the social media age, where images and posts are
3403 increasingly scrutinized, perpetrators can devastate their
3404 victims, often partners or ex-partners psychologically,
3405 socially, and financially while remaining cloaked in
3406 anonymity from cyberspace. We should not give this type of
3407 abuse free reign in the visa process. Research conducted by
3408 the U.S. Department of Justice found that more than one in
3409 four stalking victims reported suffering some form of cyber
3410 stalking. The majority of these victims identify the online
3411 stalker as a former intimate partner.

3412 This threat is real, and if not dealt with properly,
3413 deserving immigrants may be denied their visas and, worse,
3414 remain vulnerable to their abusers. My amendment would
3415 ensure that victims of domestic abuse are not further
3416 victimized by this well-intentioned but ill-conceived
3417 legislation. I urge my colleagues to support this
3418 amendment. I yield back.

3419 Chairman Goodlatte. The chair thanks the gentlewoman.
3420 For what purpose does the gentleman from Virginia seek
3421 recognition?

3422 Mr. Forbes. Move to strike the last word.

3423 Chairman Goodlatte. The gentleman is recognized for 5

3424 minutes.

3425 Mr. Forbes. Chairman, I hope we will oppose this
3426 amendment, and I urge my colleagues to do so. First of all,
3427 anything that is within this bill, the so-called stalkers or
3428 anybody else could get access to anyway because it is all
3429 publicly available. There is no additional information that
3430 these interviewers are going to be able to get than anybody
3431 who wanted to get that publicly could already get.

3432 Anything found by these interviewers would go into the
3433 application and that application is included under the
3434 Privacy Act and, therefore, inaccessible to anybody else or
3435 anybody in the public. So, this amendment is totally
3436 unnecessary because it tries to deal with a problem that
3437 does not exist, and with that Ms. Chairman, I yield back.

3438 Ms. Jackson Lee. Mr. Chairman?

3439 Chairman Goodlatte. For what purpose does the
3440 gentlewoman from Texas seek recognition?

3441 Ms. Jackson Lee. Mr. Chairman, I have served on this
3442 committee for a very long time, and that means I have a
3443 historical perspective. I am remembering in the early days
3444 of the Violence Against Women Act, and the enormity of
3445 domestic violence, domestic abuse -- sometimes men, many
3446 times women, and the sense of urgency to try to protect
3447 those victims who in years past, had no place to go.

3448 Even today, we are hearing stories over and over again

3449 regarding women who have no place to go or whose protection
3450 order is ignored and they wind up dead. Many of those cases
3451 are in our respected districts. Certainly, they are in my
3452 district. When an individual came and killed a husband and
3453 wife, of course, the wife had been in his life and five
3454 children.

3455 Another incident with a boyfriend or ex-partner of a
3456 woman came and killed, again, the husband and wife and all
3457 the children except one. I think it was four or five. This
3458 is about life and death, and information going out on
3459 domestic violence or seeping out on domestic violence puts
3460 the individual in jeopardy.

3461 I rise to support the gentlelady's amendment because in
3462 every committee that I have been on, we have taken the issue
3463 of domestic abuse, domestic violence very, very, very
3464 seriously, and if this amendment can simply add to the
3465 security of those who are most vulnerable, including that
3466 individual's children, in many instances, are also
3467 vulnerable to that information being released, then I think
3468 this committee can do nothing less and follow in the
3469 tradition of what we have had in the past and pass this
3470 amendment. This is not a partisan amendment. I would be
3471 happy to yield to the gentlelady if she desires.

3472 Mr. Forbes. Would the gentlelady yield to me if you do
3473 not have any additional response or?

3474 Ms. Jackson Lee. Yeah. Let me finish, and I will be
3475 happy to yield to the gentleman. So, I think this is not an
3476 undermining of the bill. I think this should be a
3477 bipartisan amendment, and I would hope my colleagues on both
3478 sides of the aisle would support the amendment of this
3479 gentlelady from California, Ms. Chu, and I will be happy to
3480 yield to the gentleman while reserving my time. I am happy
3481 to yield to the gentleman.

3482 Mr. Forbes. And I would just ask the gentlelady if you
3483 could help me understand what information this bill is
3484 putting out there that would not already exist and why you
3485 need that kind of privacy protection because there is no
3486 information that is being put out there that would not
3487 already be out in the public domain.

3488 Ms. Jackson Lee. And to reclaim my time, I would be
3489 happy to answer the gentleman from just the perspective of
3490 being a practicing lawyer as the gentleman may be. I am not
3491 sure, but to say to you what can go wrong would go wrong.
3492 What this bill is -- what this amendment is, this amendment
3493 is an armor, because in all of our laws, you are dealing
3494 with individuals who may be domestically abused who have
3495 suffered violence, who are seeking asylum, they are an
3496 immigrant. We have done some laws dealing with protecting
3497 immigrants, that they can leave the home of the status
3498 person so they can be protected.

3499 We have done that in human trafficking so that they can
3500 be protected, and they are not statused, because information
3501 can seep out and these individuals will be in jeopardy.
3502 What I am saying to you, any manner of scenarios, we have
3503 looked at in bills that have been passed by this committee
3504 to protect those who might be vulnerable and subject to
3505 domestic violence, so I am saying to you that this is a
3506 simple provision to ensure that we will not have that kind
3507 of leak of information in the asylum process.

3508 All of this information that we are now requesting,
3509 information getting out that might jeopardize immigrants,
3510 asylum seekers, refugees, and others that may be subjected
3511 to this new form by them seeking visas to be statused and,
3512 of course, this is a legal process. Let's have all the
3513 legal protections that we possibly can. Why would this hurt
3514 the bill? I ask my colleagues to support the bill, and I
3515 yield back.

3516 Chairman Goodlatte. For what purpose does the
3517 gentleman from Georgia seek recognition?

3518 Mr. Johnson. I move to strike the last word.

3519 Chairman Goodlatte. The gentleman is recognized for 5
3520 minutes.

3521 Mr. Johnson. I yield to the gentlelady from
3522 California.

3523 Ms. Chu. The problem is that the abuser could use this

3524 as a tool, could impersonate somebody and post something on
3525 the social media to harass and to ruin the visa
3526 opportunities of the domestic violence victims, and that is
3527 why there has to be extra safeguards for the domestic
3528 violence victim.

3529 Mr. Forbes. Would the gentleman yield, I believe it is
3530 still his time, the gentleman from Georgia, if the
3531 gentlelady has completed her thoughts?

3532 Mr. Johnson. I will.

3533 Mr. Forbes. And I would appreciate at least
3534 understanding, at least I guess the direction -- as I
3535 understand it, what you are saying is that somebody may be
3536 putting fraudulent material out that would then be utilized.
3537 It is important to note that any information found would not
3538 be determinative for adjudication, and they could always
3539 show that that was dispositive of it and was not accurate
3540 information.

3541 So, the fact that it is out there would not be
3542 conclusive. It would simply be that you are looking to see
3543 what evidence is out there. And with that, I thank the
3544 gentleman for yielding me time and certainly yield back to
3545 him.

3546 Ms. Jackson Lee. Would you yield to me?

3547 Mr. Johnson. I yield to the gentlelady from Texas.

3548 Ms. Jackson Lee. I respect the gentleman's broad depth

3549 of trust and confidence. We will not be everywhere these
3550 applicants are coming. We will not be able to be
3551 supervising all of the reviewers and assessors looking at
3552 information and determining that this information looks
3553 wrong or fraudulent or this should not be analyzed or should
3554 not utilized.

3555 I simply make a plea for the gentlelady's amendment.
3556 It is not a harmful amendment. It gives added protection to
3557 the most vulnerable, and you just have to sit down with
3558 domestic violence victims to understand that many times they
3559 are without help. And if any of the abusers can take any
3560 advantage of this process, why would we not want to give an
3561 extra framework of defense, if you will, to this?

3562 I would encourage the gentlelady's amendment to be
3563 accepted, or if she wants to engage in any reframing, but I
3564 am supporting the gentlelady's amendment because I do not
3565 think it has any undermining of this -- of the underlying
3566 bill, and it is, it is a crucial amendment because you
3567 cannot be in place when this process of which you are
3568 putting in place, this new structure, you are not there --
3569 when the interviews are being taking place, where the
3570 information has been disseminated, when information is
3571 coming forward, when the process is being reviewed, we are
3572 not there. We do not know what is going to be presented
3573 against the abused victim of domestic violence. I ask my

3574 colleagues to support the Chu amendment. I yield back.

3575 Chairman Goodlatte. The question occurs on the
3576 amendment offered by the gentlewoman from California.

3577 All those in favor respond by saying aye.

3578 Those oppose no.

3579 In the opinion of the chair, the noes have it. The
3580 amendment is not agreed to.

3581 Ms. Chu. Ask for a recorded vote.

3582 Chairman Goodlatte. A recorded vote is requested, and
3583 the clerk will call the role.

3584 Ms. Adcock. Mr. Goodlatte.

3585 Chairman Goodlatte. No.

3586 Ms. Adcock. Mr. Goodlatte votes no.

3587 Mr. Sensenbrenner?

3588 Mr. Sensenbrenner. No.

3589 Ms. Adcock. Mr. Sensenbrenner votes no.

3590 Mr. Smith?

3591 [No response.]

3592 Mr. Chabot?

3593 Mr. Chabot. No.

3594 Ms. Adcock. Mr. Chabot votes no.

3595 Mr. Issa?

3596 [No response.]

3597 Mr. Forbes?

3598 Mr. Forbes. No.

3599 Ms. Adcock. Mr. Forbes votes no.
3600 Mr. King?
3601 [No response.]
3602 Mr. Franks?
3603 Mr. Franks. No.
3604 Ms. Adcock. Mr. Franks votes no.
3605 Mr. Gohmert?
3606 Mr. Gohmert. No.
3607 Ms. Adcock. Mr. Gohmert votes no.
3608 Mr. Jordan?
3609 [No response.]
3610 Mr. Poe?
3611 [No response.]
3612 Mr. Chaffetz?
3613 [No response.]
3614 Mr. Marino?
3615 Mr. Marino. No.
3616 Ms. Adcock. Mr. Marino votes no.
3617 Mr. Gowdy?
3618 [No response.]
3619 Mr. Labrador?
3620 Mr. Labrador. No.
3621 Ms. Adcock. Mr. Labrador votes no.
3622 Mr. Farenthold?
3623 [No response.]

3624 Mr. Collins?
3625 [No response.]
3626 Mr. DeSantis?
3627 Mr. DeSantis. No.
3628 Ms. Adcock. Mr. DeSantis votes no.
3629 Ms. Walters?
3630 Ms. Walter. No.
3631 Ms. Adcock. Ms. Walters votes no.
3632 Mr. Buck?
3633 Mr. Buck. No.
3634 Ms. Adcock. Mr. Buck votes no.
3635 Mr. Ratcliffe?
3636 Mr. Ratcliffe. No.
3637 Ms. Adcock. Mr. Ratcliffe votes no.
3638 Mr. Trott?
3639 Mr. Trott. No.
3640 Ms. Adcock. Mr. Trott votes no.
3641 Mr. Bishop?
3642 [No response.]
3643 Mr. Conyers?
3644 Mr. Conyers. Aye.
3645 Ms. Adcock. Mr. Conyers votes aye.
3646 Mr. Nadler?
3647 [No response.]
3648 Ms. Lofgren?

