

1 NATIONAL CAPITOL CONTRACTING
2 RPTS AVERETT
3 HJU298000

4 MARKUP OF H.R. 4092;
5 AND H.R. 3711 CONTINUED
6 Wednesday, October 25, 2017
7 House of Representatives,
8 Committee on the Judiciary,
9 Washington, D.C.

10 The committee met, pursuant to call, at 11:00 a.m., in
11 Room 2141, Rayburn House Office Building, Hon. Bob Goodlatte
12 [chairman of the committee] presiding.

13 Present: Representatives Goodlatte, Sensenbrenner,
14 Smith, Chabot, Issa, King, Franks, Gohmert, Jordan, Poe,
15 Marino, Gowdy, Labrador, Farenthold, Collins, DeSantis,
16 Buck, Ratcliffe, Roby, Gaetz, Johnson of Louisiana, Biggs,
17 Rutherford, Handel, Conyers, Nadler, Lofgren, Jackson Lee,
18 Cohen, Johnson of Georgia, Deutch, Gutierrez, Bass,
19 Richmond, Jeffries, Cicilline, Swalwell, Lieu, Raskin,
20 Jayapal, and Schneider.

21 Staff Present: Shelley Husband, Staff Director; Branden
22 Ritchie, Deputy Staff Director; Zach Somers, Parliamentarian
23 and General Counsel; Stephanie Gadbois, Senior Counsel;
24 George Fishman, Chief Counsel, Subcommittee on Immigration
25 and Border Security; Andrea Loving, Deputy Chief Counsel,
26 Subcommittee on Immigration and Border Security; Alley
27 Adcock, Clerk; Rachel Calanni, Minority Professional Staff
28 Member; David Shahoulian, Minority Chief Counsel; David
29 Greengrass, Minority Counsel; Danielle Brown, Minority
30 Legislative Counsel; Rosalind Jackson, Minority Professional
31 Staff; Monalisa Dugue, Minority Deputy Chief Counsel;
32 Maunica Sthanki, Minority Counsel; Perry Apelbaum, Minority
33 Chief Counsel and Staff Director; and Matthew Morgan,
34 Minority Counsel.

35 Chairman Goodlatte. Good morning. The committee will
36 reconvene. When the committee recessed yesterday we were
37 considering amendments to H.R. 4092, and the gentleman from
38 California, Mr. Issa, has an amendment on the floor under
39 consideration.

40 Mr. Issa. Would the gentleman yield?

41 Chairman Goodlatte. The chair recognizes himself and
42 is happy to yield to the gentleman from California.

43 Mr. Issa. Thank you, Mr. Chairman. After reviewing
44 the bill, I believe that, at least for the foreseeable
45 future, the 410,000 plus 10 percent escalator is probably
46 sufficient. I would like to work with the chairman further
47 on defining that so that the safeguards be in place once
48 this bill becomes law, but I would ask unanimous consent to
49 withdraw the amendment at this time.

50 Chairman Goodlatte. Without objection, it is
51 withdrawn. And let me just say to the gentleman, I would be
52 happy to work with him. It is important that the purpose of
53 the legislation is to assure that American agriculture has
54 the workers it need to continue to thrive in the United
55 States, and not diminish because they can go elsewhere to
56 find laborers and produce agriculture products elsewhere in
57 the world. So, I am happy to work with the gentleman in
58 that regard.

59 Mr. Issa. Thank you, Mr. Chairman.

60 Chairman Goodlatte. Thank you. Are there further
61 amendments to H.R. 4092? For what purpose does the
62 gentlewoman from California seek recognition?

63 Ms. Lofgren. I have an amendment at the desk.

64 Chairman Goodlatte. The clerk will report the
65 amendment.

66 Ms. Adcock. Amendment to the amendment in the nature
67 of a substitute to H.R. 4092, offered by Ms. Lofgren of
68 California. Page 16, strike line 16 and all that follows
69 through "employer" on line 17. Insert the following:
70 "Workers prohibited each employer." Page 17, strike lines 1
71 through 22.

72 [The amendment of Ms. Lofgren follows:]

73 ***** COMMITTEE INSERT *****

74 Chairman Goodlatte. The gentlewoman is recognized for
75 5 minutes on her amendment.

76 Ms. Lofgren. Mr. Chairman, if you read the language on
77 page 16, it actually is the reverse of what you should be
78 doing. We need to protect the American workforce, and if
79 you take a look at the language on page 17, it specifically
80 overrules a decision in *Arriaga v. Florida Pacific Farms*
81 that prohibits, essentially, deducting recruiting fees,
82 immigration fees, transportation fees, and the like from the
83 wages of H-2A employees. This amendment would reverse that.
84 Now, what is that necessary?

85 The bill appears to provide wage floors for H-2C
86 workers at \$8.34 an hour or 115 percent of the Federal
87 minimum wage, or \$10.88 per hour -- that is 150 percent of
88 Federal minimum wage -- for meat and poultry workers. But
89 these wage floors are not real because this bill changes
90 current law to specifically allow employers to deduct
91 numerous charges from the base pay, thereby allowing the
92 real wage rate to be significantly lower than provided for
93 in the bill.

94 Now, Federal courts have held that, under the Fair
95 Labor Standards Act, any costs primarily benefiting the
96 employer rather than the worker cannot be deducted from the
97 worker's wages. That is the *Arriaga* case I mentioned
98 earlier. Now, to protect American workers, immigration

99 statutes and regulations also prohibit deducting such costs
100 from workers' wages, even if the resulting pay would remain
101 above the minimum wage. This bill is bad enough in that it
102 allows employers to deduct these costs from workers' wages,
103 but what is even worse is that it expressly authorizes
104 employers to do so even if the resulting wage would fall
105 below the minimum wage.

106 Under this bill, employers can effectively pay workers
107 nothing if they can creatively come up with fees to charge
108 the worker, including for housing, food, and other items. I
109 think that that is wrong; it is unfair to the immigrant
110 workers, and it is unfair to the American workers, because
111 what this would provide is a multimillion-dollar pool.
112 Potentially, a worker is paid less than the Federal minimum
113 wage to come in and compete with people who are already
114 working here.

115 In addition to this, as has been mentioned yesterday,
116 the deductions of 10 percent withholding and the requirement
117 to purchase healthcare coverage makes the wage even more
118 problematic. Now, these wage reductions would affect
119 domestic workers in a range of sectors, including farming,
120 dairy, raising of livestock, food processing, forestry
121 services. Millions of U.S. workers across these industries
122 would be displaced by millions of underpaid and exploitable
123 guestworkers who would come in through the H-2C program.

124 I mentioned yesterday, and I am known as someone who
125 believes immigration is good for America -- I do very much -
126 - but that general premise is very different than creating a
127 program of vast, exploitable indentured servants coming into
128 the country to undercut the American workforce. That is not
129 what we should be doing.

130 And just thinking about this, if you do enough
131 deductions so that your pay is below the Federal minimum
132 wage, approaching nothing, why would someone come to do
133 that? Two things: one, their conditions in their home
134 country are so miserable it still looks good to them; or,
135 two, it is a ride to the U.S. that is cheaper than paying a
136 coyote to smuggle you into the U.S. So, this is a reckless
137 bill. It would actually increase undocumented immigration.
138 I am shocked that the majority is supporting this bill.

139 This amendment would make improvements in it. It would
140 not fix everything, but it would fix some of the worst
141 things in this bill, and I highly recommend that we adopt
142 this amendment on a bipartisan basis. And I see that my
143 time is expired, and so I yield back, Mr. Chairman.

144 Chairman Goodlatte. The chair thanks the gentlewoman
145 and recognizes himself in opposition to the amendment. The
146 effect of the Arriaga decision was to require employers to
147 reimburse workers for inbound transportation costs before
148 their workers even substantially comply with their

149 contractual obligations. Under the Ag Act, if a worker does
150 not like the terms he or she is offered, the worker does not
151 need to agree to work for the employer. I oppose this
152 amendment.

153 The question occurs on the amendment.

154 Mr. Conyers. Oh.

155 Chairman Goodlatte. The gentleman from Michigan is
156 recognized for 5 minutes.

157 Mr. Conyers. Thank you, Mr. Chairman, and I yield to
158 the gentlelady from California.

159 Ms. Lofgren. I would like to note -- and I thank the
160 gentleman for yielding to me -- that the bill would allow
161 for the deduction of a whole variety of charges to these
162 low-paid workers. It would not be limited to transportation
163 costs. I would also like to note that the Working
164 Economists blog, the Economic Policy Institute, posted an
165 analysis of this bill that I would like to ask unanimous
166 consent to place in the record.

167 And the title of it is "The Legal Workforce and
168 Agricultural Guestworker Acts would push down wages and
169 labor standards for Americans and immigrants alike."

170 [The information follows:]

171 ***** COMMITTEE INSERT *****

172 Ms. Lofgren. This is not, you know, pro-immigration.
173 It is not an immigration source. They are economists, and
174 they basically point out that the bill would undercut the
175 wages of Americans -- this amendment would help resolve that
176 -- and that, in addition to the deduction, the healthcare
177 provisions would further drive down the provisions, the
178 wages; and that the bill would actually provide visas equal
179 to 1.25 percent of the entire U.S. workforce.

180 That is a pretty amazing analysis, to bring in people
181 who could be paid less than the minimum wage. So, I think
182 this amendment is an important one. I hope that we can
183 adopt it, and I thank the gentleman from Michigan for
184 yielding, and yield back.

185 Ms. Jayapal. Mr. Chairman?

186 Mr. Conyers. I yield back, Mr. Chairman.

187 Chairman Goodlatte. For what purpose does the
188 gentlewoman from Washington seek recognition?

189 Ms. Jayapal. I move to strike the last word.

190 Chairman Goodlatte. The gentlewoman is recognized for
191 5 minutes.

192 Ms. Jayapal. Thank you, Mr. Chairman. I rise in
193 strong support of this very sensible amendment to a very,
194 very, very bad bill. Ms. Lofgren mentioned the EPI --
195 excuse me, the Economic Policy Institute -- study, which has
196 been entered into the record, and I just want to point out

197 that the number of people that we are talking about in this
198 bill is not 450,000. I do not think anybody should be
199 fooled by thinking we are talking about 450,000 people.

200 And if you do not believe me, then I would just quote
201 Frank Gasperini, the leader of one of the largest egg
202 employer coalitions, and this is a direct quote from Dairy
203 Agenda Today. He says, "We are looking at replacing
204 ultimately a million and a half or 2 million workers with a
205 guestworker program that currently is proposed to be capped
206 at about half a million." That half-a-million might work,
207 depending on how the wording is.

208 So, in other words, what he is saying is, the way that
209 it is written, and I guess you wrote it very well, Mr.
210 Chairman, because it says 450,000 here, but we have the
211 actual proof that that is an annual figure that would start
212 at 450,000, and the cap could increase, depending on
213 employer demand.

214 We are talking about a massive number of people, as Ms.
215 Lofgren said, equally to roughly 1.25 percent of the entire
216 U.S. labor force, and that is in addition to the 1 percent
217 of the workforce that is already made up of guestworkers
218 with limited workplace rights. So, I think we should be
219 very clear about what this bill seeks to do.

220 What this bill seeks to do is drive out American
221 workers who are earning more than would be required in this

222 bill, drive down wages for any of those that remain, and
223 dramatically upend the farm agricultural industry in this
224 country.

225 And I think we have to be very clear that this is not a
226 Democratic or a Republican issue. There are going to be
227 bipartisan effects in States like Louisiana and Georgia and
228 numerous States across the country, where American workers
229 will suffer as a result of this bill.

230 And so, I, again, would just emphasize the comments I
231 made yesterday in this committee, that if we really wanted
232 to address this issue, there has been a very carefully
233 crafted compromise on the agricultural industry to address
234 the issues that we face of immigrant workforce, where we do
235 not have sufficient labor, where we do not have sufficient
236 rights.

237 But that bill is not the bill we are looking at and
238 commenting on today. This bill does a tremendous disservice
239 to the American workforce, and frankly, to the farm
240 industry, in creating this substandard, subpaid workforce
241 that will displace American workers. I yield back.

242 Chairman Goodlatte. The question occurs on the
243 amendment offered by the gentlewoman from California.

244 All those in favor, respond by saying aye.

245 Those opposed, no.

246 In the opinion of the chair, the noes have it, and the

247 amendment is not agreed to.

248 Ms. Lofgren. May I have a recorded vote, Mr. Chairman?

249 Chairman Goodlatte. A recorded vote is requested, and

250 the clerk will call the roll.

251 Ms. Adcock. Mr. Goodlatte?

252 Chairman Goodlatte. No.

253 Ms. Adcock. Mr. Goodlatte votes no.

254 Mr. Sensenbrenner?

255 [No response.]

256 Mr. Smith?

257 Mr. Smith. No.

258 Ms. Adcock. Mr. Smith votes no.

259 Mr. Chabot?

260 [No response.]

261 Mr. Issa?

262 [No response.]

263 Mr. King?

264 [No response.]

265 Mr. Franks?

266 Mr. Franks. No.

267 Ms. Adcock. Mr. Franks votes no.

268 Mr. Gohmert?

269 Mr. Gohmert. No.

270 Ms. Adcock. Mr. Gohmert votes no.

271 Mr. Jordan?

272 Mr. Jordan. No.

273 Ms. Adcock. Mr. Jordan votes no.

274 Mr. Poe?

275 [No response.]

276 Mr. Marino?

277 Mr. Marino. No.

278 Ms. Adcock. Mr. Marino votes no.

279 Mr. Gowdy?

280 [No response.]

281 Mr. Labrador?

282 [No response.]

283 Mr. Farenthold?

284 Mr. Farenthold. No.

285 Ms. Adcock. Mr. Farenthold votes no.

286 Mr. Collins?

287 Mr. Collins. No.

288 Ms. Adcock. Mr. Collins votes no.

289 Mr. DeSantis?

290 Mr. DeSantis. No.

291 Ms. Adcock. Mr. DeSantis votes no.

292 Mr. Buck?

293 Mr. Buck. No.

294 Ms. Adcock. Mr. Buck votes no.

295 Mr. Ratcliffe?

296 Mr. Ratcliffe. No.

297 Ms. Adcock. Mr. Ratcliffe votes no.
298 Mrs. Roby?
299 [No response.]
300 Mr. Gaetz?
301 Mr. Gaetz. No.
302 Ms. Adcock. Mr. Gaetz votes no.
303 Mr. Johnson of Louisiana?
304 Mr. Johnson of Louisiana. No.
305 Ms. Adcock. Mr. Johnson votes no.
306 Mr. Biggs?
307 Mr. Biggs. No.
308 Ms. Adcock. Mr. Biggs votes no.
309 Mr. Rutherford?
310 Mr. Rutherford: No.
311 Ms. Adcock. Mr. Rutherford votes no.
312 Mrs. Handel?
313 Mrs. Handel. No.
314 Ms. Adcock. Mrs. Handel votes no.
315 Mr. Conyers?
316 Mr. Conyers. Yes.
317 Ms. Adcock. Mr. Conyers votes yes.
318 Mr. Nadler?
319 Mr. Nadler. Aye.
320 Ms. Adcock. Mr. Nadler votes aye.
321 Ms. Lofgren?

322 Ms. Lofgren. Aye.

323 Ms. Adcock. Ms. Lofgren votes aye.

324 Ms. Jackson Lee?

325 [No response.]

326 Mr. Cohen?

327 [No response.]

328 Mr. Johnson of Georgia?

329 Mr. Johnson of Georgia. Aye.

330 Ms. Adcock. Mr. Johnson votes aye.

331 Mr. Deutch?

332 [No response.]

333 Mr. Gutierrez?

334 [No response.]

335 Ms. Bass?

336 [No response.]

337 Mr. Richmond?

338 [No response.]

339 Mr. Jeffries?

340 [No response.]

341 Mr. Cicilline?

342 Mr. Cicilline. Aye.

343 Ms. Adcock. Mr. Cicilline votes aye.

344 Mr. Swalwell?

345 [No response.]

346 Mr. Lieu?

347 Mr. Lieu. Aye.

348 Ms. Adcock. Mr. Lieu votes aye.

349 Mr. Raskin?

350 [No response.]

351 Ms. Jayapal?

352 Ms. Jayapal. Aye.

353 Ms. Adcock. Ms. Jayapal votes aye.

354 Mr. Schneider?

355 Mr. Schneider. Aye.

356 Ms. Adcock. Mr. Schneider votes aye.

357 Mr. Poe. How am I recorded?

358 Chairman Goodlatte. The gentleman from Texas, Mr. Poe.

359 Mr. Poe. No.

360 Ms. Adcock. Mr. Poe votes no.

361 Chairman Goodlatte. The gentleman from Idaho.

362 Mr. Labrador. No.

363 Ms. Adcock. Mr. Labrador votes no.

364 Chairman Goodlatte. Has every member voted who wishes

365 to vote?

366 Mr. Johnson of Georgia. Mr. Chairman?

367 Chairman Goodlatte. The clerk will report.

368 Ms. Adcock. Mr. Chairman, 8 members voted aye; 18

369 members voted no.

370 Chairman Goodlatte. And the amendment is not agreed

371 to. For what purpose does the gentlewoman from California

372 seek recognition?

373 Ms. Lofgren. I have an amendment at the desk.

374 Chairman Goodlatte. The clerk will report the
375 amendment.

376 Ms. Adcock. Amendment to the amendment in the nature
377 of a substitute to H.R. 4092, offered by Ms. Lofgren. Page
378 17, after line 22 --

379 [The amendment of Ms. Lofgren follows:]

380 ***** COMMITTEE INSERT *****

381 Chairman Goodlatte. Without objection the amendment is
382 considered as read and the gentlewoman is recognized for 5
383 minutes on her amendment.

384 Ms. Lofgren. Mr. Chairman, there is a lot of argument
385 and discussion about the impact of this bill. This
386 amendment is simple. It basically says, notwithstanding the
387 provisions that allow for deductions that I think are
388 improper, as I discussed earlier, the employer may not
389 deduct so many costs that the workers' wages would go below
390 the Federal minimum wage.

391 Now, if people are suggesting that the Fair Labor
392 Standards Act exemption really is unimportant, that we would
393 not actually have wages that fall below the Federal minimum
394 wage, they should vote yes on this amendment, because it is
395 very clear, it is very simple.

396 I do think that the idea that we would bring in
397 millions of individuals paid below the minimum wage to
398 compete with workers who were already here is wrong. It is,
399 frankly, shocking to me that we are, in fact, considering
400 doing that. This amendment would at least preclude that
401 opportunity, that potential outcome, that workers' wages
402 would go below the Federal minimum wage. For that reason, I
403 hope that we can all approve it, and with that, Mr.
404 Chairman, I would yield back.

405 Chairman Goodlatte. The chair recognizes himself in

406 opposition to the amendment. The question of which costs
407 principally benefit the employer or the worker is debatable.
408 The H-2C worker and employer relationship is mutually
409 beneficial. Farmers get the labor they need; guestworkers
410 earn wages that substantially outpace what they can earn in
411 their home countries.

412 And the fact of the matter is that because this allows
413 workers to move from crop to crop and farm to farm more
414 easily in the United States, will enhance their earning
415 capability compared to the current H-2A program.

416 So, I think that workers and farmers will come out
417 better, but the fact of the matter is people are not going
418 to work for what they do not want to earn, and therefore you
419 will usually see much higher than the minimum wage paid.
420 And this law requires the minimum wage plus 15 percent in
421 most instances.

422 So, for those reasons, I oppose this amendment. For
423 what purpose does the gentleman from New York seek
424 recognition?

425 Mr. Nadler. I move to strike the last word.

426 Chairman Goodlatte. The gentleman is recognized for 5
427 minutes.

428 Mr. Nadler. Mr. Chairman, it is well and good that
429 workers may earn here more than they would at home. That is
430 nice. But if it is below the Federal minimum wage, that is

431 wrong as a matter of morality and as a matter of law. It
432 also bids down American wages. And the fact that you say it
433 will rarely happen, that most of the time people will get,
434 even with these deductions, more than minimum wage. Well,
435 if that is true, then you should accept the amendment; the
436 amendment is a very mild amendment. It only says that you
437 cannot deduct these business costs if it brings the net wage
438 below the Federal minimum wage.

439 There should never be a net wage below the Federal
440 minimum wage. And in fact, this whole program is flawed, as
441 I talked about yesterday, as a number of us did yesterday,
442 because it is primarily -- I will not say designed; maybe
443 that is the case, I do not know -- but certainly, one of its
444 major effects is to say that we are going to have very low
445 wages that American workers will not accept.

446 And it is true that if we paid higher wages, you might
447 get American workers to do this. Instead, we are importing
448 a foreign work force in order to subvert American wages, and
449 that is not bad enough, so we are going to put various
450 conditions on the foreign workforce to make them have no
451 leverage, to make them work for subminimum wage, and this is
452 an example of that.

453 So, this amendment, which simply says you cannot deduct
454 these business expenses if it brings it below minimum wage -
455 - now, the chairman said it will not bring it below minimum

456 wage, in which case, why not accept the amendment?

457 So, I urge the amendment's adoption and I yield to the
458 gentlelady from California.

459 Ms. Lofgren. I thank the gentleman for yielding. If
460 you take a look at page 17 of the manager's amendment, it
461 basically says that the court decisions that were more or
462 less fine tuned about what activities benefited the employee
463 versus the employer are out the window. We are instructed
464 that every interpretation and determination shall find that
465 whatever these costs are, they mutually benefit such workers
466 and they principally benefit neither the employer or
467 employee, which means that, legally, they can all be charged
468 against the employee. Now, that could be a very large
469 amount of money.

470 The idea that we would countenance, and this is really
471 what voting against this amendment says, is that we are
472 going to say it is all right to bring in foreign competitors
473 at below minimum wage -- millions of them -- to compete in
474 forestry, in food processing, with people who are already
475 here doing those jobs. That is not right, and the way to
476 remedy it is to vote for this amendment. I thank the
477 gentleman for yielding and yield back.

478 Mr. Nadler. And I thank the gentlelady for her
479 observations and for her amendment. This amendment is
480 crucial. The bill is crucial, but the amendment is crucial

481 because the amendment, in effect, allows all these
482 deductions to create subminimum wages, which it is wrong to
483 pay people subminimum wages, even if they are foreigners,
484 and it is certainly wrong to subject American workers to
485 competition from people earning subminimum wages. It is
486 just a huge subsidy to the industry, and it is saying to
487 American workers, "Go to hell." So, I urge the adoption of
488 the amendment, and I yield back.

489 Ms. Jackson Lee. Mr. Chairman?

490 Chairman Goodlatte. For what purpose does the
491 gentlewoman from Texas seek recognition?

492 Ms. Jackson Lee. I move to strike the last word.

493 Chairman Goodlatte. The gentlewoman is recognized for
494 5 minutes.

495 Ms. Jackson Lee. First of all, I want to thank the
496 gentlelady from California for her thoughtfulness in
497 ensuring that this very important amendment and message was
498 associated with the amendment in the nature of a substitute
499 to H.R. 4092, which is already a flawed bill. Because it
500 emphasizes again the noncompetitive or the position that
501 American workers could be placed in, but it also illustrates
502 the harshness of this legislation.

503 When you begin to assess to the employee recruiting
504 fees, H-2C petition application filing fees, transportation
505 to the United States, required transportation to and from

506 the work site, required tools and safety equipment, and
507 required uniforms, thereby diminishing the cost or the
508 ultimate compensation to that employee.

509 Now, let me try to extrapolate or to connect, if you
510 will, the ordinary scene of an American worker. The
511 ordinary scene of an American worker, and the ordinary
512 scene, for example, at management level, where many
513 recruiting firms are utilized. Corporations pay those
514 recruiting firms so that they can have the best talent and
515 they can go outside the purview of their jurisdiction. If
516 they are located in Los Angeles, they are located in New
517 York; Houston; Jackson, Mississippi; Atlanta, rural areas,
518 and beyond, they would seek a renowned recruiting firm or a
519 local recruiting firm.

520 Just think if that innocent worker, with all of his or
521 her talents, accepts the job, and he or she receives a bill
522 when they go into their pristine new office or sit at their
523 new desk with all of their excitement, and they get maybe a
524 bill for \$10,000. That is your charge for the recruitment
525 company that we hired to look for you as a talented worker.

526 And then, of course, if, for example, you had to
527 relocate, and many companies provide relocation for at least
528 their management level and maybe others, and all of a sudden
529 you have got a multithousand-dollar bill on your desk
530 because you had to move your family to this new location.

531 That begins to diminish whatever plus of the salary that you
532 thought you were going to have.

533 Then, of course, you need computers and paper and pens
534 and paper, or you may need construction equipment, or
535 engineering tools. And then, you, Mr. American Worker, we
536 put a bill on your desk for tools and safety equipment. So,
537 the maybe three-figure salary, or maybe the \$80,000 or
538 \$90,000 that you might be fortunate enough to receive that
539 puts you minimally in the middle class in some areas, you
540 would have to deduct that, and therefore your take-home pay
541 would be somewhere below even the reality that you would be
542 expecting.

543 Required uniforms; this is obviously a new approach,
544 maybe, to some aspects of working duties that the
545 undocumented or H-2C workers would have. And there is a
546 question about whether that should be attributed in light of
547 the less-than-stellar hourly wage that they are receiving.
548 Now, these may not be degreed persons, but they are skilled
549 persons. They are skilled for the necessary industries or
550 the industries' necessities.

551 You take all of that, of what they have to deduct from
552 their minimal compensation, and it results in a salary less
553 than the minimum wage. The gentlelady is accurate in her
554 thinking and accurate in this amendment, that it should not
555 go below the Federal minimum wage where an employee

556 continues to deduct their business costs for someone that
557 they will have working for a period of time and generating
558 income for their business. And I really support,
559 particularly, the agricultural farm industry that has to
560 provide the food of America and the food of the world.

561 But to now have a situation where the employers can
562 deduct all of this from an already-challenged worker, as it
563 relates to income, and maybe an American worker as it
564 relates to income, seems to be a sad, upsetting, and
565 patently unfair.

566 So I rise to support the gentlelady's simple amendment,
567 fair amendment, and I cannot imagine why anyone would vote
568 against this fair amendment. This makes a bad bill, at
569 least in some instances, tolerable to the point of
570 compensating individuals who work very, very, very, very,
571 very hard. I yield back and support the gentlelady's
572 amendment.

573 Chairman Goodlatte. The question occurs on the
574 amendment offered by the gentlewoman from California.

575 All those in favor, respond by saying aye.

576 Those opposed, no.

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

579 Ms. Lofgren. May I have a recorded vote, Mr. Chairman?

580 Chairman Goodlatte. A recorded vote is requested, and

581 the clerk will call the roll.

582 Ms. Adcock. Mr. Goodlatte?

583 Chairman Goodlatte. No.

584 Ms. Adcock. Mr. Goodlatte votes no.

585 Mr. Sensenbrenner?

586 [No response.]

587 Mr. Smith?

588 Mr. Smith. No.

589 Ms. Adcock. Mr. Smith votes no.

590 Mr. Chabot?

591 [No response.]

592 Mr. Issa?

593 [No response.]

594 Mr. King?

595 [No response.]

596 Mr. Franks?

597 [No response.]

598 Mr. Gohmert?

599 Mr. Gohmert. No.

600 Ms. Adcock. Mr. Gohmert votes no.

601 Mr. Jordan?

602 Mr. Jordan. No.

603 Ms. Adcock. Mr. Jordan votes no.

604 Mr. Poe?

605 Mr. Poe. No.

606 Ms. Adcock. Mr. Poe votes no.
607 Mr. Marino?
608 Mr. Marino. No.
609 Ms. Adcock. Mr. Marino votes no.
610 Mr. Gowdy?
611 [No response.]
612 Mr. Labrador?
613 [No response.]
614 Mr. Farenthold?
615 [No response.]
616 Mr. Collins?
617 [No response.]
618 Mr. DeSantis?
619 Mr. DeSantis. No.
620 Ms. Adcock. Mr. DeSantis votes no.
621 Mr. Buck?
622 [No response.]
623 Mr. Ratcliffe?
624 Mr. Ratcliffe. No.
625 Ms. Adcock. Mr. Ratcliffe votes no.
626 Mrs. Roby?
627 [No response.]
628 Mr. Gaetz?
629 Mr. Gaetz. No.
630 Ms. Adcock. Mr. Gaetz votes no.

631 Mr. Johnson of Louisiana?
632 Mr. Johnson of Louisiana. No.
633 Ms. Adcock. Mr. Johnson votes no.
634 Mr. Biggs?
635 Mr. Biggs. No.
636 Ms. Adcock. Mr. Biggs votes no.
637 Mr. Rutherford?
638 Mr. Rutherford. No.
639 Ms. Adcock. Mr. Rutherford votes no.
640 Mrs. Handel?
641 Mrs. Handel. No.
642 Ms. Adcock. Mrs. Handel votes no.
643 Mr. Conyers?
644 Mr. Conyers. Aye.
645 Ms. Adcock. Mr. Conyers votes aye.
646 Mr. Nadler?
647 Mr. Nadler. Aye.
648 Ms. Adcock. Mr. Nadler votes aye.
649 Ms. Lofgren?
650 Ms. Lofgren. Aye.
651 Ms. Adcock. Ms. Lofgren votes aye.
652 Ms. Jackson Lee?
653 Ms. Jackson Lee. Aye.
654 Ms. Adcock. Ms. Jackson Lee votes aye.
655 Mr. Cohen?

656 [No response.]

657 Mr. Johnson of Georgia?

658 Mr. Johnson of Georgia. Aye.

659 Ms. Adcock. Mr. Johnson votes aye.

660 Mr. Deutch?

661 [No response.]

662 Mr. Gutierrez?

663 [No response.]

664 Ms. Bass?

665 [No response.]

666 Mr. Richmond?

667 [No response.]

668 Mr. Jeffries?

669 Mr. Jeffries. Aye.

670 Ms. Adcock. Mr. Jeffries votes aye.

671 Mr. Cicilline?

672 Mr. Cicilline. Aye.

673 Ms. Adcock. Mr. Cicilline votes aye.

674 Mr. Swalwell?

675 Mr. Swalwell. Aye.

676 Ms. Adcock. Mr. Swalwell votes aye.

677 Mr. Lieu?

678 Mr. Lieu. Aye.

679 Ms. Adcock. Mr. Lieu votes aye.

680 Mr. Raskin?

681 [No response.]

682 Ms. Jayapal?

683 Ms. Jayapal. Aye.

684 Ms. Adcock. Ms. Jayapal votes aye.

685 Mr. Schneider?

686 Mr. Schneider. Aye.

687 Ms. Adcock. Mr. Schneider votes aye.

688 Chairman Goodlatte. The gentleman from Arizona, Mr.

689 Franks?

690 Mr. Franks. No.

691 Ms. Adcock. Mr. Franks votes no.

692 Chairman Goodlatte. The gentleman from Texas, Mr.

693 Farenthold?

694 Mr. Farenthold. No.

695 Ms. Adcock. Mr. Farenthold votes no.

696 Chairman Goodlatte. The gentleman from Georgia, Mr.

697 Collins?

698 Mr. Collins. No.

699 Ms. Adcock. Mr. Collin votes no.

700 Chairman Goodlatte. The gentleman from Colorado, Mr.

701 Buck?

702 Mr. Buck. No.

703 Ms. Adcock. Mr. Buck votes no.

704 Chairman Goodlatte. The gentleman from Idaho, Mr.

705 Labrador?

706 Mr. Labrador. No.

707 Ms. Adcock. Mr. Labrador votes no.

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

710 Ms. Adcock. Mr. Chairman, 11 members voted aye; 18
711 members voted no.

712 Chairman Goodlatte. The amendment is not agreed to.
713 For what purpose does the gentlewoman from Georgia seek
714 recognition?

715 Mrs. Handel. Mr. Chairman, I have an amendment at the
716 desk.

717 Chairman Goodlatte. The clerk will report the
718 amendment.

719 Ms. Adcock. Amendment to the amendment in the nature
720 of a substitute, offered by Mr. Goodlatte of Virginia,
721 offered by Mrs. Handel. On page 10, line 17 --

722 [The amendment of Mrs. Handel follows:]

723 ***** COMMITTEE INSERT *****

724 Chairman Goodlatte. Without objection, the amendment
725 is considered as read, and the gentlewoman is recognized for
726 5 minutes on her amendment.

727 Mrs. Handel. Thank you, Mr. Chairman. This amendment
728 will accomplish two important things in the bill. First, it
729 will provide additional protections for American workers by
730 strengthening enforcement of the job posting requirement.

731 Under my amendment, DHS will be required to verify with
732 the State workforce agencies that employers actually did
733 post the jobs for American workers first. This guestworker
734 program is designed to supplement the American workforce,
735 not replace it, so this amendment strengthens the
736 protections for American workers to ensure that Americans
737 get the first shot at these positions.

738 Additionally, my amendment will ensure that those
739 currently present in the United States illegally are
740 prohibited from receiving an H-2C visa until that individual
741 returns to his or her home country. Once in their home
742 country, the individual can begin the application process
743 that will allow them to enter the United States in a lawful
744 manner, thereby ensuring that the individuals in this
745 program are on a legal footing from the inception.

746 Mr. Chairman, section 2 of your amendment correctly
747 asserts that this program is designed to supplement the
748 American workforce with guestworkers who have no intention

749 of abandoning their home country and only seek to come to
750 temporarily be in the United States to perform agricultural
751 labor or services. My amendment will ensure that the spirit
752 of this bill is upheld in actual practice.

753 With my amendment, this bill establishes a guestworker
754 program with workers who enter the program and the country
755 legally. Thank you for your consideration. I appreciate
756 staff's help in working through this, and I ask my
757 colleagues to support this amendment.

758 Chairman Goodlatte. Will the gentlewoman yield?

759 Mrs. Handel. I yield back.

760 Chairman Goodlatte. If the gentlewoman would yield --

761 Mrs. Handel. Yes, I yield back.

762 Chairman Goodlatte. No, I want you to yield to me.

763 Mrs. Handel. Oh, yes, sir. I am yielding to you
764 always. You are the chair.

765 Chairman Goodlatte. Only for the purpose of telling
766 you that I think you have an excellent amendment and I
767 support it.

768 Mrs. Handel. Thank you, sir.

769 Chairman Goodlatte. For what purpose does the
770 gentlewoman from California seek recognition?

771 Ms. Lofgren. I move to strike the last word.

772 Chairman Goodlatte. The gentlewoman is recognized for
773 5 minutes.

774 Ms. Lofgren. Part of Mrs. Handel's amendment makes
775 this bill marginally better by requiring that the
776 attestation actually include a search for an American worker
777 to do the job. That is a good thing. However, the second
778 part of it is completely unrealistic.

779 As I mentioned in my opening statement yesterday, a
780 majority of those who are undocumented and working in farm
781 labor have been here a very long time. Many of them -- a
782 majority -- have families who are here. They have spouses.
783 They have children. In some cases, they have grandchildren.

784 So the idea that someone that a majority of these farm
785 workers who have been here, picking the lettuce that we eat
786 in our salads, for the last 15 years or more, are going to
787 come forward, leave the country, abandon their families,
788 with the possibility that they might get a temporary visa --
789 that is not going to happen. That is not going to happen.

790 So what this does is actually further drive underground
791 the undocumented workforce. In fact, we need to come to
792 grips with the situation as it is and then move forward.

793 I remember a hearing that we had a number of years ago,
794 and the witness was the president of the Southern Baptist
795 Convention. And his testimony was this: that for years and
796 years we had had two signs at the southern border. The
797 first sign said, "No trespassing," and the second sign said,
798 "Help Wanted." And people responded to the help wanted

799 sign. There were 5,000 permanent resident visas a year
800 allocated to so-called unskilled workers.

801 There was minimal, at that time, border enforcement,
802 and so market forces went to work. And we who eat salads
803 and vegetables have benefited ever since by the hard work of
804 this undocumented group.

805 We need to find a way to get this group right with the
806 law, then we need to develop a program that provides a
807 future flow of immigrant workers into the country for ag and
808 for other necessary parts of our economy in a way that
809 protects the wages, hours, and working conditions of the
810 American workers. This amendment falls short of that, and
811 so I do not intend to support it. I thank the chairman for
812 yielding to me, and I yield back.