3649 [No response.]

3650 Ms. Jackson Lee?

3651 Ms. Jackson Lee. Aye.

3652 Ms. Adcock. Ms. Jackson Lee votes aye.

3653 Mr. Cohen?

3654 [No response.]

3655 Mr. Johnson?

3656 Mr. Johnson. Aye.

3657 Ms. Adcock. Mr. Johnson votes aye.

3658 Mr. Pierluisi?

3659 [No response.]

3660 Ms. Chu?

3661 Ms. Chu. Aye.

3662 Ms. Adcock. Ms. Chu votes aye.

3663 Mr. Deutch?

3664 [No response.]

3665 Mr. Gutierrez?

3666 [No response.]

3667 Ms. Bass?

3668 [No response.]

3669 Mr. Richmond?

3670 Ms. DelBene?

3671 Ms. DelBene. Aye.

3672 Ms. Adcock. Ms. DelBene votes aye.

3673 Mr. Jeffries?

3674 Mr. Jeffries. Aye.

3675 Ms. Adcock. Mr. Cicilline?

3676 Mr. Cicilline. Aye.

3677 Ms. Adcock. Mr. Cicilline votes aye.

3678 Mr. Peters?

3679 [No response.]

3680 Chairman Goodlatte. The gentleman from New York?

3681 Mr. Nadler. Aye.

3682 Ms. Adcock. Mr. Nadler votes aye.

3683 Chairman Goodlatte. The gentleman from Michigan?

3684 Mr. Bishop. No.

3685 Ms. Adcock. Mr. Bishop votes no.

3686 Chairman Goodlatte. Has every member voted who wishes

3687 to vote? Clerk will report.

3688 Ms. Adcock. Mr. Chairman, 8 members voted aye, 14

3689 members voted no.

3690 Chairman Goodlatte. Are there further amendments to

3691 H.R. 5203? For the purpose of gentlewoman from Washington

3692 seek recognition?

3693 Ms. DelBene. I have an amendment at the desk.

3694 Chairman Goodlatte. The clerk will report the

3695 amendment.

3696 Ms. Adcock. Amendment to H.R. 5203, offered by Ms.

3697 DelBene, Page 6, strike paragraph 3.

3698 [The amendment of Ms. DelBene follows:]

3699

***** INSERT 11 *****

3700 Chairman Goodlatte. Without objection, the amendment
3701 is considered as read, and the gentlewoman is recognized for
3702 5 minutes on her amendment.

3703 Ms. DelBene. Thank you, Mr. Chair. My amendment would
3704 strike the social media screening provision of the bill, and
3705 replace it with a requirement that not later than 180 days
3706 after enactment, the Department of Justice would do two
3707 things -- one, complete a study on the methods and policies
3708 for reviewing social media, and two, establish a method and
3709 a policy for conducting social media reviews, in conjunction
3710 with the Secretary of Homeland Security.

3711 This is very important because right now, the bill
3712 provides no guidance on the scope or process for new social
3713 media vetting requirements, other than specifying that it is
3714 combined to publicly available interactions. And without
3715 adequate direction on both the process and the scope of the
3716 social media review requirement, agency resources would most
3717 likely be poorly spent as adjudicators would struggle to
3718 effectively review the vast amounts of public data that are
3719 now available on various social media platforms.

3720 The Department of Homeland Security has also indicated
3721 that the cost and time for manual social media vetting would
3722 be astronomical. So, without proper guidance based on a
3723 thorough study of the methods, policies, and best practices
3724 for social media review, this bill risks denying visas to
3725 individuals who are also -- would, in fact, be eligible to
3726 receive them.

3727 The bill also does not specifically contemplate
3728 automation of social media screening. My amendment would
3729 require that the Department of Justice and the Department of
3730 Homeland Security collaborate to create a method and a
3731 policy, in other words, a tool, to effectively screen social
3732 media. So, without a screening tool, the bill would require
3733 the agencies to deconflict common names, which may have to
3734 be done manually or through a comparison of IP addresses and
3735 other technical information.

3736 The tool could also help address translation
3737 challenges, and social media searches right now produce
3738 large quantities of data that have to be sifted through and
3739 resolved, and common names could greatly prolong this
3740 process. So, developing technologies that help that search
3741 be more efficient so that agency resources are not wasted,
3742 and prevent immigration backlogs from further bringing our
3743 immigration system would be incredibly important.

3744 Also, the bill is silent on the recourse that

3745 individuals will have in case there is incorrect social
3746 media conclusions that are reached by the Department of
3747 Homeland Security or the Department of State. So, for
3748 instance, what is the appellate process? What will be
3749 available to applicants who would like to contest agency
3750 findings on social media? What if someone happens to
3751 confuse two people who are not the same person but might
3752 have the same name? Or if someone is using a nickname that
3753 is similar? What is done when the social media conclusions
3754 are completed? Are they retained? Is that information
3755 retained in a government database? Will it be passed onto
3756 other agencies for use in other investigations? I think it
3757 is very, very important that we answer these questions and
3758 that we make sure again that we have an effective and
3759 efficient screening process. I think this is a very
3760 reasonable amendment to help do that to make sure we are
3761 using resources wisely and that we are making sure that we
3762 have an effective process. So, I would ask for support for
3763 this amendment, and I yield back.

3764 Chairman Goodlatte. The chair thanks to the
3765 gentlewoman. For purposes of gentleman from Virginia seek
3766 recognition?

3767 Mr. Forbes. Mr. Chairman, I move to strike the last
3768 word.

3769 Chairman Goodlatte. The gentleman is recognized for 5

3770 minutes.

3771 Mr. Forbes. Mr. Chairman, I oppose this amendment. I
3772 urge my colleagues to do the same. As I have stated all day
3773 today, reasonable people can disagree. I am sure the lady
3774 is very reasonable in her approach. And I understand that
3775 approach. Basically, what it comes down to is this --
3776 should we allow the interviewers to look at social media now
3777 to get these projections of what could happen, or should we
3778 not?

3779 And what we do around here oftentimes is say we are
3780 going to do a study which basically means we are waiting 6
3781 more months. Six more months we could have the risk that we
3782 missed something that is incredibly important to the
3783 security of Americans, to the security of our families here
3784 at home. And while I appreciate the gentleladies wanting to
3785 do that, I do not believe we should wait 6 months. I think
3786 we should go ahead and do that now.

3787 The second thing, Mr. Chairman, I would say, and
3788 gentlelady, is right to realize that the U.S.C.I.S.
3789 interviewers could be wrong, but that could be wrong on a
3790 number of different things. It is not just social media.
3791 It is all kinds of conclusions they reach, and I do not
3792 think we are putting into a process now where we want to
3793 have some kind of appellate review of all of those things to
3794 say we are simply going to have some review over what they

3795 see on social media would not make sense, because that is
3796 part of the totality of information that they are getting.

3797 So, Mr. Chairman, I think we have waited long enough to
3798 get this implemented. I think it is important that we give
3799 them the same opportunity to look at the same social media.
3800 In fact, maybe even less than what employers do when they
3801 hire individuals in the United States for employment and
3802 with that, I hope that we will oppose the amendment and

3803 Ms. DelBene. Would the gentleman yield?

3804 Mr. Forbes. I would be happy to yield.

3805 Ms. DelBene. One, I just want to clarify, this would
3806 be a requirement that we complete a study and come up with a
3807 method and a policy for conducting social media reviews. It
3808 is not an optional activity in the amendment. I also want
3809 to say you could end up wasting 6 months by ineffectively
3810 reviewing social media and having huge backlogs, versus
3811 being able to expedite a process and creating an efficient
3812 process that works and provides more correct data, as well
3813 as reducing the number of inconsistencies that might happen.
3814 So I think it is very, very important that this is about
3815 efficiency and getting accurate information.

3816 Mr. Forbes. And I absolutely agree it is important to
3817 get accurate information. I think that, on the one hand,
3818 that we have heard today that many people saying that we do
3819 not need to put these additional requirements on the

3820 interviewers and mandate them because they do a good job,
3821 then we are saying but now we are saying but now we are
3822 concerned that they are not doing a good job with the
3823 information that they have.

3824 Again, I think it is important that we begin to use the
3825 social media connection that we have the opportunities to do
3826 that. And Mr. Chairman, while I respect the gentlelady and
3827 her position, I hope we will oppose the amendment and stay
3828 with the underlying language.

3829 Chairman Goodlatte. The question occurs on the
3830 amendment offered by the gentle woman from Washington.

3831 All those in favor respond by saying aye.

3832 All those opposed, no.

3833 In the opinion of the chair, the noes have it.

3834 Ms. DelBene. Can I have a recorded vote?

3835 Chairman Goodlatte. A recorded vote is requested, and
3836 the cleric will call roll.

3837 Ms. Adcock. Mr. Goodlatte?

3838 Mr. Goodlatte. No.

3839 Ms. Adcock. Mr. Goodlatte votes no.

3840 Mr. Sensenbrenner?

3841 Mr. Sensenbrenner. No.

3842 Ms. Adcock. Mr. Sensenbrenner votes no.

3843 Mr. Smith?

3844 [No response.]

3845 Mr. Chabot?

3846 Mr. Chabot. No.

3847 Ms. Adcock. Mr. Chabot votes no.

3848 Mr. Issa?

3849 Mr. Issa. No.

3850 Ms. Adcock. Mr. Issa votes no.

3851 Mr. Forbes?

3852 Mr. Forbes. No.

3853 Ms. Adcock. Mr. Forbes votes no.

3854 Mr. King?

3855 [No response.]

3856 Mr. Franks?

3857 [No response.]

3858 Mr. Gohmert?

3859 [No response.]

3860 Mr. Jordan?

3861 [No response.]

3862 Mr. Poe?

3863 [No response.]

3864 Mr. Chaffetz?

3865 [No response.]

3866 Mr. Marino?

3867 Mr. Marino. No.

3868 Ms. Adcock. Mr. Marino votes no.

3869 Mr. Gaudy?

3870 [No response.]
3871 Mr. Labrador?
3872 Mr. Labrador. No.
3873 Ms. Adcock. Mr. Labrador votes no.
3874 Mr. Farenthold?
3875 [No response.]
3876 Mr. Collins?
3877 [No response.]
3878 Mr. DeSantis?
3879 [No response.]
3880 Ms. Walters?
3881 Ms. Walters. No.
3882 Ms. Adcock. Ms. Walters votes no.
3883 Mr. Buck?
3884 Mr. Buck. No.
3885 Ms. Adcock. Mr. Buck votes no.
3886 Mr. Ratcliffe?
3887 Mr. Ratcliffe. No.
3888 Ms. Adcock. Mr. Ratcliffe votes no.
3889 Mr. Trott?
3890 Mr. Trott. No.
3891 Ms. Adcock. Mr. Trott votes no.
3892 Mr. Bishop?
3893 Mr. Bishop. No.
3894 Ms. Adcock. Mr. Bishop votes no.

3895 Mr. Conyers?
3896 Mr. Conyers. Aye.
3897 Ms. Adcock. Mr. Conyers votes aye.
3898 Mr. Nadler?
3899 Mr. Nadler. Aye.
3900 Ms. Adcock. Mr. Nadler votes aye.
3901 Ms. Lofgren?
3902 [No response.]
3903 Ms. Jackson Lee?
3904 Ms. Jackson Lee. Aye.
3905 Ms. Adcock. Ms. Jackson Lee votes aye.
3906 Mr. Cohen?
3907 [No response.]
3908 Mr. Johnson?
3909 Mr. Johnson. Aye.
3910 Ms. Adcock. Mr. Johnson votes aye.
3911 Mr. Pierluisi?
3912 [No response.]
3913 Ms. Chu?
3914 [No response.]
3915 Mr. Deutch?
3916 [No response.]
3917 Mr. Gutierrez?
3918 [No response.]
3919 Ms. Bass?

3920 [No response.]

3921 Mr. Richmond?

3922 [No response.]

3923 Ms. DelBene?

3924 Ms. DelBene. Aye.

3925 Ms. Adcock. Ms. DelBene votes aye.

3926 Mr. Jeffries?

3927 Mr. Jeffries. Aye.

3928 Ms. Adcock. Mr. Jeffries votes aye.

3929 Mr. Cicilline?

3930 Mr. Cicilline. Aye.

3931 Ms. Adcock. Mr. Cicilline votes aye.

3932 Mr. Peters?

3933 [No response.]

3934 Chairman Goodlatte. The gentleman from Arizona?

3935 Mr. Franks. No.

3936 Ms. Adcock. Mr. Franks votes no.

3937 Chairman Goodlatte. Gentleman from Texas?

3938 Mr. Gohmert. No.

3939 Ms. Adcock. Mr. Gohmert votes no.

3940 Chairman Goodlatte. Gentleman from Florida?

3941 Mr. DeSantis. No.

3942 Ms. Adcock. Mr. DeSantis votes no.

3943 Chairman Goodlatte. Has everybody voted who wishes to

3944 vote? The clerk will report. The gentlewoman from

3945 California?

3946 Ms. Chu. Aye.

3947 Ms. Adcock. Ms. Chu votes aye.

3948 Mr. Chairman, 8 members voted aye, 15 members voted no.

3949 Chairman Goodlatte. And the amendment is not agreed

3950 to. Are there further amendments to H.R. 5203? For what

3951 purpose does the gentlemen from Rhode Island seek

3952 recognition?

3953 Mr. Cicilline. Mr. Chairman, I have an amendment at

3954 the desk. The core report of the amendment.

3955 Ms. Adcock. Amendment to H.R. 5203, offered by Mr.

3956 Cicilline -- Page 6, line 18, strike any --

3957 [The amendment follows:]

3958 ***** INSERT 12 *****

3959 Chairman Goodlatte. Without objection, the amendment
3960 is considered as read, and the gentlemen has recognized for
3961 5 minutes.

3962 Mr. Cicilline. Mr. Chairman, if I may ask, I actually
3963 have two amendments, and if I may ask if the first amendment
3964 be the one that begins on Page 6, line 18 -- I am sorry, I
3965 am sorry, I apologize: Page 6 line 8.

3966 Chairman Goodlatte. I think that is the one we --

3967 Mr. Cicilline. Okay, terrific, thank you.

3968 Chairman Goodlatte. Gentleman is recognized for 5
3969 minutes.

3970 Mr. Cicilline. Thank you Mr. Chairman. My amendment
3971 would exempt family members of those serving in the United

3972 States Armed Forces, refugees, asylees and victims of
3973 domestic abuse, trafficking and other crimes for the
3974 mandatory DNA testing requirement under section 2 of this
3975 legislation.

3976 Under section 2, DNA testing would be required at the
3977 expense of the petitioner or applicant for all of these
3978 applications predicated on a biological relationship. This
3979 bill would not limit the use of DNA testing where most
3980 appropriate, and preserve scarce resources and focus on
3981 instances of real concern, but would require its use even
3982 when there is no indication of fraud or other questions
3983 about the family relationship.

3984 Particularly with respect to the men and women who
3985 serve in our military, there is no study or report that
3986 suggests that there is endemic problem with fraud among the
3987 members of the armed services petitioning for their spouses,
3988 parents, children, or other family members. In short, this
3989 is a solution in search of a problem.

3990 Members of our military, refugees, asylees, and victims
3991 are already subject to extensive background checks as part
3992 of their military service, or the immigrations screening
3993 process. And in the context of those who serve in the
3994 military, they are already aware that submitting a
3995 fraudulent petition for a family member jeopardizes their
3996 ability to serve and risks dishonorable discharge.

3997 Requiring them to take DNA tests defense those who have
3998 served our country and risk their lives on our behalf.

3999 This amendment will result -- this proposal rather will
4000 result in unnecessary and excessive cost for each family
4001 based immigration applicant and greater delays in visa
4002 processing. In many instances, veterans and certainly
4003 members of vulnerable populations lack the resources to pay
4004 for DNA testing for each family member which may cost
4005 sometimes more than \$500 per test.

4006 And I know that there was reference to a \$79 exam, but
4007 that is a take home test, and we are talking about a test in
4008 an accredited lab. For family members living in remote
4009 locations abroad, travel to or access to a lab that conducts
4010 DNA testing may be prohibitively expensive.

4011 Ultimately, even within the more specific context of
4012 family-based visa applications and petitions, section 2 of
4013 this legislation is overly broad. It would impose
4014 significant costs upon those who have already given so much
4015 to our country, and those who can least afford it, those
4016 facing war, famine or other kinds of persecution. So I urge
4017 my colleges to support my amendment, and ease the burden of
4018 our veterans and members of very vulnerable populations.

4019 Chairman Goodlatte. The chair thanks the gentleman.
4020 For what purpose does the gentleman from Virginia seek
4021 recognition?

4022 Mr. Forbes. I move to strike the last word.

4023 Chairman Goodlatte. The gentleman is recognized for 5
4024 minutes.

4025 Mr. Forbes. Mr. Chairman, I oppose this amendment and
4026 urge my colleges to do the same. If you believe, as I
4027 believe, that DNA is a reasonable request to make sure that
4028 we do not have fraud, then we should be able to use DNA
4029 across the board.

4030 Terrorists will use any method that they can, and we
4031 have basically looked at this situation. When you talk
4032 about refugees, we would be stopping programs that the
4033 administration is currently requiring DNA on. And that
4034 would be, I think, very counterproductive. I believe this
4035 is a reasonable request, it is a reasonable thing for us to
4036 do to make sure we are defending and protecting the United
4037 States of America. With that, I hope we will reject the
4038 amendment, I yield back, Mr. Chairman.

4039 Chairman Goodlatte. The question occurs on the
4040 amendment offered by the gentlemen from Rhode Island.

4041 All those in favor respond by saying aye.

4042 Those opposed, no.

4043 In the opinion of the chair, the noes have it, and the
4044 amendment is not --

4045 Mr. Cicilline. Mr. Chairman, I would ask for a
4046 recorded vote.

4047 Chairman Goodlatte. A recorded vote is requested, and
4048 the clerk will call the roll.

4049 Ms. Adcock. Mr. Goodlatte?

4050 Chairman Goodlatte. No.

4051 Ms. Adcock. Mr. Goodlatte votes no.

4052 Mr. Sensenbrenner?

4053 Mr. Sensenbrenner. No.

4054 Ms. Adcock. Mr. Sensenbrenner votes no.

4055 Mr. Smith?

4056 [No response.]

4057 Mr. Chabot?

4058 Mr. Chabot. No.

4059 Ms. Adcock. Mr. Chabot votes no.

4060 Mr. Issa?

4061 [No response.]

4062 Mr. Forbes?

4063 Mr. Forbes. No.

4064 Ms. Adcock. Mr. Forbes votes no.

4065 Mr. King?

4066 [No response.]

4067 Mr. Franks?

4068 Mr. Franks. No.

4069 Ms. Adcock. Mr. Franks votes no.

4070 Mr. Gohmert?

4071 Mr. Gohmert. No.

4072 Ms. Adcock. Mr. Gohmert votes no.
4073 Mr. Jordan?
4074 [No response.]
4075 Mr. Poe?
4076 [No response.]
4077 Mr. Chaffetz?
4078 [No response.]
4079 Mr. Marino?
4080 [No response.]
4081 Mr. Gowdy?
4082 [No response.]
4083 Mr. Labrador?
4084 Mr. Labrador. No.
4085 Ms. Adcock. Mr. Labrador votes no.
4086 Mr. Farenthold?
4087 [No response.]
4088 Mr. Collins?
4089 [No response.]
4090 Mr. DeSantis?
4091 Mr. DeSantis. No.
4092 Ms. Adcock. Mr. DeSantis votes no.
4093 Ms. Walters?
4094 Ms. Walters. No.
4095 Ms. Adcock. Ms. Walters votes no.
4096 Mr. Buck?

4097 Mr. Buck. No.

4098 Ms. Adcock. Mr. Buck votes no.

4099 Mr. Ratcliffe?

4100 Mr. Ratcliffe. No.

4101 Ms. Adcock. Mr. Ratcliffe votes no.

4102 Mr. Trott?

4103 Mr. Trott. No.

4104 Ms. Adcock. Mr. Trott votes no.

4105 Mr. Bishop?

4106 Mr. Bishop. No.

4107 Ms. Adcock. Mr. Bishop votes no.

4108 Mr. Conyers?

4109 [No response.]

4110 Mr. Nadler?

4111 Mr. Nadler. Aye.

4112 Ms. Adcock. Mr. Nadler votes aye.

4113 Ms. Lofgren?

4114 Ms. Lofgren. Aye.

4115 Ms. Adcock. Ms. Lofgren votes aye.

4116 Ms. Jackson Lee?

4117 [No response.]

4118 Mr. Cohen?

4119 [No response.]

4120 Mr. Johnson?

4121 Mr. Johnson. Aye.

4122 Ms. Adcock. Mr. Johnson votes aye.
4123 Ms. Jackson Lee?
4124 Ms. Jackson Lee. Aye.
4125 Ms. Adcock. Ms. Jackson Lee votes aye.
4126 Mr. Pierluisi?
4127 [No response.]
4128 Ms. Chu?
4129 Ms. Chu. Aye.
4130 Ms. Adcock. Ms. Chu votes aye.
4131 Mr. Deutch?
4132 [No response.]
4133 Mr. Gutierrez?
4134 [No response.]
4135 Ms. Bass?
4136 [No response.]
4137 Mr. Richmond?
4138 [No response.]
4139 Ms. DelBene?
4140 Ms. DelBene. Aye.
4141 Ms. Adcock. Ms. DelBene votes aye.
4142 Mr. Jeffries?
4143 Mr. Jeffries. Aye.
4144 Ms. Adcock. Mr. Jeffries votes aye.
4145 Mr. Cicilline?
4146 Mr. Cicilline. Aye.