813 Chairman Goodlatte. The question occurs on the
814 amendment offered by the gentlewoman from Georgia.

815 All those in favor, respond by saying aye.

816 All those opposed, no.

817 In the opinion of the chair, the ayes have it, and the
818 amendment is agreed to. Are there further amendments?

819 Ms. Jackson Lee. Mr. Chairman? I have an amendment at
820 the desk.

821 Chairman Goodlatte. The clerk will report the
822 amendment offered by the gentlewoman from Texas.

823 Ms. Adcock. Amendment to the amendment in the nature

824 of a substitute to H.R. 4092, offered by Ms. Jackson Lee of
825 Texas. Page 45 --

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

827 ***** COMMITTEE INSERT *****

828 Chairman Goodlatte. Without objection, the amendment
829 is considered as read and the gentlewoman is recognized for
830 5 minutes on her amendment.

831 Ms. Jackson Lee. Thank you very much, Mr. Chairman and
832 members. I will take a brief moment to explain my
833 amendment, and it is a commonsense amendment that improves
834 the bill.

835 My amendment simply provides that H-2C workers who have
836 status under the H-2C provision are not ineligible to
837 receive legal services from the Legal Services Corporation
838 or any of its grantees if they otherwise meet the Legal
839 Aid's offices eligibility criteria relating to income, place
840 of residence, type of legal matter. The amendment is needed
841 to create a level playing field.

842 Section 4 and 6 of the legislation require that any
843 dispute arising between an H-2C worker and the employer is
844 subject to mediation and binding arbitration. These are
845 legal forms that render decisions with legal consequences.
846 They require a certain level of expertise. The employer
847 will be represented by experienced attorneys specializing in
848 the field of employment law.

849 It is wholly, I think, unrealistic and unfair to expect
850 that an H-2C worker, stasured as they are under H-2C, would
851 be able to participate in mediation or arbitration
852 proceedings without any assistance at all.

853 We know that legal aid lawyers have compassion and
854 understanding in representing many people that are, in
855 particular, low-income. My amendment will make it possible,
856 at least, for such workers to have the assistance of a legal
857 aid lawyer. I believe it is the fair thing to do. It is
858 really warranted because of our adherence in this committee
859 to the higher standards of due process.

860 We know that that is the fair approach to take, and I
861 would ask my colleagues to support the Jackson Lee amendment
862 in fairness to a system that should work for all persons,
863 including those who come to the country under the H-2C
864 status and would, in fact, possibly be subject to provisions
865 in this bill. This does not add any extra cost to this
866 bill, and it does not undermine aspects of the bill that my
867 colleagues on the other side of the aisle support. So, I
868 ask support for the Jackson Lee amendment.

869 Chairman Goodlatte. The chair recognizes himself in
870 opposition to the amendment. While I certainly do not
871 begrudge any temporary agricultural worker access to
872 justice, I do not endorse the continued use of taxpayer
873 dollars to support attorneys who have shown a propensity for
874 using these funds to harass farmers, to harass H-2A
875 employers, and disrupt the relationships between these
876 employers and their workers. This practice needs to end
877 under the H-2C program created by the bill.

878 There are legal service providers who operate on a pro
879 bono basis or with funds provided by sources other than
880 American taxpayers. I, wholeheartedly, endorse the efforts
881 of these attorneys to aid H-2C workers whenever it is
882 necessary. Farmers who voluntarily sign up to have their
883 temporary, nonimmigrant workforces heavily regulated by the
884 Federal Government and who pay a fair wage rate should not
885 be unfairly targeted and harassed by taxpayer-funded
886 organizations with ideological agendas.

887 As a reminder, the Legal Services Corporation statute
888 itself requires LSC grantees to refrain from engaging in
889 political activism. LSC grantees have shown an unabashed
890 propensity for unfair targeting of employers of agricultural
891 guestworkers, and their efforts have been a significant
892 factor in the decisions of many farmers to avoid using the
893 current agricultural guestworker program at all. There are
894 numerous examples, ranging from North Carolina, to Colorado,
895 to Washington and Georgia -- just to name a few -- and for
896 these reasons I urge the defeat of this amendment.

897 The question occurs on the amendment offered by the
898 gentlewoman from Texas. For what purpose does the gentleman
899 from Georgia seek recognition?

900 Mr. Johnson of Georgia. I move to strike the last
901 word.

902 Chairman Goodlatte. The gentleman is recognized for 5

903 minutes.

904 Mr. Johnson of Georgia. I yield to the gentlelady from
905 Texas.

906 Ms. Jackson Lee. Mr. Chairman, I know of your good
907 values and belief in justice, but I am appalled at that
908 response, that people who have status under the H-2C would
909 not have the rights under arbitration and mediation. This
910 amendment has nothing to do with harassing farmers or the
911 industry. It simply says when this bill throws them into
912 mediation/arbitration, they have the right to have counsel.
913 It does not say that they are allowed to secure legal aid
914 assistance to stand as a harasser of their employer. It
915 simply argues to the bill.

916 The bill says that their matters will be resolved by
917 arbitration and mediation. Who is going to be sitting
918 across from the H-2C worker? More than likely, less the
919 farmer; more his or her lawyer. Why would it not have a
920 legal aid component? I did not say massive Wall Street law
921 firms or Washington major, prominent law firms. I said
922 legal aid who have been working with poor people.

923 These individuals are, by all standards, probably poor,
924 and therefore would warrant some kind of response to be able
925 to deal with the structure that you put in place. The
926 structure that you have put in place through this bill, if
927 it ever sees the light of day and gets to be signed into

928 law, which I think it would be enormously unfortunate if it
929 did.

930 Because right now we are passing a bill that completely
931 extinguishes due process and takes a match to the
932 Constitution. And I am disappointed that we characterize
933 rights of H-2C workers in forced mediation/arbitration as
934 harassing, and not needing or not warranting to have some
935 sort of legal representation. I know these are apples and
936 oranges.

937 I mean, we are getting ready to open up investigations
938 into a number of people, from Comey to an individual that is
939 not President of the United States, that is no threat to the
940 United States. This Judiciary Committee, with the Oversight
941 Committee, is getting ready to open up past investigations
942 regarding the former Secretary of State.

943 Nowhere are we doing any investigations regarding the
944 President, or seeking to understand the distinction between
945 the separation of powers. But anybody that is going to be
946 involved in the investigations that we are going to be
947 engaged in, they are going to be, I am sure, lawyered up.

948 My amendment is simply an amendment to indicate the
949 need for that kind of decency and fairness for a person
950 engaged in the arbitration and mediation process. So, I ask
951 my colleagues to support the Jackson Lee, and with that, I
952 yield back.

953 Chairman Goodlatte. The question --

954 Mr. Johnson of Georgia. And with that, I yield back.

955 Chairman Goodlatte. The question occurs on --

956 Ms. Jackson Lee. I thank the gentleman.

957 Chairman Goodlatte. The question occurs on the

958 amendment offered by the gentlewoman from Texas.

959 All those in favor, respond by saying aye.

960 Those opposed, no.

961 A recorded vote is requested, and the clerk will call

962 the roll.

963 Ms. Adcock. Mr. Goodlatte?

964 Chairman Goodlatte. No.

965 Ms. Adcock. Mr. Goodlatte votes no.

966 Mr. Sensenbrenner?

967 [No response.]

968 Mr. Smith?

969 Mr. Smith. No.

970 Ms. Adcock. Mr. Smith votes no.

971 Mr. Chabot?

972 [No response.]

973 Mr. Issa?

974 [No response.]

975 Mr. King?

976 Mr. King. No.

977 Ms. Adcock. Mr. King votes no.

978 Mr. Franks?
979 Mr. Franks. No.
980 Ms. Adcock. Mr. Franks votes no.
981 Mr. Gohmert?
982 Mr. Gohmert. No.
983 Ms. Adcock. Mr. Gohmert votes no.
984 Mr. Jordan?
985 Mr. Jordan. No.
986 Ms. Adcock. Mr. Jordan votes no.
987 Mr. Poe?
988 [No response.]
989 Mr. Marino?
990 Mr. Marino. No.
991 Ms. Adcock. Mr. Marino votes no.
992 Mr. Gowdy?
993 [No response.]
994 Mr. Labrador?
995 [No response.]
996 Mr. Farenthold?
997 Ms. Adcock. Mr. Farenthold votes no.
998 Mr. Collins?
999 [No response.]
1000 Mr. DeSantis?
1001 Mr. DeSantis. No.
1002 Ms. Adcock. Mr. DeSantis votes no.

1003 Mr. Buck?

1004 Mr. Buck. No.

1005 Ms. Adcock. Mr. Buck votes no.

1006 Mr. Ratcliffe?

1007 [No response.]

1008 Mrs. Roby?

1009 [No response.]

1010 Mr. Gaetz?

1011 Mr. Gaetz. No.

1012 Ms. Adcock. Mr. Gaetz votes no.

1013 Mr. Johnson of Louisiana?

1014 Mr. Johnson of Louisiana. No.

1015 Ms. Adcock. Mr. Johnson votes no.

1016 Mr. Biggs?

1017 Mr. Biggs. No.

1018 Ms. Adcock. Mr. Biggs votes no.

1019 Mr. Rutherford?

1020 Mr. Rutherford: No.

1021 Ms. Adcock. Mr. Rutherford votes no.

1022 Mrs. Handel?

1023 Mrs. Handel. No.

1024 Ms. Adcock. Mrs. Handel votes no.

1025 Mr. Conyers?

1026 Mr. Conyers. Aye.

1027 Ms. Adcock. Mr. Conyers votes aye.

1028 Mr. Nadler?

1029 Mr. Nadler. Aye.

1030 Ms. Adcock. Mr. Nadler votes aye.

1031 Ms. Lofgren?

1032 Ms. Lofgren. Aye.

1033 Ms. Adcock. Ms. Lofgren votes aye.

1034 Ms. Jackson Lee?

1035 Ms. Jackson Lee. Aye.

1036 Ms. Adcock. Ms. Jackson Lee votes aye.

1037 Mr. Cohen?

1038 Mr. Cohen. Aye.

1039 Ms. Adcock. Mr. Cohen votes aye.

1040 Mr. Johnson of Georgia?

1041 Mr. Johnson of Georgia. Aye.

1042 Ms. Adcock. Mr. Johnson votes aye.

1043 Mr. Deutch?

1044 [No response.]

1045 Mr. Gutierrez?

1046 [No response.]

1047 Ms. Bass?

1048 [No response.]

1049 Mr. Richmond?

1050 [No response.]

1051 Mr. Jeffries?

1052 Mr. Jeffries. Aye.

1053 Ms. Adcock. Mr. Jeffries votes aye.

1054 Mr. Cicilline?

1055 [No response.]

1056 Mr. Swalwell?

1057 Mr. Swalwell. Aye.

1058 Ms. Adcock. Mr. Swalwell votes aye.

1059 Mr. Lieu?

1060 Mr. Lieu. Aye.

1061 Ms. Adcock. Mr. Lieu votes aye.

1062 Mr. Raskin?

1063 Mr. Raskin. Aye.

1064 Ms. Adcock. Mr. Raskin votes aye.

1065 Ms. Jayapal?

1066 Ms. Jayapal. Aye.

1067 Ms. Adcock. Ms. Jayapal votes aye.

1068 Mr. Schneider?

1069 Mr. Schneider. Aye.

1070 Ms. Adcock. Mr. Schneider votes aye.

1071 Mr. Smith. [Presiding.] Are there any other members

1072 who wish to vote? And if not, the clerk will report.

1073 Ms. Adcock. Mr. Chairman, 12 members voted aye; 15

1074 members voted no.

1075 Mr. Smith. And the amendment is not agreed to. Are

1076 there any other amendments? Okay, the gentleman from

1077 Georgia is recognized for the purpose of offering an

1078 amendment.

1079 Mr. Johnson of Georgia. Thank you, Mr. Chairman. I

1080 cannot support this bill --

1081 Mr. Smith. The clerk will report the amendment.

1082 Ms. Adcock. Amendment to the amendment in the nature

1083 of a substitute, offered by Mr. Johnson of Georgia.

1084 [The amendment of Mr. Johnson of Georgia follows:]

1085 ***** COMMITTEE INSERT *****

1086 Mr. Smith. Without objection, the amendment is
1087 considered as read and the gentleman from Georgia is
1088 recognized to explain his amendment.

1089 Mr. Johnson of Georgia. Thank you, Mr. Chairman. This
1090 amendment would strike two portions of the bill, section 4
1091 and section 6. Section 4 prevents workers from bringing
1092 civil actions for damages without attempting to mediate the
1093 request for 90 days prior. Section 6 of the bill allows
1094 employers to require H-2C workers to arbitrate any
1095 grievances relating to the employment relationship,
1096 including claims related to withheld wages or other
1097 contractual violations. Combined, the provisions would
1098 effectively bar workers from bringing any claims in court
1099 against their employers.

1100 Section 4 and 6 are very onerous. They add insult to
1101 injury to a very bad bill to begin with, and this amendment
1102 would help to make that just a little bit better. Put
1103 another way, forced arbitration provisions of section 6, as
1104 well as the mediation provisions of section 4, are a blatant
1105 attempt to deny nonimmigrant workers access to the legal
1106 system, and it expressly permits employers to force workers
1107 into this arbitration process. And this is wrong; it is
1108 wrong for Americans.

1109 It is wrong for workers who are immigrants from other
1110 countries who are attracted for this country for these jobs,

1111 only to find out that what they were promised, which was
1112 wages, they are not going to get. So, this legislation sets
1113 up just a horrible circumstance. It legally ties the hands
1114 of immigrants to have fairness and to assert their rights in
1115 court, and for that reason, I ask that this body approve
1116 this amendment, and with that I yield back.

1117 Mr. Smith. Thank you, Mr. Johnson. I will recognize
1118 myself in opposition to the amendment. The Ag Act does not
1119 preclude an H-2C worker from bringing a civil action. It
1120 simply requires an attempt to settle the dispute by
1121 mediation first. H-2A employers have been the target of
1122 harassing lawsuits for years. The provision that the
1123 amendment would strike would encourage the parties to settle
1124 disputes before resorting to litigation.

1125 Is there anyone else who seeks to be heard on this
1126 amendment? The gentlewoman from California, Ms. Lofgren, is
1127 recognized.

1128 Ms. Lofgren. Mr. Chairman, I think this amendment is
1129 thoughtfully offered and an important one. The arbitration
1130 costs under the bill would be split equally between the
1131 employee and the employer. Now, as we have discussed in
1132 prior amendments, we are talking about a class of immigrant
1133 workers who are going to be paid less than the Federal
1134 minimum wage. And we all, you know, know arbiters, have
1135 friends who serve as arbiters. I know I do back in

1136 California.

1137 You know, usually the fees are, you know, substantial.
1138 The hourly charges are going to be at least two to three
1139 hundred dollars an hour, and so the overall fee is going to
1140 be usually thousands of dollars. How is half of that going
1141 to be paid for by an immigrant worker who is earning less
1142 than the minimum wage? That is not reasonable.

1143 I think this is really an opportunity to take this
1144 group of indentured workers, and make sure that no matter
1145 what happens to them they have no opportunity to be treated
1146 fairly. How can we be considering that here in the House of
1147 Representatives? How can we hold our heads high to be
1148 considering that proposition? It is really pretty
1149 outrageous.

1150 So, I thank Mr. Johnson for his amendment. I think
1151 that it is an important one, and I would be very
1152 disappointed if we did not approve it.

1153 And with that, Mr. Chairman, I would yield to the
1154 gentleman from Maryland, Mr. Raskin.

1155 Mr. Raskin. Thank you very much for yielding, and I
1156 want to associate myself very much with the remarks of the
1157 gentlelady of California, and to endorse this amendment,
1158 which establishes something that should be basic, intuitive,
1159 obvious, and supported by everyone. Which is that people
1160 who have come to the United States and are working here for

1161 the benefit of our economy should have the right to legal
1162 representation; especially these people.

1163 Because under the system of 21st century indentured
1164 servitude that has been devised under this law, these people
1165 are coming here at a subminimum wage, without any guarantee
1166 of housing, without family, spouses, or children, and they
1167 are exposed to the most extreme kind of control by their
1168 employers.

1169 You know, when America started the great Tom Paine said
1170 that here in democracy the law is king, and in the
1171 authoritarian societies and monarchies the King is law, and
1172 now we are setting up a system where the boss is the law.

1173 And as the gentlelady from California describes, the
1174 workers who are being cheated out of the meager wages that
1175 are being set up under this law will now have to pay for
1176 expensive mediation and corporate arbitration services that
1177 they have been forced into under this regime. It just adds
1178 insult to injury.

1179 Mr. Johnson's amendment is a modest amendment which
1180 will at least say for the tiny shred of rights that have
1181 been left for these people who have been brought in to
1182 undercut American workers, they should have the opportunity
1183 to sue in court, and not be channeled into all of these
1184 other services that are going to be controlled by their
1185 employer. So, I think that this is something that everybody

1186 on the committee should be able to support, and I yield
1187 back. Thank you.

1188 Mr. Smith. Thank you, Ms. Lofgren. Thank you, Mr.
1189 Raskin. The question is on the gentleman from Georgia's
1190 amendment.

1191 All in favor, say aye.

1192 All opposed, nay.

1193 In the opinion of the chair, the nays still have it.

1194 Mr. Johnson of Georgia. Mr. Chairman, I would ask for
1195 a recorded vote.

1196 Mr. Smith. A recorded vote has been requested, and the
1197 clerk will call the roll.

1198 Ms. Adcock. Mr. Goodlatte?

1199 Chairman Goodlatte. No.

1200 Ms. Adcock. Mr. Goodlatte votes no.

1201 Mr. Sensenbrenner?

1202 [No response.]

1203 Mr. Smith?

1204 Mr. Smith. No.

1205 Ms. Adcock. Mr. Smith votes no.

1206 Mr. Chabot?

1207 [No response.]