4147 Ms. Adcock. Mr. Cicilline votes aye.

4148 Mr. Peters?

4149 [No response.]

4150 Chairman Goodlatte. The gentlemen from California.

4151 Mr. Issa. No.

4152 Ms. Adcock. Mr. Issa votes no.

4153 Chairman Goodlatte. Has every member voted who wishes
4154 to vote? The clerk will report.

4155 Ms. Adcock. Mr. Chairman, 8 members voted aye, 14
4156 members voted no.

4157 Chairman Goodlatte. And the amendment is not agreed
4158 to. For what purpose does the gentleman from Rhode Island
4159 seek recognition?

4160 Mr. Cicilline. Mr. Chairman, I have a second amendment
4161 at the desk.

4162 Chairman Goodlatte. The clerk will report the
4163 amendment.

4164 Ms. Adcock. Amendment to H.R. 5203 offered by Mr.
4165 Cicilline, Page 6 line --

4166 [The amendment follows:]

4167 ***** INSERT 13 *****

4168 Chairman Goodlatte. Without objection, the amendment
4169 is considered as read, and the gentleman is recognized for 5
4170 minutes on his amendment.

4171 Mr. Cicilline. Thank you Mr. Chairman. Mr. Chairman,
4172 this second amendment would provide a fee exemption for
4173 family members of those serving in United States Armed
4174 Forces; refugees, asylees, and victims of domestic abuse,
4175 trafficking and other crimes for the mandatory DNA testing
4176 required by section 2 of this legislation.

4177 Unfortunately, because the last amendment I offered was

4178 defeated, those categories of individuals are still
4179 subjected to mandatory DNA testing. And while I appreciate
4180 my colleague's arguments on the other side about the
4181 importance of these, if we impose this requirement on
4182 everyone who applies for a Visa based on a biological
4183 relationship, there will be certainly many deserving
4184 applicants who will not be in a position to afford this DNA
4185 test, or who should not be asked to bear the cost of the
4186 test based on their service to our country.

4187 My amendment takes those concerns into consideration.
4188 It would not exempt anyone from the mandatory DNA testing
4189 under the bill; instead it would provide a fee waiver to
4190 individuals who have served this country in the military,
4191 expose themselves to tremendous danger on our behalf,
4192 keeping us safe all over the world, who have served in our
4193 military forces, as well as individuals who are part of very
4194 vulnerable populations, who are fleeing very often
4195 unspeakable war and violence or famine or other kinds of
4196 persecution, who are very often not in a position to pay
4197 several hundred dollars per family member for consideration
4198 of their asylee, asylum application.

4199 So, I think this is a common sense way to at least
4200 respond to two groups that deserve consideration, and I am
4201 asking my colleagues to support this amendment, which simply
4202 waves the fees for these two categories of individuals so we

4203 can get to the merits of their claim, and that we will not
4204 be shutting the door on so many qualified people who are
4205 entitled to either asylum or refugee status in our country,
4206 or who have served our country honorably in the armed
4207 forces. And with that I yield back.

4208 Chairman Goodlatte. The chair thanks the gentleman.
4209 For what purpose does the gentleman from Virginia seek
4210 recognition?

4211 Mr. Forbes. Mr. Chairman, I oppose the amendment and
4212 urge my colleagues to do the same, and I move to strike the
4213 last word.

4214 Chairman Goodlatte. The gentleman is recognized for 5
4215 minutes.

4216 Mr. Forbes. And I oppose this amendment and I urge my
4217 colleagues to do so. If you look at this amendment and
4218 where it was placed, which would be line 18 on Page 6, this
4219 is the DNA testing. Basically, what the gentleman is saying
4220 is he is going to waive the fees of the companies of the
4221 companies that are doing the DNA testing.

4222 We do not have the ability to waive the fees for the
4223 companies for the companies that are doing the DNA testing.
4224 Many situations, these are private companies, and we do not
4225 have the ability to do that under this bill. So based upon
4226 that, Mr. Chairman, I hope that we will oppose this
4227 amendment, and I yield back the balance of my time.

4228 Chairman Goodlatte. The question occurs on the
4229 amendment offered by the gentleman from Rhode Island.

4230 All those in favor respond by saying aye.

4231 Those opposed, no.

4232 In the opinion of the chair, the noes have it, and the
4233 amendment is not agreed to.

4234 Mr. Cicilline. Mr. Chairman, I ask for a recorded
4235 vote.

4236 Chairman Goodlatte. A recorded vote is requested, and
4237 the clerk will call the roll.

4238 Ms. Adcock. Mr. Goodlatte?

4239 Chairman Goodlatte. No.

4240 Ms. Adcock. Mr. Goodlatte votes no.

4241 Mr. Sensenbrenner?

4242 Mr. Sensenbrenner. No.

4243 Ms. Adcock. Mr. Sensenbrenner votes no.

4244 Mr. Smith?

4245 [No response.]

4246 Mr. Chabot?

4247 Mr. Chabot. No.

4248 Ms. Adcock. Mr. Chabot votes no.

4249 Mr. Issa?

4250 Mr. Issa. No.

4251 Ms. Adcock. Mr. Issa votes no.

4252 Mr. Forbes?

4253 Mr. Forbes. No.

4254 Ms. Adcock. Mr. Forbes votes no.

4255 Mr. King?

4256 [No response.]

4257 Mr. Franks?

4258 Mr. Franks. No.

4259 Ms. Adcock. Mr. Franks votes no.

4260 Mr. Gohmert?

4261 Mr. Gohmert. No.

4262 Ms. Adcock. Mr. Gohmert votes no.

4263 Mr. Jordan?

4264 [No response.]

4265 Mr. Poe?

4266 [No response.]

4267 Mr. Chaffetz?

4268 [No response.]

4269 Mr. Marino?

4270 [No response.]

4271 Mr. Gowdy?

4272 [No response.]

4273 Mr. Labrador?

4274 Mr. Labrador. No.

4275 Ms. Adcock. Mr. Labrador votes no.

4276 Mr. Farenthold?

4277 [No response.]

4278 Mr. Collins?
4279 [No response.]
4280 Mr. DeSantis?
4281 Mr. DeSantis. No.
4282 Ms. Adcock. Mr. DeSantis votes no.
4283 Ms. Walters?
4284 Ms. Walters. No.
4285 Ms. Adcock. Ms. Walters votes no.
4286 Mr. Buck?
4287 [No response.]
4288 Mr. Ratcliffe?
4289 Mr. Ratcliffe. No.
4290 Ms. Adcock. Mr. Ratcliffe votes no.
4291 Mr. Trott?
4292 Mr. Trott. No.
4293 Ms. Adcock. Mr. Trott votes no.
4294 Mr. Bishop?
4295 Mr. Bishop. No.
4296 Ms. Adcock. Mr. Bishop votes no.
4297 Mr. Conyers?
4298 [No response.]
4299 Mr. Nadler?
4300 Mr. Nadler. Aye.
4301 Ms. Adcock. Mr. Nadler votes aye.
4302 Ms. Lofgren?

4303 Ms. Lofgren. Aye.

4304 Ms. Adcock. Ms. Lofgren votes aye.

4305 Ms. Jackson Lee?

4306 Ms. Jackson Lee. Aye.

4307 Ms. Adcock. Ms. Jackson Lee votes aye.

4308 Mr. Cohen?

4309 Mr. Cohen. Aye.

4310 Ms. Adcock. Mr. Cohen votes aye.

4311 Mr. Johnson?

4312 Mr. Johnson. Aye.

4313 Ms. Adcock. Mr. Johnson votes aye.

4314 Mr. Pierluisi?

4315 [No response.]

4316 Ms. Chu?

4317 Ms. Chu. Aye.

4318 Ms. Adcock. Ms. Chu votes aye.

4319 Mr. Deutch?

4320 [No response.]

4321 Mr. Gutierrez?

4322 [No response.]

4323 Ms. Bass?

4324 [No response.]

4325 Mr. Richmond?

4326 [No response.]

4327 Ms. DelBene?

4328 Ms. DelBene. Aye.

4329 Ms. Adcock. Ms. DelBene votes aye.

4330 Mr. Jeffries?

4331 Mr. Jeffries. Aye.

4332 Ms. Adcock. Mr. Jeffries votes aye.

4333 Mr. Cicilline?

4334 Mr. Cicilline. Aye.

4335 Ms. Adcock. Mr. Cicilline votes aye.

4336 Mr. Peters?

4337 Mr. Peters. Aye.

4338 Ms. Adcock. Mr. Peters votes aye.

4339 Chairman Goodlatte. The gentleman from Texas? The
4340 gentleman from Florida? Has every member who wishes to
4341 vote? The clerk will report.

4342 Ms. Adcock. Mr. Chairman, 10 members voted aye, 13
4343 members voted no.

4344 Chairman Goodlatte. And the amendment is not agreed
4345 to. Are there any other amendments to H.R. 5203?

4346 A reporting quorum being present, the question is on
4347 the motion to report the bill H.R. 5203 as amended favorably
4348 to the House.

4349 Those in favor will respond by saying aye.

4350 Those opposed no.

4351 The Ayes have it, and the bill as amended is ordered
4352 reported favorably to the House. A recorded vote is

4353 requested and the clerk will call the roll.

4354 Ms. Adcock. Mr. Goodlatte?

4355 Chairman Goodlatte. Aye.

4356 Ms. Adcock. Mr. Goodlatte votes aye.

4357 Mr. Sensenbrenner?

4358 Mr. Sensenbrenner. Aye.

4359 Ms. Adcock. Mr. Sensenbrenner votes Aye.

4360 Mr. Smith?

4361 [No response.]

4362 Mr. Chabot?

4363 [No response.]

4364 Mr. Chabot. Aye.

4365 Ms. Adcock. Mr. Chabot votes aye.

4366 Mr. Issa?

4367 Mr. Issa. Aye.

4368 Ms. Adcock. Mr. Issa votes aye.

4369 Mr. Forbes?

4370 Mr. Forbes. Aye.

4371 Ms. Adcock. Mr. Forbes votes aye.

4372 Mr. King?

4373 [No response.]

4374 Mr. Franks?

4375 Mr. Franks. Aye.

4376 Ms. Adcock. Mr. Franks votes aye.

4377 Mr. Gohmert?

4378 Mr. Gohmert. Aye.

4379 Ms. Adcock. Mr. Gohmert votes aye.

4380 Mr. Jordan?

4381 [No response.]

4382 Mr. Poe?

4383 [No response.]

4384 Mr. Chaffetz?

4385 [No response.]

4386 Mr. Marino?

4387 [No response.]

4388 Mr. Gowdy?

4389 [No response.]

4390 Mr. Labrador?

4391 Mr. Labrador. Yes.

4392 Ms. Adcock. Mr. Labrador votes yes.

4393 Mr. Farenthold?

4394 [No response.]

4395 Mr. Collins?

4396 [No response.]

4397 Mr. DeSantis?

4398 Mr. DeSantis. Yes.

4399 Ms. Adcock. Mr. DeSantis votes yes.

4400 Ms. Walters?

4401 Ms. Walters. Aye.

4402 Ms. Adcock. Ms. Walters votes aye.

4403 Mr. Buck?

4404 [No response.]

4405 Mr. Ratcliffe?

4406 Mr. Ratcliffe. Yes.

4407 Ms. Adcock. Mr. Ratcliffe votes yes.

4408 Mr. Trott?

4409 Mr. Trott. Yes.

4410 Ms. Adcock. Mr. Trott votes yes.

4411 Mr. Bishop?

4412 Mr. Bishop. Yes.

4413 Ms. Adcock. Mr. Bishop votes yes.

4414 Mr. Conyers?

4415 [No response.]

4416 Mr. Nadler?

4417 Mr. Nadler. No.

4418 Ms. Adcock. Mr. Nadler votes no.

4419 Ms. Lofgren?

4420 Ms. Lofgren. No.

4421 Ms. Adcock. Ms. Lofgren votes no.

4422 Ms. Jackson Lee?

4423 Ms. Jackson Lee. No.

4424 Ms. Adcock. Ms. Jackson Lee votes no.

4425 Mr. Cohen?

4426 Mr. Cohen. No.

4427 Ms. Adcock. Mr. Cohen votes no.

4428 Mr. Johnson?
4429 Mr. Johnson. No.
4430 Ms. Adcock. Mr. Johnson votes no.
4431 Mr. Pierluisi?
4432 [No response.]
4433 Ms. Chu?
4434 Ms. Chu. No.
4435 Ms. Adcock. Ms. Chu votes no.
4436 Mr. Deutch?
4437 [No response.]
4438 Mr. Gutierrez?
4439 [No response.]
4440 Ms. Bass?
4441 Mr. Richmond?
4442 [No response.]
4443 Ms. DelBene?
4444 Ms. DelBene. No.
4445 Ms. Adcock. Ms. DelBene votes no.
4446 Mr. Jeffries?
4447 Mr. Jeffries. No.
4448 Ms. Adcock. Mr. Jeffries votes no.
4449 Mr. Cicilline?
4450 Mr. Cicilline. No.
4451 Ms. Adcock. Mr. Cicilline votes no.
4452 Mr. Peters?

4453 Mr. Peters. No.

4454 Ms. Adcock. Mr. Peters votes no.

4455 Chairman Goodlatte. The gentleman from Colorado?

4456 Mr. Buck. Yes

4457 Ms. Adcock. Mr. Buck votes yes.

4458 Chairman Goodlatte. Has every member voted who wishes
4459 to vote? The clerk will report.

4460 Ms. Adcock. Mr. Chairman, 14 members voted aye, 10
4461 member voted no.

4462 Chairman Goodlatte. The ayes have it, and the bill as
4463 amended is ordered reported favorably to the House.

4464 Members will have 2 days to submit views, and with that
4465 objection the bill will be reported as a single amendment in
4466 the nature of a substitute, incorporating all adopted
4467 amendments and staff is authorized to make technical and
4468 conforming changes.

4469 Pursuant to notice, I now call up H.R. 3636 for
4470 purposes of mark-up and move that the committee report the
4471 bill favorably to the House. The clerk will report the
4472 bill.

4473 Ms. Adcock. H.R. 3636, to amend the Immigration and
4474 Nationality Act to allow labor organizations and management
4475 organizations to receive the results of use of petitions
4476 about which such organizations have submitted advisory
4477 opinions and for other purposes.

4478 [The bill follows:]

4479 ***** INSERT 14 *****

4480 Chairman Goodlatte. Without objection, the bill will
4481 be considered as read and open for amendment at any point,
4482 and the manager's amendment in the nature of a substitute
4483 which the members have before them will be considered as
4484 read, considered as the original text for purposes of the
4485 amendment, and open for amendment at any point. And I will
4486 begin by recognizing myself for an opening statement.

4487 H.R. 3636, the Overseas Visa Integrity with
4488 Stakeholder's Advisories Act introduced by Congresswoman
4489 Mimi Walters makes a valuable improvement to the O-VISA
4490 program. It will provide needed transparency, while helping
4491 to combat fraud. An O-VISA is a temporary visa for an alien
4492 who has extraordinary ability in the sciences, arts,
4493 education, business, or athletics, and seeks to enter the
4494 United States to continue work in the area of extraordinary
4495 ability. An O-2 visa is a temporary visa for an alien who
4496 seeks to enter the United States to accompany and assist in
4497 the performance by an alien on an O-1 visa. An O-2 alien
4498 must be an integral part of such performance, and have
4499 critical skills and experience.

4500 Employers seeking O-VISAs must satisfy a consultation
4501 requirement designed to protect American workers. When
4502 filing O-1 petitions, they must include a written advisory
4503 opinion, generally from a peer group or labor organization
4504 with expertise in the specific field. Advisory opinions
4505 are, in a word, advisory to U.S. Citizenship and Immigration
4506 Services.

4507 U.S.C.I.S. regulation provide that if the advisory
4508 opinion is favorable, it should describe the alien's ability
4509 and achievements in the field of endeavor, describe the
4510 nature of the duties to be performed, and state whether the
4511 position requires the services of an alien of extraordinary

4512 ability. The consulting organization may instead submit a
4513 letter of no objection.

4514 If the advisory opinion is not favorable, it must set
4515 forth a specific statement of facts which supports the
4516 conclusion reached. U.S.C.I.S. has told me and Mr. Conyers
4517 that consultations are only once piece of evidence reviewed
4518 in the totality of all the information provided. A petition
4519 with a negative consultation could still be approved, and a
4520 positive consultation may not necessarily lead to approval
4521 of the petition. U.S.C.I.S. approves almost all the O-VISA
4522 petitions it receives.

4523 As to how many petitions contain negative advisory
4524 opinions and are approved anyway, U.S.C.I.S. told me and Mr.
4525 Conyers that "our database does not capture the
4526 information." Further, U.S.C.I.S. does not provide notice
4527 as to the outcome of adjudications to the organizations that
4528 provide advisory opinions, believing that to do so would be
4529 a violation of the Privacy Act. This lack of transparency
4530 has apparently encouraged fraud. The Directors Guild of
4531 America, which submits many advisory opinions, has reported
4532 of instances where petitioners who receive an objection from
4533 one labor organization seek an advisory opinion from a
4534 different organization, or remove or revise the evidence in
4535 their petition to omit the basis for DGA's objection before
4536 submitting the petition to U.S.C.I.S. It has also reported

4537 of petitioners who physically altered DGA letters to change
4538 their content or draft fabricated letters and forge DGA
4539 signatures.

4540 There is a simple way to combat such fraud. If
4541 organizations providing advisory opinions could see the
4542 actual decisions issued by U.S.C.I.S. in the cases they were
4543 asked to opine on, including the advisory opinions as
4544 submitted to the government by the employers, they could
4545 self-police for fraud, and they would also learn of those
4546 instances where U.S.C.I.S. has approved petitions over their
4547 objections. They and Congress could better ascertain
4548 whether U.S.C.I.S. is being judicious in its determinations
4549 and protecting American workers from foreign workers who do
4550 not meet the standards for the O-VISA program.

4551 I can think of no reasonable policy argument against
4552 such transparency. Legitimate privacy considerations do not
4553 come into play; after all, it was the petitioners themselves
4554 who first approached outside organizations and asked them to
4555 review the merits of their proposed O-VISA recipients. H.R.
4556 3636 takes this common-sense step. It provides that DHS
4557 shall provide a copy of a decision on an O-VISA petition
4558 involving a motion picture or television production to the
4559 organization that provided an advisory opinion. I commend
4560 Ms. Walters for introducing this needed legislation, and I
4561 urge my colleagues to support it.

4562 I would like to make an additional point. There are
4563 other forms of the O-VISA program that the committee should
4564 consider at an appropriate time to facilitate its use by
4565 truly extraordinary individuals. Among those would be H-1B-
4566 like portability, in which O-VISA holders could begin
4567 working for new employers upon the new employers' filing of
4568 appropriate petitions, and expanding a current measure that
4569 allows O-VISA petitions to be filed for certain aliens
4570 without advisory opinions, if the aliens had previously
4571 received O-VISAs, had received advisory opinions within the
4572 last 2 years, and seek to perform similar services.

4573 In the meantime, I encourage my colleagues to support
4574 this bill. And it is now my pleasure to recognize the
4575 gentlewoman from California, the ranking member of the
4576 Subcommittee on Immigration and Border Security for her
4577 opening statement.

4578 [The statement of Chairman Goodlatte follows:]

4579 ***** COMMITTEE INSERT *****

4580 Ms. Lofgren. Thank you, Mr. Chairman. I am pleased to
4581 support the Oversee Visa Integrity with Stakeholders
4582 Advisory Act. It is a narrow, bipartisan bill. As you
4583 mentioned, the O-VISA Act requires that U.S. Citizenship and

4584 Immigration Services provide a copy of the decision to the
4585 labor union that was consulted as part of the O-1B petition
4586 process for an individual seeking to work in motion picture
4587 or television. I think this bill will ensure that union
4588 consultation is a meaningful part of the agency adjudication
4589 as required under current law, and it will also bring
4590 transparency for employers, workers, and the organizations
4591 that represent them, which is always a good thing.

4592 I do believe that we could be doing more in this area,
4593 and as the chairman has referenced, the portability issue
4594 for O-1 visa holders is important. If you are able to move
4595 between jobs, it not only helps employers, but it also
4596 ensures that foreign workers are not trapped in positions or
4597 used to undercut the wages of U.S. workers. So I hope that
4598 we can work together to improve that.

4599 I would note also that an issue that has been brought
4600 to my attention is that of O-2s, individuals who accompany
4601 an O-1B artist. O-2s must be an integral part of the O-1A's
4602 activity, and for the O-2's assistance must be essential to
4603 the completion of the O-1's protection. Now, the O-2
4604 workers are supposed to have critical skills and experience
4605 with the O-1, and the O-1B cannot successfully perform
4606 without the O-2s. Concern has been expressed to me that
4607 there may be abuse, in terms of large numbers of O-2s
4608 accompanying the O-1Bs. It would probably be useful to have

4609 a hearing on that to explore that, because that would be
4610 something we would not to happen.

4611 But with that, this bill is a good one, and as we know,
4612 we have enormous problems in the whole range of immigration.
4613 We need to fix them. We need to fixes on behalf of
4614 families, refugees, employers in a range of industries,
4615 including agriculture and high-skilled, but over the years,
4616 I have worked hard to try and come to a resolution on an
4617 overall reform.