1208 Mr. Issa?

1209 Mr. Issa. No.

1210 Ms. Adcock. Mr. Issa votes no.

1211 Mr. King?
1212 [No response.]
1213 Mr. Franks?
1214 Mr. Franks. No.
1215 Ms. Adcock. Mr. Frank's votes no.
1216 Mr. Gohmert?
1217 Mr. Gohmert. No.
1218 Ms. Adcock. Mr. Gohmert votes no.
1219 Mr. Jordan?
1220 [No response.]
1221 Mr. Poe?
1222 [No response.]
1223 Mr. Marino?
1224 [No response.]
1225 Mr. Gowdy?
1226 [No response.]
1227 Mr. Labrador?
1228 Mr. Labrador. No.
1229 Ms. Adcock. Mr. Labrador votes No.
1230 Mr. Farenthold?
1231 [No response.]
1232 Mr. Collins?
1233 [No response.]
1234 Mr. DeSantis?
1235 Mr. DeSantis. No.

1236 Ms. Adcock. Mr. DeSantis votes no.
1237 Mr. Buck?
1238 Mr. Buck. No.
1239 Ms. Adcock. Mr. Buck votes no.
1240 Mr. Ratcliffe?
1241 [No response.]
1242 Mrs. Roby?
1243 [No response.]
1244 Mr. Gaetz?
1245 Mr. Gaetz. No.
1246 Ms. Adcock. Mr. Gaetz votes no.
1247 Mr. Johnson of Louisiana?
1248 Mr. Johnson of Louisiana. No.
1249 Ms. Adcock. Mr. Johnson votes no.
1250 Mr. Biggs?
1251 Mr. Biggs. No.
1252 Ms. Adcock. Mr. Biggs votes no.
1253 Mr. Rutherford?
1254 Mr. Rutherford. No.
1255 Ms. Adcock. Mr. Rutherford votes no.
1256 Mrs. Handel?
1257 Mrs. Handel. No.
1258 Ms. Adcock. Ms. Handel votes no.
1259 Mr. Conyers?
1260 Mr. Conyers. Aye.

1261 Ms. Adcock. Mr. Conyers votes aye.
1262 Mr. Nadler?
1263 [No response.]
1264 Ms. Lofgren?
1265 Ms. Lofgren. Aye.
1266 Ms. Adcock. Ms. Lofgren votes aye.
1267 Ms. Jackson Lee?
1268 Ms. Jackson Lee. Aye.
1269 Ms. Adcock. Ms. Jackson Lee votes aye.
1270 Mr. Cohen?
1271 Mr. Cohen. Aye.
1272 Ms. Adcock. Mr. Cohen votes aye.
1273 Mr. Johnson of Georgia?
1274 Mr. Johnson of Georgia. Aye.
1275 Ms. Adcock. Mr. Johnson votes aye.
1276 Mr. Deutch?
1277 Mr. Deutch. Aye.
1278 Ms. Adcock. Mr. Deutch votes aye.
1279 Mr. Gutierrez?
1280 Mr. Gutierrez. Yes.
1281 Ms. Adcock. Mr. Gutierrez votes yes.
1282 Ms. Bass?
1283 [No response.]
1284 Mr. Richmond?
1285 [No response.]

1286 Mr. Jeffries?

1287 Mr. Jeffries. Aye.

1288 Ms. Adcock. Mr. Jeffries votes aye.

1289 Mr. Cicilline?

1290 [No response.]

1291 Mr. Swalwell?

1292 Mr. Swalwell. Aye.

1293 Ms. Adcock. Mr. Swalwell votes aye.

1294 Mr. Lieu?

1295 Mr. Lieu. Aye.

1296 Ms. Adcock. Mr. Lieu votes aye.

1297 Mr. Raskin?

1298 Mr. Raskin. Aye.

1299 Ms. Adcock. Mr. Raskin votes aye.

1300 Ms. Jayapal?

1301 Ms. Jayapal. Aye.

1302 Ms. Adcock. Ms. Jayapal votes aye.

1303 Mr. Schneider?

1304 Mr. Schneider. Aye.

1305 Ms. Adcock. Mr. Schneider votes aye.

1306 Mr. Smith. Are there any other members who wish to be

1307 recorded? The gentleman from Pennsylvania? The gentleman

1308 from Iowa?

1309 Mr. King. No.

1310 Ms. Adcock. Mr. King votes no.

1311 Mr. Smith. The gentleman from New York?

1312 Mr. Nadler. Aye.

1313 Ms. Adcock. Mr. Nadler votes aye.

1314 Mr. Smith. The clerk will report.

1315 Mr. Marino. Did you get my no?

1316 Ms. Adcock. Mr. Marino votes no.

1317 Mr. Smith. The clerk will report.

1318 Ms. Adcock. Mr. Chairman, 14 members voted aye; 15

1319 members voted no.

1320 Mr. Smith. The amendment is not agreed to. Are there

1321 any other amendments? The gentlewoman from Washington is

1322 recognized for the purpose of offering an amendment.

1323 Ms. Jayapal. Thank you, Mr. Chairman. I have an

1324 amendment at the desk.

1325 Mr. Smith. The clerk will report the amendment.

1326 Ms. Adcock. Amendment to the amendment in the nature

1327 of a substitute offered by Ms. Jayapal.

1328 [The amendment of Ms. Jayapal follows:]

1329 ***** COMMITTEE INSERT *****

1330 Mr. Smith. Without objection, the amendment is
1331 considered as read, and the gentlewoman is recognized to
1332 explain her amendment.

1333 Ms. Jayapal. Thank you, Mr. Chairman. I spoke in my
1334 last comments about the fact that the way that this bill is
1335 structured, we are actually adding almost potentially 2
1336 million workers because of the caps and the way the caps are
1337 structured. So, this amendment would limit the number of
1338 new foreign guestworkers who could have active H-2C status
1339 at any one time, not including undocumented workers, to a
1340 total of 450,000.

1341 So, let me just explain what this does because I hope
1342 that reasonable people on the other side of the aisle who do
1343 not want to flood the country with 2 million low-paid
1344 workers would support this amendment.

1345 At first blush, you might read this bill and come to
1346 the conclusion that no more than 450,000 new workers can
1347 come in on H-2C status in any one year. But that is not
1348 accurate. Why is it not accurate? Because first, the bill
1349 contains an escalator provision that allows the 410,000 cap
1350 for farm and other workers and the 40,000 cap for meat and
1351 poultry workers to grow by up to 10 percent every year, if
1352 all the visas are used.

1353 Because there is no cap how large the program can grow
1354 over time, the yearly allotment of visas could grow

1355 exponentially and indefinitely, eventually reaching into the
1356 millions.

1357 Second, H-2C visas are good for up to 3 years for
1358 permanent work and up to 18 months for temporary or seasonal
1359 work. Workers are all but ensured to stay for at least 18
1360 months, given that the bill allows employer associations to
1361 petition for workers, as opposed to limiting the use of the
1362 program to single employers. This means that many of the
1363 450,000 H-2C workers that are admitted in year 1 will still
1364 be here working when another 450,000 or 495,000, due to the
1365 10 percent increase, are admitted in year two.

1366 And because the visas are good for up to 3 years, many
1367 of the year 1 workers will still be here when another
1368 450,000 or, by year 3, 544,000 workers come in year three.
1369 And these numbers do not even account for the several
1370 classes of workers that can qualify for H-2C visas without
1371 counting against the cap, including those who are previously
1372 here on H-2A or H-2B visas, which could add another 200,000
1373 or more total visas.

1374 And so in all that is where the number that I mentioned
1375 earlier, the 2 million workers: it really could be 1, 2, or
1376 3 million H-2C workers could be working in the United States
1377 at the same time. And so, this program would be a massive
1378 program authorized by the bill that would have a sweeping
1379 impact on both U.S. and immigrant workers in the country.

1380 And considering the low wages and lack of protections in the
1381 bill, it would effectively authorize employers to replace
1382 U.S. workers in large swaths of the American economy and,
1383 because there are no worker protections in this program, the
1384 cap is critically important to preventing job losses from
1385 growing.

1386 Under the bill, Mr. Chairman, it is no longer necessary
1387 for a job to be temporary or seasonal that might be hard to
1388 fill with an American worker because, as Ms. Lofgren had an
1389 amendment on this yesterday in the H-2C program, fulltime,
1390 year-round workers in forestry and logging from Wisconsin to
1391 Georgia would be forced out of their jobs. And the same is
1392 true with those who process fish or shellfish from Alaskan
1393 canneries to Louisiana fish houses, as well as meat and
1394 poultry processing and packing from Iowa to Texas.

1395 All of these workers would see new competition for
1396 their jobs from exploitable guestworkers unless they agree
1397 to work at the same rate as the H-2C program's low wages
1398 which, essentially, is \$8.34 per hour, or 150 percent of the
1399 Federal minimum wage for meat and poultry processing, which
1400 is about \$10.88 an hour.

1401 If sufficient numbers of U.S. workers will not work for
1402 those low wages, then the bill allows the employer to
1403 declare a worker shortage and import foreign guestworkers to
1404 do the same jobs. This would be, let's be clear, one of the

1405 largest transfers of wealth from working people to employers
1406 in decades, and it would hurt American workers across the
1407 country.

1408 And so, as I mentioned, I quoted Frank Gasperini
1409 recently in my last comments with the National Council of
1410 Agricultural Employers, and I think we can agree that some
1411 employers, are getting what they want. But I do not think
1412 it is right for American workers, and I do not think it is
1413 right for the immigrants that live here and deserve more
1414 than being treated as temporary workers after they have been
1415 feeding us for years.

1416 This amendment would assure that the program is limited
1417 in size to what it purports to promise; a cap of 450,000.
1418 That is already a massive program, particularly troubling,
1419 given the program's lack of protections for both
1420 guestworkers and U.S. workers, but at least it makes the
1421 size of the program transparent.

1422 And I would just ask that my colleagues on the other
1423 side of the aisle consider this amendment because I do
1424 believe that there is bipartisan concern about what this
1425 bill would do to the American workforce across the country.
1426 And this amendment would clarify that it really is whatever
1427 the number is that is established for that year, all of the
1428 visas in that category would be subject to that cap; not an
1429 ever-increasing supply that has, essentially, no cap

1430 whatsoever. Thank you, Mr. Chairman. I yield back.

1431 Mr. Smith. Thank you, Ms. Jayapal, and I will
1432 recognize myself in opposition. Every other temporary
1433 worker program in the INA with a numerical limitation bases
1434 the limit on the number of aliens granted visas or otherwise
1435 provided nonimmigrant status in a fiscal year, and this is
1436 no different from the other programs. Does the gentleman
1437 from Maryland wish to be recognized?

1438 Mr. Raskin. Yes, Mr. Chairman. Thank you.

1439 Mr. Smith. If so, the gentleman is recognized for 5
1440 minutes.

1441 Mr. Raskin. I appreciate your telepathic skills. So,
1442 I wanted to rise in favor very much of Congresswoman
1443 Jayapal's amendment, and I wanted to thank her for clearing
1444 up confusion. Because all day yesterday when we were
1445 debating this I thought we were talking about 400,000 or
1446 450,000, and then I was sent this article this morning from
1447 Breitbart saying "Democrats claim American workers first as
1448 GOP bill outsources food industry jobs," and the first
1449 sentence said, "Democratic legislators were able to champion
1450 American workers Tuesday morning because GOP leaders were
1451 pushing an outsourcing bill which would allow food industry
1452 companies to hire a million minimum-wage foreign workers."

1453 And I thought that was fake news. I said I think this
1454 bill, as bad as is, is only for 450,000; not for a million,

1455 and then Congresswoman Jayapal explains that it is
1456 cumulative. And so, we are really talking about is creating
1457 a million and a half or up to 2 million indentured servants
1458 who we brought here to undercut American labor and live
1459 under conditions that none of us would accept for any of our
1460 constituents or for anybody in our family.

1461 So, I want to speak very strongly in favor of Ms.
1462 Jayapal's --

1463 Ms. Jackson Lee. Would the gentleman yield? Would the
1464 gentleman yield?

1465 Mr. Raskin. Yes, by all means. Yes, by all means. I
1466 yield to the gentlelady from Texas.

1467 Ms. Jackson Lee. I thank you so very much. I was
1468 moved by both the amendment and your commentary, and forgive
1469 me for suggesting that this seems to be a fresh meat
1470 concept. That is, hard work hard-working American workers
1471 year after year get replaced by victims. I do not even want
1472 to call them workers because, remember, they are not
1473 guaranteed the minimum wage. They have got a huge bill.
1474 They have got to pay for their transportation, their
1475 uniforms, and they are expendable. And I believe that this
1476 amendment is a vital clarifying amendment on what we are
1477 really doing.

1478 And so, I would just add my support to this amendment
1479 because it looks like it is a rotating door. Rotate

1480 American workers out, rotate others in, but those others
1481 that come to you: they are not going to stay long either
1482 under the circumstances that we are dealing with. I would
1483 be happy to yield back to the gentleman.

1484 Ms. Lofgren. Would the gentleman yield?

1485 Mr. Raskin. Yes, I will yield to the gentlelady from
1486 California.

1487 Ms. Lofgren. I would just like to note and read
1488 something in the bill that people ought to focus on. Page
1489 16, line 17: "Each employers seeking to hire U.S. workers
1490 for the job the H-2C workers will perform shall offers such
1491 United States worker not less than the same benefits, wages,
1492 and working conditions that the employer will provide to H-
1493 2C workers. No job offer may impose on U.S. workers any
1494 restrictions or obligations which will not be imposed on H-
1495 2C workers."

1496 That is the complete opposite of what we do to protect
1497 American workers. On the H-1B program, you have to make
1498 sure that you are not offering less to the immigrant worker
1499 than the American worker. So, we have set this up so we are
1500 going to make sure that American wages are driven down.

1501 I want to talk a little bit about the H-2B program
1502 because we had some bipartisan agreement, not everyone
1503 agreed, but some bipartisan agreement that there needed to
1504 be some give in the H-2B program. Several years ago, we had

1505 carnivals and circuses who had specialized workers who came
1506 every year to work in the carnival. We had crab shuckers
1507 out in Maryland that, you know, knew how to do it, who
1508 wanted to do it, with seasonal work.

1509 And so, we did a returning worker exemption that was
1510 relatively modest to accommodate legitimate issues in the
1511 American economy, and I would note that we did not reduce
1512 the protections for those H-2B workers. I mean, we did not
1513 eviscerate the wage scale. We did not eviscerate the
1514 protections they had. It was merely to recognize an
1515 economic condition.

1516 What this bill does is it says you can move all those
1517 H-2B visa holders into this H-2C status and not count it
1518 against the cap. So, when you move them into the H-2C visa
1519 category, their rights are eviscerated. They no longer have
1520 protections for even a minimum wage or for costs that might
1521 be assessed to them.

1522 So, I recall that when we did that fairly modest H-2B
1523 measure, FAIR, NumbersUSA went berserk that we were opening
1524 the door; that thousands of, you know, the unwashed were
1525 coming in, even though they had the protections. How could
1526 the same group that cared about that dustup think that this
1527 is appropriate? It is astonishing. So, thank you for
1528 offering this amendment, which I strongly support.

1529 Mr. Smith. The gentleman from Maryland's time has

1530 expired. Are there any other members who wish to be heard?

1531 The gentleman from California, Mr. Issa, is recognized.

1532 Mr. Issa. Mr. Chairman, amendments have consequences,
1533 and what I find a little bit frightening about this
1534 amendment is the naïveté of the gentlelady from Washington,
1535 and I know she is a new member. But if I understand
1536 correctly, as we normalize at least 2 million guestworkers
1537 that are already here, she proposes that we ratchet that
1538 down to 400, 450,000 total in a short period of time.

1539 Representing the largest agricultural State in the
1540 union, I find that scary, to say the least, and certainly
1541 not conducive to a fix, but rather conducive to chain
1542 illegal migration again, something we are trying to fix
1543 here.

1544 But what I really find interesting is the gentlelady
1545 from San Jose. If this amendment were applied to H-1Bs, 80
1546 percent of H-1Bs would go away. The high-tech community
1547 would lose one of the most valuable, nonimmigrant visa
1548 programs it has because, essentially what you would say is,
1549 "Well, we are not going to worry about year over year. We
1550 are going to have an absolute cap."

1551 So I think we have to be very careful going down a road
1552 that clearly would provide less than the amount of people
1553 currently involved in a nonimmigrant skill set, and so I
1554 find it easy to vote against this.

1555 Ms. Lofgren. Would the gentleman yield?

1556 Mr. Issa. I will in a second: on its policy basis, but
1557 also on if we applied this same sort of concept to the rest
1558 of immigration, and I yield to my friend from San Jose.

1559 Ms. Lofgren. I would note that if the H-1B program
1560 allowed for a million coders to be paid \$3 an hour, I would,
1561 indeed, suggest that we put limitations on such a program.

1562 Mr. Issa. Well, in reclaiming my time --

1563 Ms. Jayapal. Would the gentleman yield?

1564 Mr. Issa. Reclaiming my time for a moment, you know,
1565 right now we have a bipartisan H-1B bill that actually tries
1566 to set a very high level for these high skilled workers.
1567 But I will say that even the highest level we are trying to
1568 get would be less than the prevailing wage that I would
1569 interpret for the highest skills that we would like to
1570 attract.

1571 So, this is always one of the challenges, is to get the
1572 number right against those who would like to lower the
1573 number. And I think in the case of unskilled labor, we have
1574 worked very hard to do that. And somebody else wanted me to
1575 yield. Yes, ma'am.

1576 Ms. Jayapal. Thank you. I thank the gentleman for
1577 yielding, and I hope that if I am in this chamber for as
1578 long as the distinguished gentleman from California, that I
1579 would learn to read the amendments that we have already said

1580 no to because your side just said no to an amendment that
1581 would have allowed for the undocumented immigrants to be
1582 part of this cap as well. You disregard that number.

1583 So, we are talking about capping new visa entries. So,
1584 we are talking about saying that it is 450,000 capped at
1585 whatever the number is that it goes up to by whatever
1586 increases in your bill. But your statement is just not
1587 correct because the current workforce of undocumented
1588 immigrants is not counted against this cap. So I would just
1589 say that --

1590 Mr. Issa. Reclaiming my time, the gentlelady is right
1591 that the current or not, but this is a changing workforce
1592 and as H-2Cs leave, this absolute cap would get to where,
1593 over time, you would end up with only 450,000 slots. You
1594 would find yourself with the 2 million-plus people now.
1595 When those H-2Cs leave, there goes that slot.