4618 We have so far failed to do that, but that should not
4619 stop us from enacting this narrow bill that does improve the
4620 situation. And I want to commend the authors and my
4621 colleague, Mr. Nadler, who is the principal co-sponsor of
4622 the bill. And with that, I would -- do you want me to yield
4623 with you? I will yield back the balance of my time.

4624 [The statement of Ms. Lofgren follows:]

4625 ***** COMMITTEE INSERT *****

4626 Ms. Lofgren. Oh, I would also ask unanimous consent to
4627 put the statement of Mr. Conyers into the record.

4628 Chairman Goodlatte. Without objection, the statement
4629 of the ranking member will be placed on the record.

4630 [The statement of Mr. Conyers follows:]

4631 ***** COMMITTEE INSERT *****

4632 Chairman Goodlatte. The chair thanks the gentlewoman
4633 and appreciates her suggestions with regard to other areas

4634 of improvement with O-VISAs. And at this time, it is my
4635 pleasure to recognize the sponsor of this bill, the
4636 gentlewoman from California, Ms. Walters, for her opening
4637 statement.

4638 Ms. Walters. I thank the Chairman, Mr. Nadler, and all
4639 other co-sponsors in helping to advance H.R. 3636. The
4640 Oversee Visa Integrity with Stakeholders Advisory Act,
4641 otherwise referred to as the O-VISA Act. Congress
4642 established the O-VISA program to allow non-immigrants with
4643 extraordinary abilities to be employed in the sciences,
4644 arts, education, business, or athletics.

4645 In recognition of the unique nature of the motion
4646 picture and television industry, Congress established
4647 special evidentiary criteria for O-1 and O-2 visas for
4648 artists working in the industry.

4649 One requirement mandates that U.S.C.I.S. consult with
4650 the appropriate labor and management organizations for each
4651 visa petition. The reason for this is very simple. Those
4652 organizations are best suited to evaluate whether a visa
4653 applicant has demonstrated extraordinary achievement, the
4654 standard for O-1 and O-2 visa petitioners. These consulting
4655 organizations dedicate substantial resources to advise
4656 U.S.C.I.S. on the merits of visa petitions. They are
4657 essential to identifying fraud, as well as protecting U.S.
4658 workers capable of filling those jobs.

4659 Unfortunately, these organizations are never notified
4660 of the U.S.C.I.S.' final petition decision. Consulting
4661 organizations should be notified of these decisions, so they
4662 may better assist U.S.C.I.S. in determining fraud and
4663 properly implement the O-VISA standards. There have been
4664 serious indications of fraud in O-1 and O-2 visa petitions,
4665 including outright forgery of advisory opinions, shell
4666 productions companies, and sponsoring employers without any
4667 connection to the motion picture and television industry.

4668 These concerns led Chairman Goodlatte and Ranking
4669 Member Conyers to sign a letter to U.S.C.I.S. in 2014, which
4670 stated, and I quote, "It seems that, at the very least,
4671 U.S.C.I.S. should be notifying these organizations when it
4672 approves petitions over their objections. However, we are
4673 told that such organizations are rarely, if ever, notified
4674 regarding the outcome of petitions to which they object.
4675 Ensuring transparency in the adjudication process for any
4676 visa program is essential to a secure and effective
4677 immigration policy, and therefore, we are concerned about
4678 the reported potential fraud in O-1 and O-2 visa petitions,"
4679 end quote.

4680 It is important to note that there are no indications
4681 of abuse by the major studios, such as members of the MPAA.
4682 In fact, it is my understanding that the Labor and
4683 Management Consulting Organizations concur with the vast

4684 majority of O-VISA petitions submitted by the major studios.
4685 Simply put, the major studios are not the problem. The O-
4686 VISA Act, which Mr. Nadler and I have put forth, is a narrow
4687 provision that injects transparency into the visa petition
4688 process. It requires the Secretary of Homeland Security to
4689 provide a copy of the U.S.C.I.S. visa petition decision to
4690 the consulting organization that was required to provide the
4691 advisory opinion for that specific petition.

4692 Essentially, the organization will be copied on the
4693 agency's decision. Congress wisely recognized that the
4694 opinions of these private stakeholders deserve proper
4695 consideration due to their unique expertise in the industry.
4696 Congress should further utilize the expertise by authorizing
4697 U.S.C.I.S. to copy these organizations, because this will
4698 assist in identifying fraud and protecting American jobs.

4699 I am fully aware that there are other issues regarding
4700 O-VISAs that must be addressed. In particular, there are
4701 serious concerns that U.S.C.I.S.' decision-making process
4702 moves far too slowly. This lack of efficiency means that
4703 film and television face considerable delays and unnecessary
4704 costs. I am committed to working with the committee and the
4705 industry to address these issues in the future. I encourage
4706 my colleagues to support H.R. 3636, the O-VISA Act, and I
4707 yield back.

4708 [The statement of Ms. Walters follows:]

4709

***** COMMITTEE INSERT *****

4710 Chairman Goodlatte. The chair thanks the gentlewoman.

4711 Are there any amendments?

4712 Mr. Nadler. Mr. Chairman?

4713 Chairman Goodlatte. For what purpose does the
4714 gentleman from New York seek recognition?

4715 Mr. Nadler. Strike the last word, please.

4716 Chairman Goodlatte. The gentleman is recognized for 5
4717 minutes.

4718 Mr. Nadler. Thank you, Mr. Chairman. I rise in strong
4719 support of H.R. 3636, the O-VISA Act, and I appreciate your
4720 bringing it forward for mark-up today. As the lead
4721 Democratic co-sponsor, I also want to thank the gentlewoman
4722 from California, Ms. Walters, for introducing this
4723 legislation, which will bring some needed transparency to
4724 the O-VISA application process. O-VISAs are reserved for
4725 individuals with extraordinary ability in the sciences,
4726 arts, education, business, or athletics, to perform
4727 temporary work in their field here in the United States.

4728 For those seeking O-VISAs specifically to work on a
4729 motion or television production, the law requires that an
4730 individual have a demonstrated record of extraordinary
4731 achievement, which must be recognized in the field through
4732 extensive documentation.

4733 Through our unique provision of the law, an applicant

4734 for an O-VISA seeking to work on a film or television
4735 production must first obtain an opinion from the relevant
4736 labor organization in their field. For example, a director
4737 must seek an opinion from the Director's Guild of America,
4738 and the set designer must consult with the International
4739 Alliance of Theatrical Stage employees. As experts in their
4740 fields, these organizations are in the best position to
4741 determine an applicant's special qualifications. This
4742 process is intended to ensure that only the most
4743 extraordinary and accomplished individuals, those who are so
4744 unique that they could not be replaced by an American
4745 worker, are granted an O-VISA.

4746 Unfortunately, in recent years, several unions have
4747 expressed deep concerns that a significant number of
4748 applicants, for whom they have recommended denial, have been
4749 admitted into the United States nonetheless. In some
4750 instances, the unions have documented fraud on the part of
4751 the applicant, while in some instances, the government
4752 simply reached a different conclusion.

4753 But because the consulting union is never informed by
4754 the government whether a particular application was approved
4755 or denied, it is impossible to know the extent of this
4756 problem. The O-VISA Act before us would bring needed
4757 transparency to this process by requiring U.S.C.I.S. to
4758 provide a copy of any final determination to the consulting

4759 union. This is a narrow but critically-important provision.
4760 Although the unions have expended a great deal of resources
4761 to discover the outcome of their advisory opinions, they are
4762 in the dark about the vast majority of cases.

4763 Although they could serve as a partner to U.S.C.I.S. in
4764 rooting out fraud and abuse, they lack the information they
4765 need to follow up on suspicious cases. I should point out
4766 that the unions have assured me that their concerns about
4767 fraud do not stem from any applications by the major
4768 studios.

4769 The problems occur with certain unscrupulous
4770 independent companies that abuse the process in a variety of
4771 ways. Of course, there need not be any fraud for U.S.C.I.S.
4772 to reach a different conclusion about the merits of a
4773 particular applicant. But, if this is occurring in a
4774 significant number of cases, it may signify a systemic
4775 problem in how the agency is considering applications, or a
4776 lack of understanding by the union of how cases should be
4777 evaluated.

4778 In either case, it is only fair that the unions have
4779 sufficient knowledge of how petitions are decided, so they
4780 can have a meaningful discussion with U.S.C.I.S. about any
4781 concerns that they may have. The O-VISA Act would provide
4782 the transparency necessary to undertake this process, and I
4783 urge my colleagues to support it.

4784 I want to note that since this bill simply requires
4785 that U.S.C.I.S. provide a copy of any final decision to the
4786 consulting organization, it should not burden the agency or
4787 add any delays in processing O-VISA applications. However,
4788 I recognize that many sponsoring employers have expressed
4789 concerns over the inefficiency of the current process, and
4790 that reforms are needed to streamline the application
4791 process.

4792 As the chairman knows, the language contained in H.R.
4793 3636 has historically been coupled with provisions. They
4794 also make important changes to the O and B-VISA programs for
4795 those seeking entries for motion picture and television
4796 productions. These provisions are included in such bills as
4797 the Senate's comprehensive immigration reform legislation
4798 from the last Congress.

4799 Specifically these changes provided the same common-
4800 sense portability that exists in other visa categories,
4801 remove redundancies in the consultation process, and better
4802 align these entry programs with others that might involve an
4803 honorarium or appearance fee. Making these common-sense
4804 reforms will help keep film and television productions in
4805 the U.S., and will help ensure that U.S.C.I.S. is able to
4806 devote its resources to preventing and detecting any
4807 potential fraud or abuse.

4808 I hope that these meritorious provisions will also be

4809 considered by this committee under regular order. If the
4810 chairman would enter into a brief colloquy, I would ask him
4811 whether it is his intention to consider these changes to the
4812 OMB programs?

4813 Chairman Goodlatte. Would the gentleman yield?

4814 Mr. Nadler. I will yield.

4815 Chairman Goodlatte. I thank the gentleman for his
4816 question, and I agree that these provisions are meritorious,
4817 a number of them being contained in Mr. Issa's Skills Visa
4818 Act, which the committee approved last Congress. I would
4819 tell the gentleman that it is my intention to address these
4820 issues in the future, and although we are not considering
4821 these measures today, I look forward to working with the
4822 gentleman from New York and others to advance additional
4823 reforms to these programs, and I appreciate his raising the
4824 issue.

4825 Mr. Nadler. Thank you, and reclaiming the time, I
4826 thank the chairman for his assurances. I urge my colleagues
4827 to support this bill, and I yield back the balance of my
4828 time.

4829 Chairman Goodlatte. The chair thanks the gentleman.
4830 Are there any amendments to H.R. 3636? A reporting quorum
4831 being present, the question is on the motion to report the
4832 bill H.R. 3636, as amended, favorably to the House.

4833 Those in favor will say aye.

4834 Those opposed, no.

4835 The ayes have it, and the bill, as amended, is ordered
4836 reported favorably. Members will have 2 days to submit
4837 views.