1596 So, the reality is, over a period of a relatively short
1597 period of time, those temporary workers would return to
1598 Mexico, Costa Rica, where ever it was their home, and you
1599 have capped the total number in this program.

1600 Now, you know, that is one of the challenges with this
1601 amendment. It certainly would have the same devastating
1602 effect in that sense. So, the entire reason for this
1603 410,000 is for the fact that the H-2Cs will eventually
1604 leave, and I think that is the challenge we face, and I

1605 yield back.

1606 Mr. Smith. Thank you, Mr. Issa. The question is on
1607 the gentlewoman from Washington's amendment. The gentleman
1608 from Illinois is recognized.

1609 Mr. Gutierrez. Thank you, Mr. Chairman. I ask to
1610 strike the last. So, I looked up naivete: it says, "the
1611 state or quality of being inexperienced or unsophisticated,
1612 especially being artless or uncritical; an artless or
1613 uncritical statement or act." I think the gentlelady from -
1614 - I am sorry if I am upset -- is everything but that. Yeah,
1615 I just feel, I do not know, it is outrageous.

1616 Do you know what is naive? For anybody to come to my
1617 office and come and talk to me and think this is serious
1618 what we are doing here today.

1619 So, for all of you who are naive enough to have come
1620 here thinking that Congress is actually going to do
1621 something productive and meaningful, that is naive; not what
1622 the gentlelady from Washington proposes, and not for those
1623 of us who have come here in a serious state of wishing to
1624 bring change and fundamental change to farm workers in this
1625 country who do incredibly hard work, and keep our economy so
1626 strong.

1627 I no longer have any use for the remainder of my time.

1628 Mr. Smith. Thank you, Mr. Gutierrez, and the question
1629 is on the amendment offered by the gentlewoman from

1630 Washington.

1631 All in favor say aye.

1632 All opposed, nay.

1633 In the opinion of the chair, the nays have it, and the

1634 amendment is not agreed to.

1635 Ms. Lofgren. Recorded vote, Mr. Chairman.

1636 Mr. Smith. A roll call vote has been requested, and

1637 the clerk will call the roll.

1638 Ms. Adcock. Mr. Goodlatte?

1639 [No response.]

1640 Mr. Sensenbrenner?

1641 [No response.]

1642 Mr. Smith?

1643 Mr. Smith. No.

1644 Ms. Adcock. Mr. Smith votes no.

1645 Ms. Adcock. Mr. Chabot?

1646 [No response.]

1647 Mr. Issa?

1648 [No response.]

1649 Mr. King?

1650 Mr. King. No.

1651 Ms. Adcock. Mr. King votes no.

1652 Mr. Franks?

1653 Mr. Franks. No.

1654 Ms. Adcock. Mr. Frank's votes no.

1655 Mr. Gohmert?
1656 [No response.]
1657 Mr. Jordan?
1658 [No response.]
1659 Mr. Poe?
1660 [No response.]
1661 Mr. Marino?
1662 [No response.]
1663 Mr. Gowdy?
1664 Mr. Gowdy. No.
1665 Ms. Adcock. Mr. Gowdy votes no.
1666 Mr. Labrador?
1667 [No response.]
1668 Mr. Farenthold?
1669 Mr. Farenthold. No.
1670 Ms. Adcock. Mr. Farenthold votes no.
1671 Ms. Adcock. Mr. Collins?
1672 [No response.]
1673 Mr. DeSantis?
1674 [No response.]
1675 Mr. Buck?
1676 Mr. Buck. No.
1677 Ms. Adcock. Mr. Buck votes no.
1678 Mr. Ratcliffe?
1679 Mr. Ratcliffe. No.

1680 Ms. Adcock. Mr. Ratcliffe votes no.
1681 Mrs. Roby?
1682 [No response.]
1683 Mr. Gaetz?
1684 [No response.]
1685 Mr. Johnson of Louisiana?
1686 Mr. Johnson of Louisiana. No.
1687 Ms. Adcock. Mr. Johnson votes no.
1688 Mr. Biggs?
1689 Mr. Biggs. No.
1690 Ms. Adcock. Mr. Biggs votes no.
1691 Mr. Rutherford?
1692 Mr. Rutherford. No.
1693 Ms. Adcock. Mr. Rutherford votes no.
1694 Mrs. Handel?
1695 Mrs. Handel. No.
1696 Ms. Adcock. Ms. Handel votes no.
1697 Mr. Conyers?
1698 Mr. Conyers. Aye.
1699 Ms. Adcock. Mr. Conyers votes aye.
1700 Mr. Nadler?
1701 Mr. Nadler. Aye.
1702 Ms. Adcock. Mr. Nadler votes aye.
1703 Ms. Lofgren?
1704 Ms. Lofgren. Aye.

1705 Ms. Adcock. Ms. Lofgren votes aye.

1706 Ms. Jackson Lee?

1707 Ms. Jackson Lee. Aye.

1708 Ms. Adcock. Ms. Jackson Lee votes aye.

1709 Mr. Cohen?

1710 Mr. Cohen. Aye.

1711 Ms. Adcock. Mr. Cohen votes aye.

1712 Mr. Johnson of Georgia?

1713 Mr. Johnson of Georgia. Aye.

1714 Ms. Adcock. Mr. Johnson votes aye.

1715 Mr. Deutch?

1716 Mr. Deutch. Aye.

1717 Ms. Adcock. Mr. Deutch votes aye.

1718 Mr. Gutierrez?

1719 Mr. Gutierrez. Aye.

1720 Ms. Adcock. Mr. Gutierrez votes Aye.

1721 Ms. Bass?

1722 [No response.]

1723 Mr. Richmond?

1724 [No response.]

1725 Mr. Gutierrez. Please note I did not say --

1726 Ms. Adcock. Mr. Jeffries?

1727 Mr. Gutierrez. -- aye out of respect.

1728 Ms. Adcock. Mr. Cicilline?

1729 [No response.]

1730 Mr. Swalwell?

1731 Mr. Swalwell. Aye.

1732 Ms. Adcock. Mr. Swalwell votes aye.

1733 Mr. Lieu?

1734 Mr. Lieu. Aye.

1735 Ms. Adcock. Mr. Lieu votes aye.

1736 Mr. Raskin?

1737 Mr. Raskin. Aye.

1738 Ms. Adcock. Mr. Raskin votes aye.

1739 Ms. Jayapal?

1740 Ms. Jayapal. Aye.

1741 Ms. Adcock. Ms. Jayapal votes aye.

1742 Mr. Schneider?

1743 Mr. Schneider. Aye.

1744 Ms. Adcock. Mr. Schneider votes aye.

1745 Mr. Smith. Are there other members who wish to be

1746 recorded? The gentleman from Wisconsin?

1747 Mr. Sensenbrenner. No.

1748 Ms. Adcock. Mr. Sensenbrenner votes no.

1749 Mr. Smith. The gentleman from Florida?

1750 Mr. Gaetz. No.

1751 Ms. Adcock. Mr. Gaetz votes no.

1752 Mr. Smith. The gentlemen from Idaho? The chairman

1753 from Virginia?

1754 Chairman Goodlatte. No.

1755 Ms. Adcock. Mr. Goodlatte votes no.

1756 Mr. Smith. The gentleman from Pennsylvania?

1757 Mr. Marino. No.

1758 Ms. Adcock. Mr. Marino votes no.

1759 Mr. Smith. The gentleman from Florida? I mean,
1760 Georgia?

1761 Ms. Adcock. Mr. Collins votes no.

1762 Mr. Smith. The clerk will report.

1763 Ms. Adcock. Mr. Chairman, 13 members voted aye; 18
1764 members voted no.

1765 Mr. Smith. And the nays have it, and the amendment is
1766 not agreed to. Are there any other amendments?

1767 Mr. Nadler. Mr. Chairman?

1768 Mr. Smith. The gentleman from New York, Mr. Nadler, is
1769 recognized to offer an amendment.

1770 Mr. Nadler. Mr. Chairman, I have an amendment at the
1771 desk.

1772 Mr. Smith. The clerk will report the amendment.

1773 Ms. Adcock. Amendment to the amendment in the nature
1774 of a substitute to H.R. 4092, offered by Mr. Nadler.

1775 [The amendment of Mr. Nadler follows:]

1776 ***** COMMITTEE INSERT *****

1777 Mr. Smith. Without objection, the amendment is
1778 considered as read and the gentleman from New York is
1779 recognized to explain the amendment.

1780 Mr. Nadler. Thank you, Mr. Chairman.

1781 Mr. King. Mr. Chairman, I reserve a point of order.

1782 Mr. Smith. A point of order is reserved by the
1783 gentleman from Iowa, and the gentleman from New York will
1784 explain the amendment.

1785 Mr. Nadler. Thank you. Mr. Chairman, the bill
1786 provides that H-2C workers shall be afforded wages that are
1787 at least the greatest of the applicable State or local
1788 minimum wage, or 115 percent of the Federal minimum wage, or
1789 150 percent of the Federal minimum wage in the case of
1790 people who do meat or poultry processing.

1791 So, it is 150 percent of the Federal minimum wage for
1792 people who do meat and poultry processing, and either the
1793 higher of the State or Federal minimum wage for everybody
1794 else.

1795 My amendment adds to that, and it would say, in effect,
1796 the higher of the applicable State or local minimum wage,
1797 what I just read, et cetera, and would add the following
1798 language: "Or the average wage paid to other individuals
1799 performing labor or services in the same occupational
1800 classification and geographic area of employment." In other
1801 words, the prevailing wage.

1802 We are told that we need this bill because we cannot
1803 get American workers to do this kind of labor, and we are
1804 told that paying these wages will not undercut American
1805 wages. Well, if we are paying wages way below the
1806 prevailing wage for American workers in that area, then we
1807 are by definition bidding down the wages. We are, by
1808 definition, hauling in foreign workers to do work below the
1809 prevailing wage for American workers, and we are lowering
1810 the wages the American workers will get.

1811 So this amendment simply says if you are going to pay
1812 H-2C workers under this bill, you have got to pay the
1813 greater of the State or local minimum wage or the average
1814 wage paid to other individuals performing labor or services
1815 in the same occupational classification and geographic area
1816 of employment.

1817 Now, if people are working for minimum wage, then that
1818 will be the prevailing wage, but if people are working for
1819 much higher than that, then we should not want to reduce the
1820 wages the American workers are earning.

1821 Now, let me give you some statistics. The minimum wage
1822 in agriculture is \$8.34 an hour -- \$8.34 an hour. When we
1823 are talking about meat and poultry processing, which run
1824 under the purview of this bill, the average wage for
1825 butchers and meat cutters is \$15.26. The average wage for
1826 slaughterers and meatpackers is \$13. The average wage for

1827 meat, poultry, and fish cutters and trimmers is \$12.27, and
1828 the average wage for all other food processing workers is
1829 \$12.40. So, now we are saying that people who earn between
1830 \$12.40 and \$15.26 should suddenly earn \$8.34, or should be
1831 faced with competition of foreign labor that we are bringing
1832 in to earn \$8.34.

1833 Now, in logging, which is also under this bill, the
1834 average wage for logging equipment operators is \$18.69. For
1835 log graders and scalers, \$18.34; for forest and conservation
1836 workers, \$15; for all other logging workers, \$19.50. So, we
1837 are saying that people who now earn \$18.69 or \$18.34 an
1838 hour, or \$19.50 an hour, should suddenly be faced with
1839 competition by foreign labor we are bringing in at \$8.34 an
1840 hour. Why would we want to do this?

1841 If we have, as we are told, work in this country that
1842 needs to be done which American workers will not do, then,
1843 okay, maybe we need an agricultural guestworker program.
1844 But we should not bring in agricultural guestworkers for
1845 work that American workers will do and do do, and then
1846 permit the payment of wages much below what the Americans
1847 are paid. Because then we are replacing American workers
1848 with foreign workers and much lower wages, or we are forcing
1849 the American workers to accept much lower wages, and that is
1850 not, presumably, what we want to do.

1851 So I urge adoption of the amendment, which simply says,

1852 again, that the people who are brought in from the foreign
1853 country -- from Mexico, presumably -- should be paid the
1854 applicable State or local minimum wage; 115 percent of the
1855 Federal minimum wage, what the bill says; or the average
1856 wage paid to other individuals performing labor or services
1857 in the same occupational classification and geographic area
1858 of employment. In other words, the wage that people are
1859 already being paid. Whichever is the highest, that should
1860 be paid.

1861 And if you pay that wage to foreign workers and you
1862 still find the necessity of bringing in foreign workers
1863 because American workers will not do it at the wages they
1864 are accustomed to being paid, which does not make sense, but
1865 assuming that were the case, fine. But if American workers
1866 will do the work for this amount of money, then you should
1867 not bring in foreign workers to do the work for much less
1868 money. And let me also ask unanimous consent to amend the
1869 amendment by putting in the word "the" in front of the word
1870 "same."

1871 Mr. Smith. Without objection, the amendment will be
1872 amended to include the word "the" at the appropriate place.
1873 Okay, does the gentleman yield back?

1874 Mr. Nadler. I yield back.

1875 Mr. Smith. Thank you, Mr. Nadler. I will recognize
1876 myself in opposition to the amendment. The Ag Act does

1877 protect ag workers. It replaces the adverse effect wage
1878 rate paid under the H-2A program with a more market-based
1879 wage standard. The bill requires that work is to be paid
1880 115 percent of the Federal minimum wage, or the State
1881 minimum wage, or the actual wage paid to workers in the same
1882 job, whichever is greatest. So, they are protected.

1883 Are there other members who wish to be heard on the
1884 amendment? If not, the question is on the --

1885 Mr. King. Mr. Chairman?

1886 Mr. Smith. The gentleman from Iowa is recognized.

1887 Mr. King. I withdraw my point of order, but ask to be
1888 recognized to strike the last word.

1889 Mr. Smith. Without objection, the point of order is
1890 withdrawn and the gentleman continues to be recognized.

1891 Mr. King. Thank you, Mr. Chairman. I want to just
1892 examine this, as I understand the base bill, too, that it
1893 guarantees that if there is a standard wage that exists
1894 there -- say, \$15 and change an hour -- but under this bill
1895 they still have to pay \$15 and change an hour and --

1896 Mr. Nadler. No.

1897 Mr. King. And the gentleman from New York disagrees
1898 with me. But I wanted to pose that question to him. And I
1899 wanted to ask you also if the gentleman would yield to a
1900 question. Where do you determine the wages? How does that
1901 determine the prevailing wage within meatpacking plants, for

1902 example? Please. And I yield to the gentleman from New
1903 York.

1904 Mr. Nadler. Thank you. If you look at the bill, on
1905 page 18, it provides the provisions that you thought
1906 guarantee the market wage. But just look at the language
1907 from line 24 on page 17 through line 13 on page 18, and I
1908 will read it to you.

1909 It says, "Each employer petitioning for H-2C workers
1910 under this subsection will offer the H-2C workers during the
1911 period of authorized employment as H-2C workers wages that
1912 are at least the greatest of, one, the applicable State or
1913 local minimum wage; two, 115 percent of the Federal minimum
1914 wage; or 150 percent of the Federal minimum wage in the case
1915 of H-2C workers who perform agricultural labor or services
1916 consisting of meat or poultry processors; or the actual wage
1917 level paid by the employer to all other individuals in the
1918 job."

1919 And we are adding, "The actual wage level paid by the
1920 employer." It is not necessarily the prevailing wage or the
1921 market wage.

1922 We are clarifying that in the amendment by saying, "The
1923 average wage paid to other individuals performing labor or
1924 services in the same occupational classification and
1925 geographic area of employment." So, we are saying the
1926 market wage.

1927 The bill may have made an attempt to say that. It
1928 says, "The actual wage level paid by the employer" -- the
1929 particular employer -- "to other individuals in the job."

1930 Mr. King. Reclaiming my time, then, the determination
1931 of this scale, according to your amendment, would be made
1932 how and what agency, and what data would be gathered
1933 together for this to be something that could be acted upon
1934 and implemented? And I yield to the gentleman from New
1935 York.

1936 Mr. Nadler. Thank you. The statistics I read and the
1937 determination, generally, which is where these statistics
1938 come from, are made by the Bureau of Labor Statistics based
1939 on information supplied by the employers. Not by one
1940 employer; by, you know, the whole group of employers.

1941 Mr. King. And it is averaged by region, by State, by
1942 zone? How?

1943 Mr. Nadler. By region. By the metropolitan
1944 statistical area.

1945 Mr. King. MSA?

1946 Mr. Nadler. Yeah.

1947 Mr. King. All right. I thank the gentleman from New
1948 York for his response, and I think the gentleman's intent --

1949 Mr. Nadler. Then it says, "the geographic area," which
1950 would be the same thing.

1951 Mr. King. Okay, and I thank the gentleman for his

1952 response. And it is my understanding the bill does attempt
1953 to do that --

1954 Mr. Nadler. It does not.

1955 Mr. King. -- and it is a bit of a detail here, so I do
1956 not want to take a position on this amendment, but I wanted
1957 a clarification from the author of the amendment. I
1958 appreciate the attention that you provided for that, and I
1959 yield back the balance of my time.

1960 Mr. Smith. Are there other members who wish to be
1961 heard? The gentleman from Maryland, Mr. Raskin, is
1962 recognized.

1963 Mr. Raskin. Mr. Chairman, thank you very much. I move
1964 to strike the last word. I just want to rise in favor of
1965 the gentleman from New York's amendment, which I think does
1966 not only what is right, but does what a lot of members
1967 thought the bill already did, so it is certainly something
1968 that we all can agree on.

1969 You know, the American labor movement does not oppose
1970 immigration. It opposes immigration on unfair terms, where
1971 a workforce is brought in from abroad to try to undercut the
1972 wages and the benefits and the working conditions of
1973 American employees. And so, the commitment of the American
1974 labor movement has always been to say that people who were
1975 working in America should not be used to drag down other
1976 people's wages and their benefits, and instead should have

1977 the same rights as American workers do.

1978 Now, obviously, this bill is a monstrosity from the
1979 standpoint of the rights, the wages, and the benefits of
1980 workers, but at the very least, we have got to pass the
1981 amendment that Mr. Nadler is talking about, because his
1982 amendment is targeting the effort to use this legislation
1983 precisely to undercut the wages of American workers.

1984 And if we do not have the wages for new indentured
1985 servant class meet those of the prevailing wage in the
1986 industry, in the metropolitan area that we are talking
1987 about, then it will exert that profound downward drag on the
1988 wages of American workers.

1989 So, I think this is why this legislation and these
1990 hearings have attracted the notice of Breitbart, which I
1991 never read before. But people have been sending it to me
1992 because they obviously do not have much interest in the
1993 condition of the workers who are brought in, but they have a
1994 real interest, apparently, in the wages and the benefits of
1995 American workers who live in the community. So, I just want
1996 to speak in very strong favor of this amendment, and I yield
1997 back.

1998 Mr. Smith. Thank you, Mr. Raskin.

1999 Mr. Conyers. Mr. Chairman?

2000 Mr. Smith. The gentleman from Michigan, Mr. Conyers.

2001 Mr. Conyers. Mr. Chairman, I rise in strong support of

2002 the amendment and yield to the gentleman from New York.

2003 Mr. Smith. Thank you, Mr. Conyers.

2004 Mr. Nadler. I thank the gentleman for yielding. I
2005 would like to clarify more, especially for the gentleman
2006 from Iowa, why the language in the bill, that you must pay
2007 the actual wage level paid by the employer to other
2008 individuals in the job, does not do the job, does not
2009 require prevailing wages or the market wages.

2010 First, that provision only requires the employer to
2011 consider the wages of its own employees, which I said
2012 before. So, even if the going wage for a logger is, let's
2013 say, \$20 an hour in an area, the employer can recruit H-2C
2014 workers are a far lower rate if he currently employs no such
2015 workers at all, or if it employs one or more workers at that
2016 lower rate.

2017 So, as worded here, the program would allow such
2018 unscrupulous employers to undercut its competitors and drive
2019 down wages for all, because it does not say, "The prevailing
2020 wage in the area." It says, "The wage for that employer,"
2021 who may have no employees and thus have no standard, or may
2022 have only a couple and be underpaying them.

2023 Secondly, the provision requires employers only to
2024 consider workers with similar skills and experience. This
2025 effectively allows an employer to avoid the actual wage
2026 requirement when it seeks to bring in entry-level

2027 guestworkers to displace more experienced U.S. workers.

2028 So, for example, a logging company would be able to
2029 recruit inexperienced loggers at \$8.34 an hour, even if the
2030 company's more experienced loggers are making \$20 an hour.
2031 It could bring in inexperienced loggers at \$8.34 from
2032 Mexico, fire his \$20-an-hour American workers, and keep
2033 these people on at \$8.34. So, those are two of the reasons.

2034 And again, so, what we do in the amendment is what the
2035 purported intent, I assume, of that inadequate language in
2036 the bill does, and we say that you have got to pay the
2037 higher of the various minimum wage base stuff that the bill
2038 mentions, or the average wage paid to other individuals
2039 performing labor or services in the same occupational
2040 classification or geographic area of employment.

2041 That covers it, and it covers what I think was the
2042 intent or may have been the intent. I do not know if it was
2043 just not properly drafted or it was the intent to look good
2044 but not be real. But in any event, this fixes it.

2045 Ms. Lofgren. Would the gentleman yield?

2046 Mr. Nadler. Sure, yes.

2047 Ms. Lofgren. I would make a note that this is a very
2048 good amendment, and you can take a look at an equivalent
2049 type of situation in the H-1B program, where you have an
2050 actual wage provision that is never enforced because you can
2051 never find out. Or you can create a situation where you say

2052 this job is Job X; unlike Job Y, it is a single shot, I am
2053 paying this, and it does not work.

2054 The surveys actually do work because it is a
2055 multiemployer survey, it is transparent -- I mean, there is
2056 an option. It is either the Department of Labor-decided
2057 wage or the survey-decided wage. Actually, I think the
2058 employer survey is more transparent than the DOL figure.
2059 But you can see it and you can enforce it. And the
2060 provision -- again, I do not know what the motive was; there
2061 is no point speculating on it -- it will not protect
2062 American workers. So, I thank the gentleman --

2063 Mr. King. Would the gentlelady or gentleman yield?

2064 Ms. Lofgren. It is the gentleman's time.

2065 Mr. Nadler. I will certainly yield.

2066 Mr. King. I thank the gentleman from New York for
2067 yielding. Would it be your position that, under the base
2068 language in the bill that we have today, that there could
2069 be, say, a meat processing plant that starts them out at,
2070 say, \$15 an hour. They could shut that plant down, do a
2071 remodeling, bring it back online at \$8.34 if they could find
2072 the employees?

2073 Mr. Nadler. Yes. In fact, I would go further. I
2074 would say that under the language of the bill they would not
2075 have to shut the plant down. They could simply bring in new
2076 workers at \$8.34 and fire the \$20 workers or whatever.

2077 Ms. Lofgren. All of them.

2078 Mr. King. I am not convinced on that particular
2079 analysis but the first one -- it seems to me that the
2080 language is open to that, and I thank the gentleman for --

2081 Mr. Nadler. And I would just also point out that if
2082 the intent is that you do not want to import Mexican or
2083 other foreign workers to undercut existing wages, then
2084 whether or not the existing language in the bill is
2085 adequate, my amendment certainly does the job and is
2086 unobjectionable from any other point of view.

2087 Ms. Lofgren. Would the gentleman further yield?

2088 Mr. Nadler. Sure.

2089 Ms. Lofgren. If the gentleman from Iowa will look at
2090 page 16, line 17, basically, you are saying you do not have
2091 to pay your American workers any more than you would pay an
2092 HC worker. In the meatpacking example that you have given,
2093 you create meatpacker position A that is different than all
2094 the other meatpacker positions; you say, "I am going to
2095 offer that American the same amount I am offering the H-2C
2096 workers," to wit, a Federal minimum wage plus 15 percent,
2097 minus the deductions. Then you could lay off the American
2098 workers -- you are not prohibited from doing that in this
2099 bill -- and fill it up. I thank the gentleman for yielding.

2100 Mr. Nadler. I thank the gentlelady and return my time.

2101 Mr. Smith. Do you want me to yield back?

2102 Mr. Nadler. I yield back.

2103 Mr. Smith. The gentleman yields back.

2104 The question is on the amendment offered by the
2105 gentleman from New York.

2106 All in favor, say aye.

2107 Opposed, nay.

2108 In the opinion of the chair, the nays have it.

2109 A roll call vote has been requested and the clerk will
2110 call the roll.

2111 Ms. Adcock. Mr. Goodlatte?

2112 [No response.]

2113 Mr. Sensenbrenner?

2114 [No response.]

2115 Mr. Smith?

2116 Mr. Smith. No.

2117 Ms. Adcock. Mr. Smith votes no.

2118 Mr. Chabot?

2119 [No response.]

2120 Mr. Issa?

2121 Mr. Issa. No.

2122 Ms. Adcock. Mr. Issa votes no.

2123 Mr. King?

2124 [No response.]

2125 Mr. Franks?

2126 Mr. Franks. No.

2127 Ms. Adcock. Mr. Franks votes no.
2128 Mr. Gohmert?
2129 [No response.]
2130 Mr. Jordan?
2131 [No response.]
2132 Mr. Poe?
2133 [No response.]
2134 Mr. Marino?
2135 Mr. Marino. No.
2136 Ms. Adcock. Mr. Marino votes no.
2137 Mr. Gowdy?
2138 [No response.]
2139 Mr. Labrador?
2140 Mr. Labrador. No.
2141 Ms. Adcock. Mr. Labrador votes no.
2142 Mr. Farenthold?
2143 Mr. Farenthold. No.
2144 Ms. Adcock. Mr. Farenthold votes no.
2145 Mr. Collins?
2146 Mr. Collins. No.
2147 Ms. Adcock. Mr. Collins votes no.
2148 Mr. DeSantis?
2149 [No response.]
2150 Mr. Buck?
2151 Mr. Buck. No.

2152 Ms. Adcock. Mr. Buck votes no.
2153 Mr. Ratcliffe?
2154 [No response.]
2155 Mrs. Roby?
2156 Mrs. Roby. No.
2157 Ms. Adcock. Mrs. Roby votes no.
2158 Mr. Gaetz?
2159 Mr. Gaetz. No.
2160 Ms. Adcock. Mr. Gaetz votes no.
2161 Mr. Johnson of Louisiana?
2162 Mr. Johnson of Louisiana. No.
2163 Ms. Adcock. Mr. Johnson votes no.
2164 Mr. Biggs?
2165 Mr. Biggs. No.
2166 Ms. Adcock. Mr. Biggs votes no.
2167 Mr. Rutherford?
2168 Mr. Rutherford. No.
2169 Ms. Adcock. Mr. Rutherford votes no.
2170 Mrs. Handel?
2171 Mrs. Handel. No.
2172 Ms. Adcock. Mrs. Handel votes no.
2173 Mr. Conyers?
2174 Mr. Conyers. Aye.
2175 Ms. Adcock. Mr. Conyers votes aye.
2176 Mr. Nadler?

2177 Mr. Nadler. Aye.

2178 Ms. Adcock. Mr. Nadler votes aye.

2179 Ms. Lofgren?

2180 Ms. Lofgren. Aye.

2181 Ms. Adcock. Ms. Lofgren votes aye.

2182 Ms. Jackson Lee?

2183 [No response].

2184 Mr. Cohen?

2185 Mr. Cohen. Aye.

2186 Ms. Adcock. Mr. Cohen votes aye.

2187 Mr. Johnson of Georgia?

2188 [No response.]

2189 Mr. Deutch?

2190 [No response.]

2191 Mr. Gutierrez?

2192 Mr. Gutierrez. Yes.

2193 Ms. Adcock. Mr. Gutierrez votes yes.

2194 Ms. Bass?

2195 [No response.]

2196 Mr. Richmond?

2197 [No response.]

2198 Mr. Jeffries?

2199 [No response.]

2200 Mr. Cicilline?

2201 [No response.]

2202 Mr. Swalwell?

2203 Mr. Swalwell. Aye.

2204 Ms. Adcock. Mr. Swalwell votes aye.

2205 Mr. Lieu?

2206 [No response.]

2207 Mr. Raskin?

2208 Mr. Raskin. Aye.

2209 Ms. Adcock. Mr. Raskin votes aye.

2210 Ms. Jayapal?

2211 Ms. Jayapal. Aye.

2212 Ms. Adcock. Ms. Jayapal votes aye.

2213 Mr. Schneider?

2214 Mr. Schneider. Aye.

2215 Ms. Adcock. Mr. Schneider votes aye.

2216 Mr. Smith. Are there other members who wish to be

2217 recorded? The gentleman from Wisconsin?

2218 Mr. Sensenbrenner. No.

2219 Ms. Adcock. Mr. Sensenbrenner votes no.

2220 Mr. Smith. The gentleman from South Carolina?

2221 Mr. Gowdy. No.

2222 Ms. Adcock. Mr. Gowdy votes no.

2223 Mr. Smith. The gentleman from Texas?

2224 Mr. Ratcliffe. No.

2225 Ms. Adcock. Mr. Ratcliffe votes no.

2226 Mr. Smith. The gentleman from Iowa?

2227 Mr. King. Aye.

2228 Ms. Adcock. Mr. King votes aye.

2229 Mr. Lieu. Aye.

2230 Ms. Adcock. Mr. Lieu votes aye.

2231 Mr. Smith. The gentleman from Florida?

2232 Mr. Deutch. Aye.

2233 Ms. Adcock. Mr. Deutch votes aye.

2234 Mr. Smith. The clerk will report. Are there other

2235 members who wish to be recorded? Oh, the chairman from

2236 Virginia.

2237 Chairman Goodlatte. No.

2238 Ms. Adcock. Mr. Goodlatte votes no.

2239 Mr. Smith. The clerk will report.

2240 Ms. Adcock. Mr. Chairman, 12 members voted aye; 18

2241 members voted no.

2242 Mr. Smith. The nays have it and the amendment is not

2243 agreed to. Are there other amendments?

2244 Mr. Gutierrez. Mr. Chairman, I have an amendment.

2245 Mr. Smith. The gentleman from Illinois is recognized

2246 for the purpose of offering an amendment, and the clerk will

2247 report the amendment.

2248 Ms. Adcock. Substitute for the amendment in the nature

2249 of a substitute to H.R. 4092, offered by Mr. Gutierrez of

2250 Illinois.

2251 [The amendment of Mr. Gutierrez follows:]

2252

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

2253 Mr. Smith. Without objection, the amendment is
2254 considered as read and the gentleman from Illinois is
2255 recognized to explain his amendment.

2256 Mr. Collins. Mr. Chairman? Mr. Chairman, I raise a
2257 point of order against the amendment.

2258 Mr. Smith. The gentleman from Georgia raises a point
2259 of order against the amendment.

2260 Mr. Gutierrez. Mr. Chairman?

2261 Chairman Goodlatte. And the gentleman from Illinois is
2262 recognized for 5 minutes on his amendment.

2263 Mr. Gutierrez. Thank you, Mr. Chairman. I offer my
2264 amendment as a substitute to the bill now being considered
2265 before the committee so that it is replaced with the text of
2266 H.R. 2690, the Agricultural Worker Program Act, which I
2267 introduced in May of this year and which has 69 of my
2268 colleagues have joined as cosponsors.

2269 I have had the honor of meeting with farm workers all
2270 across this country during the last 20 years, and I know
2271 firsthand of their work. I know it is backbreaking and hot
2272 in hazardous conditions in many instances, and vital always
2273 to nourishing Americans everywhere.

2274 They, literally, make eating food possible, and we
2275 should appreciate that every single day, and they do it
2276 knowing that they and their families are at risk of arrest
2277 and deportation because we do not have a legal immigration

2278 system that provides legal avenues to them to come to this
2279 country to work in this very vital industry.

2280 It would be shameful to pass legislation that fails to
2281 offer these valued workers a reliable immigration status
2282 that recognizes their contribution. This flies in the face
2283 of national support for offering a hardworking undocumented
2284 population a way to earn citizenship and fully integrate
2285 into our society. The Republican proposal is based on the
2286 old model of guestworkers that has not worked well for
2287 employers and especially not for the workers.

2288 Under the Republican proposal, the workers are not
2289 people, families, or potential Americans. The way
2290 immigration has happened in the U.S. for the past 2
2291 centuries. Rather, they are disposable. Because the H-2C
2292 program is only a temporary worker program, our Nation's
2293 current skilled agricultural workforce, with years of ties
2294 to their communities and many with U.S. citizen members,
2295 would have no stability and no chance to become a member of
2296 the society they feel and wish to help and feed.

2297 The chairman's bill would tear families apart, as it
2298 fails to provide any opportunity -- Mr. Chairman, apparently
2299 somebody wants to offer a comment.

2300 Ms. Lofgren. Mr. Chairman, the committee is not in
2301 order.

2302 Chairman Goodlatte. Has the gentleman yielded back?

2303 Mr. Gutierrez. No, there is somebody else speaking
2304 simultaneously.

2305 Chairman Goodlatte. The committee will be in order.
2306 The gentleman is recognized.

2307 Mr. Gutierrez. Thank you, Mr. Chairman. Many with
2308 U.S. citizen family members would have no stability and no
2309 chance to become a member of the society they help to feed.
2310 The chairman's bill would tear families apart, as it fails
2311 to provide any opportunity for the farmworkers' spouses and
2312 children to obtain immigration status.

2313 This point is particularly harsh and runs contrary to
2314 the testimony we have received here in this committee in
2315 July, where farm owners described their seasonal workers who
2316 return to work for their farms year after year as "farmers
2317 and as families." And the workers who come under this
2318 program will have absolutely no rights as working men and
2319 women.

2320 Their presence in this country will be totally at the
2321 discretion of their employers. They will have zero ability
2322 to stand up for themselves, as they would be 100 percent
2323 disposable and replaceable. This is not good for the
2324 individuals in the program, obviously, but it is not good
2325 for anyone else working in the agricultural sector either.
2326 This is the worst kind of churn-and-burn guestworker program
2327 we could think of from a worker's point of view, which is

2328 why some growers who want docile and replaceable workers are
2329 starting to get on board.

2330 Look, when immigrants are under attack we have to find
2331 a way to offer them safety and security and legality, not
2332 just for them and their families, although that is
2333 important, but also for their coworkers, for the supply
2334 chain for the American food industry, and to hold employers
2335 accountable to our laws.

2336 H.R. 2690, the amendment I am offering, is the choice
2337 for legal immigration and for a functioning visa program so
2338 that our working men and women are protected by our labor
2339 laws, and employers are in full compliance and accountable.

2340 But we have chosen, unfortunately, as a Nation not to
2341 do that. We know that foreign hands will touch our food,
2342 and the question for America is whether we want those
2343 foreign hands to grow our food in this country or in another
2344 country. The choice for America is whether we want our food
2345 grown and produced under our laws for food safety and
2346 workplace safety, or someone else's.

2347 Ms. Lofgren. Does the gentleman yield?

2348 Mr. Gutierrez. I yield.

2349 Ms. Lofgren. I want to commend the gentleman for his
2350 leadership in introducing the agricultural worker program
2351 act and offering it as an amendment to this bill. You know,
2352 I had an opportunity to meet with some growers about the

2353 bill before us, and I had a chance to ask them what did they
2354 think of this bill. And actually, they like this bill.
2355 This would solve the problems that face the ag sector,
2356 except that we have got a terrible bill instead that we are
2357 considering that would not actually solve the problems. So,
2358 I thank the gentleman for yielding, and I commend him for
2359 the amendment.

2360 Mr. Gutierrez. Thank you so much.

2361 Chairman Goodlatte. The gentleman yields back.

2362 Mr. Collins. Mr. Chairman? I withdraw.

2363 Chairman Goodlatte. Does the gentleman from Georgia
2364 insist on his point of order?

2365 Mr. Collins. No, I withdraw the point of order.

2366 Chairman Goodlatte. The chair thanks the gentleman and
2367 recognizes himself in opposition to the substitute offered
2368 by the gentleman from Illinois.

2369 This is very, very similar to previous proposals that
2370 have had various names, including Ag Jobs. And there are a
2371 number of problems with this amendment, and I will not take
2372 you through all of them, but the critical one is that
2373 because this offers amnesty for people who are not lawfully
2374 present in the United States and provides them with a
2375 pathway to citizenship, the net effect of this is to do what
2376 has happened in the past when amnesty has been granted, and
2377 that is to take huge numbers of workers away from American

2378 agriculture.