4838 Pursuant to notice, I now call up H.R. 5283 for
4839 purposes of markup and move that the committee report the
4840 bill favorably to the House. The clerk will report the
4841 bill.

4842 Ms. Adcock. H.R. 5283, to amend Title 18, United
4843 States Code, to reform certain forfeiture procedures and for
4844 other purposes.

4845 [The bill follows:]

4846 ***** INSERT 15 *****

4847 Chairman Goodlatte. Without objection, the bill is
4848 considered as read and open for amendment at any point. And
4849 I will begin by recognizing myself for an opening statement.

4850 In February of 2015, this committee held a hearing on
4851 civil asset forfeiture. In the intervening months, the
4852 committee has continuously met with and discussed this issue
4853 with reformers, law enforcement agencies, and members and
4854 staff, in an attempt to find a bill that strikes the proper
4855 balance between the need to ensure that criminals do not
4856 retain the profits of their crimes, and the need to protect
4857 Americans' property rights.

4858 The bill the committee is considering today is the
4859 product of countless hours of discussions with those groups,
4860 and it addresses the abuses we learned about during our
4861 hearing. I want to thank Crime Subcommittee Chairman
4862 Sensenbrenner for introducing this important piece of

4863 legislation, Representative Walberg for his important work
4864 on this issue, and the many members of this committee who
4865 have supported it by becoming co-sponsors.

4866 In 2000, Congress, led by then-Chairman Henry Hyde,
4867 passed CAFRA, the Civil Asset Forfeiture Reform Act. CAFRA
4868 came from a recognition by this committee, and by others
4869 that civil asset forfeiture is a powerful law enforcement
4870 tool, but one that needs to be carefully monitored. That
4871 same recognition exists today, but is coupled with the
4872 understand that CAFRA is in need of additional protections
4873 to safeguard individual freedoms.

4874 We have heard of the systemic problems in the current
4875 system of civil forfeiture. We have heard of citizens
4876 losing their car or home when others in their family have
4877 been involved in small crimes. We have heard of traffic
4878 stops that result in innocent people losing the cash they
4879 were carrying to buy a car or to grow their small business.
4880 These stories have highlighted the long and complicated
4881 process that innocent owners must go through to get their
4882 property back, a process which this bill will streamline.

4883 Like any law enforcement tool, if used improperly or
4884 without sufficient safeguards, it has the possibility of
4885 infringing on the rights of citizens. The Justice
4886 Department, as the largest law enforcement agency in the
4887 country, has a vital role to play in this, and I hope they

4888 will support this bipartisan effort.

4889 As I said at the beginning of the hearing on this
4890 issue, asset forfeiture is a vital tool for law enforcement,
4891 because it deprives criminals of the proceeds of their
4892 crimes, and debilitates the criminal enterprise. However,
4893 we must be cognizant of the fact that this instrument,
4894 without proper safeguards, can harm innocent people.

4895 With that in mind, this bill includes numerous
4896 procedural reforms, including a quicker timeline for
4897 processing, so innocent people can have resolution of their
4898 claim sooner. The bill also includes the right to counsel
4899 in forfeiture proceedings, and the right to a post-seizure
4900 hearing to immediately petition an independent judge to have
4901 improperly seized property returned.

4902 The bill raises the burden of proof that the government
4903 must establish to show that the assets were related to a
4904 criminal activity. There are also provisions in the bill to
4905 protect innocent owners and to make sure that any seizure is
4906 proportional to the significance of the crime. Finally,
4907 there are numerous transparency measures built into the bill
4908 so that Congress, the Department of Justice Inspector
4909 General, and other groups can monitor this tool to be sure
4910 it is being used fairly.

4911 This bill will strengthen the procedures and policies
4912 related to forfeiture to protect innocent parties while

4913 still allowing Federal officials to use this vital tool to
4914 hinder criminal operations. In doing so, it strikes the
4915 proper balance between law enforcement needs and civil
4916 liberties protections, and I urge my colleagues to support
4917 this important measure. It is now my pleasure to recognize
4918 the ranking member of the Subcommittee on Crime, Terrorism,
4919 Homeland Security, and Investigations, the gentlewoman from
4920 Texas, Ms. Lee, for her opening statement.

4921 Ms. Jackson Lee. Thank you very much, Mr. Chairman. I
4922 want to thank Mr. Sensenbrenner, and was delighted to join
4923 you, Mr. Sensenbrenner, Mr. Conyers, along with the other
4924 leaders of this effort to support this legislation, H.R.
4925 5283, the Due Process Act. And I take note of the fact of
4926 the support from the American Bar Association and ACLU,
4927 certainly two distinct groups who are committed to the
4928 issues of due process.

4929 I commend my colleague, as I indicated, Congressman
4930 Sensenbrenner, chairman of the Subcommittee on Crime, for
4931 introducing this bill, and I join with Chairman Goodlatte
4932 and Ranking Member John Conyers as original co-sponsors of
4933 the bill.

4934 In February of last year, the Subcommittee on Crime
4935 held a hearing on the subject of Federal asset forfeiture.
4936 Witnesses made recommendations to us about how to update the
4937 procedures for the government's use of civil cases to

4938 forfeit property that is alleged to be contraband, proceeds
4939 of crime, or instrumentalities of crime. In 2000, we
4940 adopted the Civil Asset Forfeiture Reform Act, a law that
4941 made a number of improvements in civil forfeiture statutes,
4942 and I remember being here at that time.

4943 For instance, that law reversed the burden of proof
4944 from being on the property owner to prove that the assets
4945 should not be forfeited to the current requirement that the
4946 government must prove that the seized assets are subject to
4947 forfeiture. However, for an unusual process whereby the
4948 government may seize and forfeit someone's money, a car, or
4949 other assets, they need to sustain themselves. The standard
4950 should be higher.

4951 Therefore, this bill would elevate the burden on the
4952 government from preponderance of the evidence to clear and
4953 convincing evidence. The bill would make a number of other
4954 changes, including a claimant to request an initial hearing
4955 -- allowing a claimant to request an initial hearing in a
4956 civil forfeiture case to determine whether the seizure was
4957 proper in the first place before the property is completely
4958 consumed.

4959 Among these other improvements to the law, the bill
4960 would make, I want to highlight, those which would address
4961 the urgent issue of indigent defense. Consistent with the
4962 Sixth Amendment, we must ensure that those whose property is

4963 seized by the government and subject to civil forfeiture
4964 proceedings have adequate counsel. In the initial hearing,
4965 the property owner is to be notified by the magistrate that
4966 he or she has the right to counsel, that he or she may under
4967 some circumstance be provided counsel if they cannot afford
4968 an attorney.

4969 In addition, as it stands now, the provision of counsel
4970 for those who cannot afford it in the Federal forfeiture
4971 cases is limited. That is why this bill would extend the
4972 right of the indigent property owners to have counsel
4973 provided to them in both judicial and administrative
4974 forfeiture proceedings, which is a step forward. Although
4975 almost all the changes in this bill relate to civil
4976 forfeiture, the one change to criminal forfeiture law
4977 involves this important issue, a right to counsel.

4978 In 2014, the Supreme Court ruled in Kaley v. United
4979 States that the Constitution does not require a criminal
4980 defendant to be given an evidentiary hearing to contest
4981 restraint of their assets, even when they would be unable to
4982 pay for an attorney to defend themselves if their money or
4983 other assets are being held by the government. In response,
4984 rightly so, H.R. 5283 would grant defendants the right to
4985 such hearings in order to determine whether the seizure and
4986 restraint of their assets should be modified or negated so
4987 that they may pay for counsel of their choice. These are

4988 some of the more important issues the bill addresses.

4989 So finally, let me say that we need to make these
4990 changes because of the interest of owners of seized
4991 property, but to ensure that forfeiture only takes place
4992 when appropriate, and that there is a balance. The
4993 government's practice of asset forfeiture involves intake of
4994 substantial sums of money. The forfeiture funds maintained
4995 by the Department of Justice and Department of Treasury
4996 together take in over \$5 billion a year.

4997 Under the statute, these funds can be put to good use,
4998 including the \$4.1 billion in assets given to the victims of
4999 crime by the Department of Justice through asset forfeiture
5000 since 2000, of which \$1.8 billion was recovered through
5001 civil forfeiture. Surely a program this size deserves more
5002 scrutiny, but overall, we must set the rules and ensure
5003 justice in individual cases. That is because seizing even a
5004 relatively small amount of money may present a real hardship
5005 for those of lesser means and those who are innocent. Maybe
5006 their relatives were involved, and they innocently are
5007 caught up in the web.

5008 Therefore, we must ensure that Federal laws that allow
5009 for the forfeiture of money and other assets include the
5010 necessary protections to ensure the innocent do not suffer
5011 from wrongful complication. Let me again ask my colleagues
5012 to support this legislation, making great strides in

5013 providing due process to all Americans. With that I yield
5014 back.

5015 [The statement of Ms. Jackson Lee follows:]

5016 ***** COMMITTEE INSERT *****

5017 Mr. Sensenbrenner. Mr. Chairman?

5018 Chairman Goodlatte. The chair thanks the gentlewoman,
5019 and it is now my pleasure to recognize the chief sponsor of
5020 this legislation, and the chairman of the Crime, Terrorism,
5021 and Homeland Security and Investigations Subcommittee, the
5022 gentleman from Wisconsin, Mr. Sensenbrenner, for his opening
5023 statement.

5024 Mr. Sensenbrenner. Thank you very much, Mr. Chairman.
5025 With origins in medieval law, civil asset forfeiture is
5026 premised on the legal fiction that inanimate objects bear
5027 moral culpability when used in a crime. The government
5028 commences legal action against our stuff, not us, thereby

5029 justifying lower legal protections.

5030 On the upside, this leads to some funny case names,
5031 such as United States v. \$124,700 in U.S. Currency; United
5032 States v. Approximately 64,695 Pounds of Shark Fins; United
5033 States v. An Article Consisting of 50,000 Cardboard Boxes
5034 More or Less, Each Containing One Pair of Clacker Balls; and
5035 my personal favorite, South Dakota v. 15 Impounded Cats.
5036 The last one would be a great title for a movie.

5037 When we look past the case names to the people
5038 involved, the outcomes are less moving. Mandrel Stuart was
5039 pulled over because of the tint on his windows. He owned a
5040 restaurant and was carrying cash to buy new kitchen
5041 equipment. Even though there was no evidence that the money
5042 was unlawfully obtained, the police seized the \$17,550.
5043 Stuart was never charged with a crime. Instead, the case
5044 proceeded as U.S. v. \$17,550 in U.S. Currency. Stuart
5045 fought and won in court, and the court ordered the
5046 government to return his money and pay nearly \$12,000 in
5047 attorneys' fees. The outcome is the exception and not the
5048 rule.