2379 Because once you have a green card, you can go work
2380 anywhere and do anything that is lawful in the United States
2381 for which you have a job offer, or even start your own
2382 business, and it does not address the real problem that we
2383 have, and that is a lack of sufficient number of American
2384 workers on American farms. And therefore, I must strongly
2385 oppose this amendment.

2386 For what purpose does the gentlewoman from California
2387 seek recognition seek recognition?

2388 Ms. Lofgren. I move to strike the last word.

2389 Chairman Goodlatte. The gentlewoman is recognized for
2390 5 minutes.

2391 Ms. Lofgren. I want to talk about why this bill would
2392 actually solve the problem, compared to the bill that the
2393 committee is marking up. You know, the ag industry
2394 currently relies on more than a million undocumented farm
2395 workers, more than half of the crop workers and farm
2396 laborers in the country.

2397 Now, this has been a situation that has accumulated
2398 over time. It is really the product of a need that went
2399 unmet by our immigration system, coupled with previous,
2400 although not current, weak enforcement of immigration at the
2401 border. Undocumented workers came to the U.S. to meet an
2402 economic demand without their papers because there was no

2403 way to do it with papers, and so we now have a million
2404 people who have worked here, in some cases, for decades.
2405 The surveys that we have indicate that the majority of these
2406 individuals have been here more than 15 years. They have
2407 families; they have spouses. They have children; some of
2408 them have grandchildren. They live here.

2409 I mean, my district is primarily an urban area -- I
2410 have a little bit of ag -- but I take the time to go out and
2411 meet with farmers, with strawberry growers out in the
2412 Central Valley, with the people who cut and dry apricots,
2413 down in Salinas with people who grow crops. And the one
2414 thing that those farmers always tell me is who they really
2415 want is their current workforce, because their current
2416 workforce knows how to do the job. It is so-called
2417 unskilled, but I could not go in and do this, I mean, right
2418 off the street, nor could any other member of this
2419 committee. It is a skilled job, and the people who are
2420 doing it know how to do it.

2421 So, what this bill does is recognize reality, make sure
2422 that those people who are here undocumented have a chance to
2423 get right with the law, to not be exploited, to be paid, and
2424 be protected by the laws of the United States. And then it
2425 recognizes that we will have a future flow, a future need
2426 for farm workers, and it provides for that as well. So,
2427 that is a rational, workable solution that this committee

2428 should look at.

2429 It would not, as the chairman suggests, encourage
2430 undocumented immigration. In fact, the bill before us will.
2431 Should it ever become law, which I doubt, would be a pathway
2432 for undocumented into the country. For the life of me, I
2433 cannot imagine why someone who is offered a below-minimum
2434 wage would come to the U.S. unless the real reason was just
2435 to come to the U.S. and disappear into the woodwork, cheaper
2436 than paying a coyote. So, I think his amendment is entirely
2437 pragmatic.

2438 It solves the problem, unlike the underlying bill, and
2439 I would just like to note that the touchback provisions that
2440 are in the underlying bill are completely unworkable.
2441 Because if you are here undocumented, and you have children,
2442 you have grandchildren, you are not going to step forward,
2443 ditch your family, go to another country you have not been
2444 to for a couple of decades, with the chance that you might
2445 get a temporary visa. That is not going to happen. So, you
2446 are going to stay undocumented because you are not going to
2447 abandon your family. So, this bill that we are marking up
2448 does nothing about that.

2449 It is really a very distressing circumstance that we
2450 would be talking about this kind of serfdom that is being
2451 proposed by this underlying bill, and I thank the gentleman
2452 from Illinois from providing a rational alternative for our

2453 consideration. With that, Mr. Chairman, I yield back.

2454 Ms. Jayapal. Mr. Chairman:

2455 Chairman Goodlatte. For what purpose does the

2456 gentlewoman from Washington seek recognition?

2457 Ms. Jayapal. I move to strike the last word.

2458 Chairman Goodlatte. The gentlewoman is recognized for

2459 5 minutes.

2460 Ms. Jayapal. Thank you, Mr. Chairman. I also want to

2461 commend my colleague from Illinois for his work on putting

2462 together this bill and for offering it as an amendment. It

2463 would have been great to have a hearing on the bill that is

2464 before us so that we could talk about all the ways in which

2465 it does not solve the problem. We have been having to bring

2466 those up through our amendments. And I suppose it is naive

2467 to imagine that we would have a hearing on a major bill that

2468 affects in an incredibly big part of our industry,

2469 agricultural industry, across the country.

2470 Mr. Chairman, I wanted to ask for unanimous consent to

2471 introduce into the record an op-ed that I wrote with

2472 Representative Marshall, Roger Marshall from Kansas called

2473 "Working Across the Aisle to Solve Problems with Our Broken

2474 Immigration System." Thank you. And I would like to quote

2475 from that article; there is very little that people might

2476 see that we have in common between Kansas' first district

2477 and Washington's seventh district, but I wanted to read a

2478 piece on Kansas.

2479 "In Kansas, immigrants make the dairy industry run,
2480 strengthen the farms that provide the food on kitchen tables
2481 across the world, and help the Kansas agricultural industry
2482 become the international powerhouse that it is today. Our
2483 farms, local economy, and groceries you buy depend on
2484 immigrant labor. Calling this work in the dairies of Kansas
2485 or the fields of Washington low-skilled is a misnomer. If
2486 you were to tour farms throughout Kansas or the apple
2487 orchards of Washington you would witness labor that is
2488 physically demanding and requires a talent that is only
2489 perfected over years of practice," and I think that this
2490 goes to the point that Ms. Lofgren was making.

2491 And I wanted to say there is another paragraph in here
2492 that I would like to read for the benefit of our aged
2493 members of the committee. "As new members of Congress, we
2494 came to Washington, D.C. to do what is right for our
2495 districts. We are not immune to the politics that exist,
2496 but we are closer than most to the needs of our communities
2497 and families. We want that closeness to our districts to
2498 translate into pragmatic action and to remind us that,
2499 regardless of party, we must tell the truth about our
2500 stories and our districts. In the end, in our respective
2501 roles as a physician from rural Kansas and a national
2502 immigrant rights advocate, we saw the same thing:

2503 Immigrants are a vital part of America's past and our
2504 future, and without the help of these folks, our economies
2505 and our communities would not make it."

2506 Mr. Gutierrez' amendment recognizes the truth of that,
2507 and instead of proposing a system that essentially would
2508 lead to indentured servitude, it envisions a system that
2509 recognizes the value of year-round skilled agricultural
2510 labor that our States, red and blue, across the country
2511 would benefit from. And those of you who are in this
2512 industry should know well that what we are doing with this
2513 bill is destroying the American workforce and ensuring that
2514 we have a permanent second class of citizens across the
2515 country, sometimes that might earn wages at \$8.34,
2516 subtracting all of the expenses might end up even earning a
2517 dollar, \$2.

2518 How is that possible for people on both sides of the
2519 aisle to even vote for or contemplate? I really do not
2520 understand that. And if that is naïve, as my distinguished
2521 colleague from California suggests, then perhaps we should
2522 all go back to being naive and actually fight for our
2523 constituents and fight for the rights that make this country
2524 great. That is not what is in this bill, and I thank the
2525 gentleman from Illinois for his amendment and I strongly
2526 support it.

2527 Mr. Issa. Would the gentlelady yield?

2528 Ms. Jayapal. I would be happy to yield.

2529 Mr. Issa. Thank you. Well, I do not know for sure
2530 that the definition of naive is as broad or narrow as I
2531 would have made it, but one thing that I would like the
2532 gentlelady to maybe answer for me -- your side of the aisle
2533 continues to talk about wages below minimum wage and serfdom
2534 and so on. Is there anything that you know of under U.S.
2535 law that would be any different than what is in this bill?
2536 In other words, if I go to a job to work as, let's say, in a
2537 field, as a U.S. citizen there is nothing that stops me from
2538 having to pay my own cost of getting to that job. And that
2539 is why I keep not understanding why that provision keeps
2540 getting referred to --

2541 Ms. Lofgren. Will the gentleman yield?

2542 Mr. Issa. -- as though it is going to cause below
2543 minimum wage. An employer does not have to pay for me to
2544 get to the job, and yet, you know, that provision seems to
2545 be in question. If, in fact, we are talking about on the
2546 actual from your reporting place to the field, for example,
2547 if that is not understood to be an employer responsibility I
2548 am certainly happy to make sure that this bill would ensure
2549 that it would be. But getting to your initial place -- in
2550 other words, showing up where the bus is at the field -- my
2551 understanding is the U.S. citizens that show up there today
2552 or the undocumented workers that show up here today, they do

2553 that at their own expense.

2554 Ms. Lofgren. Will the gentleman yield?

2555 Mr. Issa. Well, she actually controls the time.

2556 Ms. Jayapal. It is actually my time, and I would be
2557 happy to yield to the gentlelady from California.

2558 Ms. Lofgren. This bill exempts the H-2C workers from
2559 the protections of the Fair Labor Standards Act. And if you
2560 were an American worker you could not have your required
2561 health care, transportation costs, uniform, equipment
2562 deducted from your salary so it goes below the minimum wage.
2563 Under this bill you could do that to immigrant workers, so
2564 there is a very profound difference on how workers would be
2565 treated, and I thank the gentle lady for yielding.

2566 Ms. Jayapal. I thank the gentlewoman. And let me just
2567 say that we had an opportunity for your side to vote for an
2568 amendment that would not reduce the wages below the Federal
2569 minimum wage and your side turned that amendment down, so by
2570 that I can only assume that you do want to in fact change
2571 the standards that we have for all other workers in this
2572 country by exempting these workers. If you did not want to
2573 change those standards, then you should have voted for that
2574 amendment, and maybe we should bring that up again so you
2575 can vote for the amendment. Because right now you are
2576 asking for a change to the current standards that we have.
2577 You are asking for an exemption to that, and I want to be

2578 very clear that that is what the bill does. Our amendments
2579 have consistently tried to put forward ways to make this
2580 bill a little bit better, and your side has consistently
2581 turned those amendments down. I yield back.

2582 Chairman Goodlatte. The question is on the amendment
2583 offered by the gentleman from Illinois. All those in favor,
2584 respond by saying.

2585 Those opposed no.

2586 In the opinion of the chair, the noes have it, and the
2587 amendment is not agreed to.

2588 A recorded vote is requested, and the clerk will call
2589 the roll.

2590 Ms. Adcock. Mr. Goodlatte?

2591 Chairman Goodlatte. No.

2592 Ms. Adcock. Mr. Goodlatte votes no.

2593 Mr. Sensenbrenner?

2594 Mr. Sensenbrenner. No.

2595 Ms. Adcock. Mr. Sensenbrenner votes no.

2596 Mr. Smith?

2597 [No response.]

2598 Mr. Chabot?

2599 Mr. Chabot. No.

2600 Ms. Adcock. Mr. Chabot votes no.

2601 Mr. Issa?

2602 Mr. Issa. No.

2603 Ms. Adcock. Mr. Issa votes no.
2604 Mr. King?
2605 Mr. King. No.
2606 Ms. Adcock. Mr. King votes no.
2607 Mr. Franks?
2608 [No response.]
2609 Mr. Gohmert?
2610 [No response.]
2611 Mr. Jordan?
2612 [No response.]
2613 Mr. Poe?
2614 [No response.]
2615 Mr. Marino?
2616 Mr. Marino. No.
2617 Ms. Adcock. Mr. Marino votes no.
2618 Mr. Gowdy?
2619 [No response.]
2620 Mr. Labrador?
2621 [No response.]
2622 Mr. Farenthold?
2623 [No response.]
2624 Mr. Collins?
2625 Mr. Collins. No.
2626 Ms. Adcock. Mr. Collins votes no.
2627 Mr. DeSantis?

2628 [No response.]

2629 Mr. Buck?

2630 Mr. Buck. No.

2631 Ms. Adcock. Mr. Buck votes no.

2632 Mr. Ratcliffe?

2633 [No response.]

2634 Mrs. Roby?

2635 Mrs. Roby. No.

2636 Ms. Adcock. Mrs. Roby votes no.

2637 Mr. Gaetz?

2638 Mr. Gaetz. No.

2639 Ms. Adcock. Mr. Gaetz votes no.

2640 Mr. Johnson of Louisiana?

2641 Mr. Johnson of Louisiana. No.

2642 Ms. Adcock. Mr. Johnson votes no.

2643 Mr. Biggs?

2644 Mr. Biggs. No.

2645 Ms. Adcock. Mr. Biggs votes no.

2646 Mr. Rutherford?

2647 Mr. Rutherford. No.

2648 Ms. Adcock. Mr. Rutherford votes no.

2649 Mrs. Handel?

2650 Mrs. Handel. No.

2651 Ms. Adcock. Mrs. Handel votes no.

2652 Mr. Conyers?

2653 Mr. Conyers. Aye.

2654 Ms. Adcock. Mr. Conyers votes aye.

2655 Mr. Nadler?

2656 Mr. Nadler. Aye.

2657 Ms. Adcock. Mr. Nadler votes aye.

2658 Ms. Lofgren?

2659 Ms. Lofgren. Aye.

2660 Ms. Adcock. Ms. Lofgren votes aye.

2661 Ms. Jackson Lee?

2662 [No response.]

2663 Mr. Cohen?

2664 Mr. Cohen. Aye.

2665 Ms. Adcock. Mr. Cohen votes aye.

2666 Mr. Johnson of Georgia?

2667 [No response.]

2668 Mr. Deutch?

2669 Mr. Deutch. Aye.

2670 Ms. Adcock. Mr. Deutch votes aye.

2671 Mr. Gutierrez?

2672 Mr. Gutierrez. Yes.

2673 Ms. Adcock. Mr. Gutierrez votes yes.

2674 Ms. Bass?

2675 [No response.]

2676 Mr. Richmond?

2677 [No response.]

2678 Mr. Jeffries?
2679 [No response.]
2680 Mr. Cicilline?
2681 [No response.]
2682 Mr. Swalwell?
2683 [No response.]
2684 Mr. Lieu?
2685 Mr. Lieu. Aye.
2686 Ms. Adcock. Mr. Lieu votes aye.
2687 Mr. Raskin?
2688 Mr. Raskin. Aye.
2689 Ms. Adcock. Mr. Raskin votes aye.
2690 Ms. Jayapal?
2691 Ms. Jayapal. Aye.
2692 Ms. Adcock. Ms. Jayapal votes aye.
2693 Mr. Schneider?
2694 Mr. Schneider. Aye.
2695 Ms. Adcock. Mr. Schneider votes aye.
2696 Chairman Goodlatte. The gentleman from Texas, Mr.
2697 Smith.
2698 Mr. Smith. No.
2699 Ms. Adcock. Mr. Smith votes no.
2700 Chairman Goodlatte. The gentleman from Arizona, Mr.
2701 Franks.
2702 Mr. Franks. No.

2703 Ms. Adcock. Mr. Franks votes no.

2704 Chairman Goodlatte. The gentleman from Texas, Mr.

2705 Farenthold.

2706 Mr. Farenthold. No.

2707 Ms. Adcock. Mr. Farenthold votes no.

2708 Chairman Goodlatte. The gentleman from South Carolina.

2709 Mr. Gowdy. No.

2710 Ms. Adcock. Mr. Gowdy votes no.

2711 Chairman Goodlatte. The gentleman from Texas, Mr.

2712 Ratcliffe.

2713 Mr. Ratcliffe. No.

2714 Ms. Adcock. Mr. Ratcliffe votes no.

2715 Chairman Goodlatte. The gentleman from Idaho.

2716 Mr. Labrador. No.

2717 Ms. Adcock. Mr. Labrador votes no.

2718 Chairman Goodlatte. Has every member voted who wishes

2719 to vote? The clerk will report.

2720 Ms. Adcock. Mr. Chairman, 10 members voted aye; 20

2721 members voted no.

2722 Chairman Goodlatte. And the amendment is not agreed

2723 to. Are there further amendments to H.R. 4092? For what

2724 purpose does the gentlewoman from California seek

2725 recognition?

2726 Ms. Lofgren. I have an amendment at the desk.

2727 Chairman Goodlatte. The clerk will report the

2728 amendment.

2729 Ms. Adcock. Amendment to the amendment in the nature
2730 of a substitute to H.R. 4092, offered by Ms. Lofgren. Page
2731 18 --

2732 [The amendment of Ms. Lofgren follows:]

2733 ***** COMMITTEE INSERT *****

2734 Chairman Goodlatte. Without objection, the amendment
2735 is considered as read and the gentlewoman is recognized for
2736 5 minutes on her amendment.

2737 Ms. Lofgren. Mr. Chairman, this amendment is similar
2738 to the amendment offered by my friend from New York, Mr.
2739 Nadler, but it is targeted to a specific industry, that is,
2740 forestry or logging occupations. Now, I was a strong
2741 supporter of Mr. Nadler's broader amendment, but I want to
2742 bring attention to the issue as it relates to logging.

2743 Here are the facts. The median pay for logging workers
2744 last year was \$37,590 a year, an average of \$18.07 an hour.
2745 The typical education at entry level is a high school
2746 diploma or equivalent. But here is the other thing that is
2747 interesting: There is a 7 percent decline, and the
2748 employment change is predicted to be on the downside, 3,800
2749 decline from the current roughly 55,000 jobs in the United
2750 States, which causes me to wonder quite a bit about the
2751 provisions in this bill that go from a temporary, seasonal
2752 program for agriculture to a year-round permanent program
2753 for more than agriculture, including logging, manufacturing,
2754 food processing, and the like.

2755 You know, when I talk to some of the members who
2756 represent logging areas, what they are saying is they do not
2757 have a shortage of loggers; they have a shortage of logs for
2758 their loggers to log. So, we are actually, in this bill,

2759 making it easy to pay a very low amount per hour to foreign
2760 workers to come in and displace American workers in an area
2761 where there is not a shortage, where the pay is such that
2762 you can achieve or aspire a middle-class lifestyle based on
2763 your logging job. It is one of those jobs where you have to
2764 work hard, but with a high school diploma you can support
2765 yourself and your family. Why we would want to bring in who
2766 knows how many hundreds of thousands, potentially, of
2767 workers to displace Americans is beyond me.