5049 Eighty percent of forfeitures are uncontested, and law
5050 enforcement is frequently allowed to keep large portions of
5051 the proceeds. Even for Stuart Mandrel, victory came as a
5052 cost. It took 15 months for the court to order to return
5053 his property and attorneys' fees. Unable to pay his rent,

5054 Stuart had to close his restaurant. One can only imagine
5055 the disillusionment that he felt.

5056 America was blessed with visionary leaders who
5057 understood the virtues of limited government and individual
5058 rights. The right to own property is enshrined in the Fifth
5059 Amendment. Current forfeiture provisions mock the spirit
5060 and meaning of that passage. Our former colleague Henry
5061 Hyde described civil asset forfeiture as "an unrelenting
5062 government assault on property rights fueled by a dangerous
5063 and emotional vigilante mentality that sanctions shredding
5064 the United States Constitution into meaningless confetti."

5065 I led an effort to reform that culminated in passage of
5066 the Civil Asset Forfeiture Reform Act, or CAFRA for short.
5067 It was a noble effort, but it plainly fell short. In
5068 advancing CAFRA, Mr. Hyde noted that in 1993, the Department
5069 of Justice forfeited \$556 million. Post-CAFRA in 2012, DOJ
5070 forfeited \$4 billion. Adequate forfeiture reform is long
5071 overdue. I am proud that the committee is undertaking that
5072 reform today.

5073 One of the most important changes in CAFRA was the
5074 creation of a timeline governing the process. The ability
5075 to force timely adjudication mitigates the hardship to
5076 innocent owners and expedites the title transfer in the
5077 event of a valid forfeiture. The Due Process Act broadens
5078 the application or applicability of CAFRA's timelines,

5079 further expedites the forfeiture process to ensure timely
5080 adjudication, and implements new protections to ensure
5081 property owners can contest seizures.

5082 Recognizing the punitive nature of civil forfeiture,
5083 the Due Process Act raises the government's burden of proof
5084 from a preponderance of the evidence to clear and convincing
5085 evidence. Section 5 is the bill's only reform to criminal
5086 forfeiture. In *Kaley v. United States*, the Supreme Court
5087 ruled that a defendant is not constitutionally entitled to
5088 an evidentiary hearing to contest the factual predicate of a
5089 pre-trial restraint on assets, even when that money is
5090 necessary to pay for his defense.

5091 The bill reverses the *Kaley* decision and bolsters the
5092 Sixth Amendment right to counsel. If the government
5093 restrains assets pre-trial, a defendant can move for a
5094 hearing to determine whether the seizure should be modified
5095 or rescinded to preserve the defendant's right to counsel.

5096 The bill also provides additional protection for
5097 innocent owners. Under current law, property owners have
5098 the burden of proving their innocence. This bill puts the
5099 burden of proving guilt on the government where it belongs.
5100 Finally, under current law, a judge may reduce the value of
5101 a forfeiture, only when the forfeiture is so grossly
5102 disproportionate to the underlying wrongdoing that it rises
5103 to the level of a constitutional violation.

5104 The Due Process Act gives judges greater latitude to
5105 reduce the size of a penalty when it is disproportionate to
5106 the offense. These are important and long-overdue changes,
5107 and I thank the chairman for his leadership, and urge the
5108 committee to adopt this legislation.

5109 Lastly, I would be remiss if I did not mention the
5110 contributions that Tiffany Joslyn made to this bill. As
5111 everyone in the Judiciary family is aware, Tiffany was
5112 tragically killed in a car accident earlier this year.
5113 Tiffany was an integral part of the bipartisan group of
5114 staff that worked on this bill. It is one of the many areas
5115 where she made a lasting impact on this Committee and to her
5116 country. I am proud to remember and honor her as we advance
5117 this important legislation.

5118 Also, I would like to ask unanimous consent that
5119 statements in support of this legislation, the American Bar
5120 Association, the American Civil Liberties Union, the
5121 Americans for Tax Reform, Drug Policy Alliance,
5122 FreedomWorks, Generation Opportunity, Leadership Conference
5123 on Civil and Human Rights, Small Business and
5124 Entrepreneurship Council, and the U.S. Justice Action
5125 Network, certainly a conglomeration we do not hear very
5126 often supporting the same legislation, be included in the
5127 record.

5128 [The statement of Mr. Sensenbrenner follows:]

5129 ***** COMMITTEE INSERT *****

5130 Ms. Jackson Lee. Mr. Chairman, would you --
5131 Chairman Goodlatte. Without objection, the documents
5132 will be made a part of the record.
5133 [The information follows:]

5134 ***** COMMITTEE INSERT *****

5135 Ms. Jackson Lee. I was hoping he could yield for me to
5136 just join in briefly in his comments on Tiffany.

5137 Mr. Sensenbrenner. I yield.

5138 Ms. Jackson Lee. Yeah. Thank you so very much, and
5139 thank you, Mr. Chairman. Forgive me for being remiss. She
5140 passionately talked about this legislation because of her
5141 true commitment to the idea of due process, so I too want to
5142 add my appreciate to Tiffany, who worked with the bipartisan
5143 group of staff, but even as we met, might I say with a bit

5144 of humor, in the late evenings of the night, this bill was
5145 always one that she would comment on in hoping that we would
5146 move it as quickly as possible so that the idea of due
5147 process could have real life, and that is what we are doing
5148 today. With that I yield back. Thank you so very much.

5149 Mr. Sensenbrenner. Mr. Chairman, I yield back.

5150 Chairman Goodlatte. The chair thanks gentlemen, and
5151 without objection, the statement of Ranking Member Conyers
5152 will be made a part of the record.

5153 [The information follows:]

5154 ***** COMMITTEE INSERT *****

5155 Chairman Goodlatte. Without objection, all the
5156 members' opening statements will be made a part of the
5157 record.

5158 [The information follows:]

5159 ***** COMMITTEE INSERT *****

5160 Chairman Goodlatte. And for what purpose does the
5161 gentleman from Michigan seek recognition?

5162 Mr. Trott. Move to strike last word.

5163 Chairman Goodlatte. Gentleman is recognized for 5
5164 minutes.

5165 Mr. Trott. Thank you, Mr. Chairman. The civil
5166 forfeiture laws give the government an important tool to
5167 seize assets, and I wholly support the process, but this

5168 bill is legislation that I strongly support because the
5169 process needs to be improved. As an attorney in private
5170 practice, I probably handled over 100 forfeiture cases,
5171 representing innocent lien holders.

5172 I found the process typically plagued with unnecessary
5173 delays. It was unduly expensive for my clients, at times
5174 arbitrary, and more often than not frustrating and
5175 difficult, so I support the legislation and thank the
5176 gentleman from Wisconsin for introducing the bill. I yield
5177 back.

5178 Chairman Goodlatte. Well, the chair thanks the
5179 gentleman for his support of this effort and for his
5180 experience that he brings to this issue. Are there any
5181 amendments to H.R. 5283?

5182 Mr. Sensenbrenner. Mr. Chairman, I have an amendment
5183 to this.

5184 Chairman Goodlatte. The clerk will report the
5185 amendment.

5186 Ms. Adcock. Amendment to H.R. 5283 offered by Mr.
5187 Sensenbrenner. In section --

5188 [The amendment of Mr. Sensenbrenner follows:]

5189 ***** INSERT 16 *****

5190 Chairman Goodlatte. Without objection, the amendment
5191 is considered as read, and the gentleman is recognized for 5
5192 minutes on it.

5193 Mr. Sensenbrenner. I will take about 15 seconds. The
5194 amendment makes important technical changes to the

5195 introduced bill to ensure the procedural forms operate as
5196 designed. I urge my colleagues to support this necessary
5197 amendment and yield back.

5198 Chairman Goodlatte. Would the gentleman yield?

5199 Mr. Sensenbrenner. I yield.

5200 Chairman Goodlatte. I thank the gentleman for this
5201 important amendment, which makes small technical corrections
5202 to the language as introduced. These changes will ensure
5203 that the reforms contained in the bill are effective and
5204 match the intent of the drafters. I support this amendment
5205 and urge my colleagues to do the same.

5206 The question occurs on the amendment offered by the
5207 gentleman from Wisconsin.

5208 All those in favor respond by saying aye.

5209 Those opposed, no.

5210 The ayes have it, and the amendment is agreed to. Are
5211 there any other amendments?

5212 Ms. Lofgren. Mr. Chairman?

5213 Chairman Goodlatte. For what purpose does the
5214 gentlewoman from California seek recognition?

5215 Ms. Lofgren. I would like to strike the last word.

5216 Chairman Goodlatte. Gentlewoman is recognized for 5
5217 minutes.

5218 Ms. Lofgren. I had considered offering an amendment,
5219 and then I decided that that would be counterproductive.

5220 There is a problem in terms of equitable sharing, and I
5221 think the chairman himself referenced the need at some point
5222 to get into that issue.

5223 I do believe that the sharing should comply with State
5224 law, and that has not always been the case, but I understand
5225 that this bill is a consensus document. It does improve the
5226 situation. I do not want to offer an amendment that would
5227 be an impediment to adopting these improvements, but I do
5228 hope, Mr. Chairman, that we can work on this further
5229 refinement at a future date.

5230 Chairman Goodlatte. The chair thanks the gentlewoman
5231 and appreciates her forbearance, and acknowledges that, as
5232 she notes, there is further work to be done in this area,
5233 just not today.

5234 Ms. Lofgren. I yield back.

5235 Chairman Goodlatte. The chair thanks the gentlewoman.

5236 A reporting quorum, the question is on the motion to
5237 report the bill H.R. 5283 as amended favorably to the House.

5238 Those in favor respond by saying aye?

5239 Those opposed, no.

5240 The ayes have it, and the bill as amended is ordered
5241 reported favorably.

5242 Members will have 2 days to submit views. Without
5243 objection, the bill will be reported as a single amendment
5244 in the nature of a substitute incorporating all adopted

5245 amendments, and staff is authorized to make technical and
5246 conforming changes. This completes the business for today.
5247 Members are thanked for their forbearance --

5248 Ms. Jackson Lee. Mr. Chairman? Mr. Chairman? Mr.
5249 Chairman?

5250 Chairman Goodlatte. For what purpose does the
5251 gentlewoman from Texas seek recognition?

5252 Ms. Jackson Lee. May I offer a congratulatory note to
5253 Mr. Sensenbrenner? Again, I understand that the Adam Walsh
5254 bill passed the Senate. I do not know if we were taking the
5255 exact same bill, but this is its 10th year, and I know that
5256 this Judiciary Committee will look fondly upon it, so I
5257 wanted to congratulate him, as it may be moving forward.
5258 Thank you very much. I yield back.

5259 Chairman Goodlatte. The chair thanks the gentlewoman,
5260 thanks and congratulates the gentleman from Virginia, Mr.
5261 Forbes, the gentlewoman from California, Ms. Walters, the
5262 gentleman from Wisconsin, Mr. Sensenbrenner, on the passage
5263 of their bills. Thanks to all of our members for attending.
5264 The markup is adjourned.

5265 [Whereupon, at 4:42 p.m., the committee adjourned
5266 subject to the call of the chair.]

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