2768 Now, as was mentioned earlier in the discussion on Mr.
2769 Nadler's amendment, the provisions and the protections in
2770 the bill do not actually work. Say the actual wage level
2771 paid by the employer on page 18 -- well, let me pose this
2772 scenario. You have got logging company X in Texas; they
2773 have no employees because they were really set up as a shell
2774 to go hire H-2C workers at \$5 an hour to go log in
2775 Washington State. That would be quite easy to do under this
2776 bill, so good luck to the American loggers in Washington
2777 when that happens.

2778 Or you create logger job A, in the scale of A through
2779 C, and you have one employee, and you have paid that
2780 employee pursuant to the provision where you have to offer
2781 the employee on page 16 what you are offering U.S. H-2C
2782 workers; to wit, \$8.34 an hour. That is certainly quite a
2783 lot less than the \$18.69 an hour by logging equipment

2784 operators, or the forest and conservation workers at \$15 an
2785 hour, or the log graders and scalers at \$18.34 an hour.

2786 So, I just do not think what we are doing here is
2787 right. I think that the loggers of America will take great
2788 offense at being displaced by underpaid, poorly treated, and
2789 really oppressed workers from other parts of the world, and
2790 this amendment will prevent that from happening. I strongly
2791 urge its adoption, and seeing that my time has expired,
2792 yield back the balance of my time.

2793 Chairman Goodlatte. The chair thanks the gentlewoman
2794 and recognizes himself in opposition to the amendment. The
2795 ag act restores the forces of the free market to the
2796 agricultural guestworker system in the United States.
2797 Having a legal and mobile workforce in the agriculture
2798 industry means employers will have to compete to attract the
2799 most reliable unskilled labor. The bill intentionally gives
2800 farmers and ranchers freedom to set the terms of employment
2801 on their operations, while requiring that they actually do
2802 fulfill the promises they offer to guestworkers.

2803 Workers, especially ones no longer living in the
2804 shadows, will be drawn to the employers offering the most
2805 favorable wages benefits and working conditions. We do not
2806 need to go back to a system that is similar to the so-called
2807 adverse effect wage rate that exists under the current H-2A
2808 program, and for that reason I oppose the amendment.

2809 Mr. Nadler. Mr. Chairman?

2810 Chairman Goodlatte. For what purpose does the
2811 gentleman from New York seek recognition?

2812 Mr. Nadler. I move to strike the last word.

2813 Chairman Goodlatte. The gentleman is recognized for 5
2814 minutes.

2815 Mr. Nadler. Mr. Chairman, I just listened carefully to
2816 what you just said, and in effect, you just said we want to
2817 give employers the ability to hire foreign workers at a
2818 mutually agreeable wage rate, mutually agreeable to the
2819 foreign workers and to the employer.

2820 What you did not say was that we did not want to have
2821 those wages undercut American existing wages, because those
2822 wages -- though mutually agreeable to desperate people
2823 coming in from Mexico and employers who want to pay
2824 subminimum wages and meeting at least the minimum wage
2825 requirement minus deductions -- may very well and will often
2826 be, and in this case certainly will be, much lower than the
2827 wages that the employers are paying American workers now.

2828 So, this provision, in the absence of Ms. Lofgren's
2829 amendment, seems specifically designed to undercut American
2830 wages and to reduce those wages so that the cutters who are
2831 now getting -- what was it, \$15, \$18 an hour -- will now get
2832 \$8.34 an hour, and that may be mutually agreeable. And the
2833 fact is, mutually agreeable between desperate people being

2834 brought in from a foreign country who can only earn \$3 in a
2835 foreign country but can undercut American workers now
2836 earning \$15 or \$16 or \$17 is, frankly, an obnoxious result,
2837 and we should not be designing a bill to undercut the wages
2838 of existing workers and to undercut American wages.

2839 And my amendment earlier -- Ms. Lofgren's amendment
2840 similarly, but limited in scope to loggers here -- would
2841 simply say that you cannot pay workers less than the rate of
2842 pay you are already paying. Not you particularly, but that
2843 is being paid in the area to American workers. And if we
2844 are not saying that, then you are really saying that this is
2845 a bill designed to undercut American wages for the benefit
2846 of the growers who want to pay substandard wages. That is
2847 an obnoxious result.

2848 I urge the adoption of the gentlelady's amendment, and
2849 if the gentlelady's amendment is not passed, and if my
2850 amendment was not passed, then this bill is simply a bill
2851 to, among other things, subvert American wages, reduce
2852 American wages to something close to or below the minimum
2853 wage, because the only reference in the bill is, with
2854 reference to minimum wage, is not to the prevailing wage in
2855 the area. I yield back.

2856 Chairman Goodlatte. The question occurs on the
2857 amendment offered by the gentlewoman from California. All
2858 those in favor, respond by saying aye.

2859 Those opposed, no.

2860 In the opinion of the chair, the noes have it, and the
2861 amendment is not agreed to.

2862 Ms. Lofgren. May I have a recorded vote?

2863 Chairman Goodlatte. A recorded vote is requested, and
2864 the clerk will call the roll.

2865 Ms. Adcock. Mr. Goodlatte?

2866 Chairman Goodlatte. No.

2867 Ms. Adcock. Mr. Goodlatte votes no.

2868 Mr. Sensenbrenner?

2869 Mr. Sensenbrenner. No.

2870 Ms. Adcock. Mr. Sensenbrenner votes no.

2871 Mr. Smith?

2872 [No response.]

2873 Mr. Chabot?

2874 Mr. Chabot. No.

2875 Ms. Adcock. Mr. Chabot votes no.

2876 Mr. Issa?

2877 Mr. Issa. No.

2878 Ms. Adcock. Mr. Issa votes no.

2879 Mr. King?

2880 Mr. King. No.

2881 Ms. Adcock. Mr. King votes no.

2882 Mr. Franks?

2883 Mr. Franks. No.

2884 Ms. Adcock. Mr. Franks votes no.
2885 Mr. Gohmert?
2886 [No response.]
2887 Mr. Jordan?
2888 [No response.]
2889 Mr. Poe?
2890 [No response.]
2891 Mr. Marino?
2892 [No response.]
2893 Mr. Gowdy?
2894 [No response.]
2895 Mr. Labrador?
2896 [No response.]
2897 Mr. Farenthold?
2898 Mr. Farenthold. No.
2899 Ms. Adcock. Mr. Farenthold votes no.
2900 Mr. Collins?
2901 Mr. Collins. No.
2902 Ms. Adcock. Mr. Collins votes no.
2903 Mr. DeSantis?
2904 [No response.]
2905 Mr. Buck?
2906 Mr. Buck. No.
2907 Ms. Adcock. Mr. Buck votes no.
2908 Mr. Ratcliffe?

2909 Mr. Ratcliffe. No.

2910 Ms. Adcock. Mr. Ratcliffe votes no.

2911 Mrs. Roby?

2912 Mrs. Roby. No.

2913 Ms. Adcock. Mrs. Roby votes no.

2914 Mr. Gaetz?

2915 Mr. Gaetz. No.

2916 Ms. Adcock. Mr. Gaetz votes no.

2917 Mr. Johnson of Louisiana?

2918 Mr. Johnson of Louisiana. No.

2919 Ms. Adcock. Mr. Johnson votes no.

2920 Mr. Biggs?

2921 Mr. Biggs. No.

2922 Ms. Adcock. Mr. Biggs votes no.

2923 Mr. Rutherford?

2924 Mr. Rutherford. No.

2925 Ms. Adcock. Mr. Rutherford votes no.

2926 Mrs. Handel?

2927 Mrs. Handel. No.

2928 Ms. Adcock. Mrs. Handel votes no.

2929 Mr. Conyers?

2930 Mr. Conyers. Aye.

2931 Ms. Adcock. Mr. Conyers votes aye.

2932 Mr. Nadler?

2933 Mr. Nadler. Aye.

2934 Ms. Adcock. Mr. Nadler votes aye.

2935 Ms. Lofgren?

2936 Ms. Lofgren. Aye.

2937 Ms. Adcock. Ms. Lofgren votes aye.

2938 Ms. Jackson Lee?

2939 [No response.]

2940 Mr. Cohen?

2941 [No response.]

2942 Mr. Johnson of Georgia?

2943 [No response.]

2944 Mr. Deutch?

2945 Mr. Deutch. Aye.

2946 Ms. Adcock. Mr. Deutch votes aye.

2947 Mr. Gutierrez?

2948 [No response.]

2949 Ms. Bass?

2950 [No response.]

2951 Mr. Richmond?

2952 [No response.]

2953 Mr. Jeffries?

2954 [No response.]

2955 Mr. Cicilline?

2956 Mr. Cicilline. Aye.

2957 Ms. Adcock. Mr. Cicilline votes aye.

2958 Mr. Swalwell?

2959 [No response.]

2960 Mr. Lieu?

2961 Mr. Lieu. Aye.

2962 Ms. Adcock. Mr. Lieu votes aye.

2963 Mr. Raskin?

2964 Mr. Raskin. Aye.

2965 Ms. Adcock. Mr. Raskin votes aye.

2966 Ms. Jayapal?

2967 Ms. Jayapal. Aye.

2968 Ms. Adcock. Ms. Jayapal votes aye.

2969 Mr. Schneider?

2970 Mr. Schneider. Aye.

2971 Ms. Adcock. Mr. Schneider votes aye.

2972 Chairman Goodlatte. The gentleman from Texas, Mr. Poe.

2973 Mr. Poe. No.

2974 Ms. Adcock. Mr. Poe votes no.

2975 Chairman Goodlatte. The gentleman from Florida, Mr.

2976 Gaetz. The gentleman from South Carolina.

2977 Mr. Gowdy. No.

2978 Ms. Adcock. Mr. Gowdy votes no.

2979 Chairman Goodlatte. The gentleman from Idaho.

2980 Mr. Labrador. No.

2981 Ms. Adcock. Mr. Labrador votes no.

2982 Chairman Goodlatte. Has every member voted who wishes

2983 to vote? The clerk will report.

2984 Ms. Adcock. Mr. Chairman, nine members voted aye; 19
2985 members voted no.

2986 Chairman Goodlatte. And the amendment is not agreed
2987 to. Are there further amendments to H.R. 4092? For what
2988 purpose does the gentleman from Maryland seek recognition?

2989 Mr. Raskin. Mr. Chairman, thank you. I have got a
2990 naive amendment at the desk.

2991 Chairman Goodlatte. The clerk will report the naive
2992 amendment.

2993 Ms. Adcock. Amendment to the amendment in the nature
2994 of a substitute to H.R. 4092, offered by Mr. Raskin. Page
2995 21, after line 17, insert the following --

2996 [The amendment of Mr. Raskin follows:]

2997 ***** COMMITTEE INSERT *****

2998 Chairman Goodlatte. Without objection, the amendment
2999 is considered as read and the gentleman is recognized for 5
3000 minutes on his amendment.

3001 Mr. Raskin. Thank you very much. I think that the
3002 naivete of my revered colleague from the State of
3003 Washington, who is an experienced community organizer and
3004 political leader and legislator, may be spreading, and I
3005 would even give my amendment a name. I would like to call
3006 it the "no room at the inn" amendment to the "beasts of
3007 burden" act which we are considering today.

3008 My amendment, I suppose, is naive because I had thought
3009 that there were some values that still unified us as
3010 Americans across party lines, and one of them was that if we
3011 are going to bring in an immigrant workforce of,
3012 effectively, 21st century indentured servants who will act
3013 as beasts of burden for the rest of us, and we are going to
3014 pay them a subminimum wage -- before you start deducting
3015 with abandon for the cost of their equipment, the cost of
3016 their tools, the cost of their uniforms, the cost of their
3017 health insurance, and so on -- at the very least, you should
3018 give them a bed to sleep in. And one of the few limited
3019 protections for workers built into the H-2A program is the
3020 requirement that employers provide housing to agricultural
3021 guestworkers who are laboring on their farms.

3022 And this protection is extremely important today, given

3023 the severe shortage of sanitary, uncrowded, affordable
3024 housing for farm workers, and without employer-provided
3025 housing, foreign migrant workers face the task of arranging
3026 for temporary housing in rural communities with limited or
3027 no access to bank accounts, to capital, to credit, to
3028 language skills, to transportation, and, under this bill,
3029 even to family, to spouses, children, and other family
3030 members, who are banned from coming along.

3031 Many farm workers will end up in terrible, substandard
3032 conditions, or even homeless, but certainly living in
3033 squalor under the explicit terms of this legislation. The
3034 conditions in which farm workers live, in case you do not
3035 really care about the farm workers themselves, have
3036 implications not only for their health but also for our food
3037 safety. Farm workers who do not have basic access to
3038 sanitation needs, such as clean water, showers, bathing, and
3039 laundry facilities, cannot report to work with clean
3040 clothing and clean hands. Many foreign workers will report
3041 to work sick with communicable diseases, given the
3042 substandard conditions they will be forced into.

3043 Mr. Chairman, all that my amendment does, naively, is
3044 to propose that the current protections that are in the H-2A
3045 program for workers, which is the requirement that employers
3046 provide housing for agricultural guestworkers laboring on
3047 their farms, be carried over and applied. We would restore

3048 the room at the inn for the workers who have come here for
3049 no other reason, no other purpose than to come and work on
3050 the farms, to pick the strawberries, and to pick the
3051 zucchini, and to pick the vegetables and fruits that we
3052 depend on. If we are going to have cheap labor immigration,
3053 let's not push a good joke too far. At least let's give
3054 these people a place to sleep in. With that, I will yield
3055 back.

3056 Chairman Goodlatte. The chair thanks the gentleman and
3057 recognizes himself in opposition to the amendment. This is
3058 a problem with the current H-2A program that adds tremendous
3059 cost to this issue, because if you have a seasonal worker
3060 who is going through one area, that farmer has to provide
3061 housing to the workers. Then we move on to another; that
3062 farmer has to provide housing. And that is why you get into
3063 this overregulation by the Department of Labor, because they
3064 cannot afford to maintain very effective housing for just a
3065 few weeks out of a year that somebody is going to be occupying
3066 it. It seems to me that this is much better addressed through
3067 the free market. The laborers will be able to demand wages
3068 that will allow them to find the housing that they want that is
3069 affordable, and I think that that is much better than this
3070 requirement.

3071 Some of them, if they move from place to place, may
3072 have a motor vehicle, an R.V. or something, that they live

3073 in. There are lots of different ways that people meet their
3074 needs for housing. And for the government to be prescribing
3075 this has discouraged millions of people from having the
3076 opportunity to participate in a workable program like the H-
3077 2C program will be because the overwhelming majority of
3078 agricultural today does not use the H-2A program that
3079 mandates this.

3080 Therefore, obviously those workers find housing when
3081 they work illegally. I think it is much better that they
3082 work in this country legally under an H-2C program, and
3083 therefore, I must oppose this amendment.

3084 Ms. Lofgren. Mr. Chairman?

3085 Chairman Goodlatte. For what purpose does the
3086 gentlewoman from California seek recognition?

3087 Ms. Lofgren. I would like to strike the last word.

3088 Chairman Goodlatte. The gentlewoman is recognized for
3089 5 minutes.

3090 Ms. Lofgren. I would like to speak in favor of this
3091 amendment. You know, if you take a look, just think back to
3092 the rural areas in your State and think about how much
3093 rental housing is available in those rural areas. And you
3094 will come to grips with the fact that oftentimes, especially
3095 in rural areas, rental housing is not always very abundant,
3096 nor is it affordable.

3097 Usually landlords are going to want a long-term

3098 commitment rather than some kind of short-term, 2-week
3099 seasonal period. And so, you end up with farmworkers who
3100 are sleeping in the fields, sleeping by the side of the road
3101 without sanitation. It is not a healthy situation.

3102 The current law requires the provision of housing to H-
3103 2A and H-2B proponents. Now, I think, you know, I have
3104 sometimes heard complaints about this as well, and I think
3105 we would be well-advised to take a look at how we could make
3106 this work better. If you take a look at the associations
3107 that exist under this H-2C program, if it ever becomes law,
3108 the associations will be able to hire these people and keep
3109 them continuously employed. So, you are talking about
3110 permanent workers with no housing.

3111 It may be that we could provide a role for those
3112 associations and the provision of housing. But to say that
3113 the market is going to work is just not the case. We are
3114 talking about people who are going to be earning below the
3115 Federal minimum wage to go out and pay a premium for a
3116 short-term rental? It is not going to happen.

3117 So, I do think that this is a good amendment because it
3118 keeps us where we are today without creating the problems
3119 that would exist. And they are real. I mean, we all know
3120 about the Listeria withdrawal of vegetables that we are
3121 facing right now.

3122 I remember it was not from lack of housing because

3123 California has a very aggressive housing program. But if
3124 the fields are contaminated, you end up with contamination
3125 in the product. And I will tell you, the recall is going to
3126 cost the grower a lot more than having some housing.

3127 Now, the housing I have seen when I have gone out to
3128 farms, it is not the Ritz. I remember going to corn fields
3129 in New York and there was basically a bunk for men and
3130 another bunk for women. When I visited the strawberry
3131 fields in California, there were mobile homes that were used
3132 for farmworkers.

3133 When it comes to the H-2B program I tenured
3134 entertainment, there is usually trailers, and the employers
3135 are also in trailers. I mean, you are going, you know, city
3136 to city every third day.

3137 Mr. Raskin. Will the gentlelady --

3138 Ms. Lofgren. I would be happy to yield.

3139 Mr. Raskin. Let me ask you a question because you
3140 really are such an expert on this subject. You know, if we
3141 are invited to believe that the free market will take care
3142 of it and that these workers will find their way, either in
3143 the local housing market or in an R.V. or in a car or
3144 whatever it might be, two questions.

3145 One, does that put real burdens on the housing market?
3146 I know that there have been complaints in lots of
3147 jurisdictions, including some of the ones in my district,

3148 about the way that poor immigrants are being loaded up in
3149 apartment buildings or many being packed in because they are
3150 paying for the right to come home and fall asleep and then
3151 go spend the rest of the day working. So, that is one
3152 problem.

3153 But the other is it occurs to me if some of the housing
3154 already exists and we are going to undercut one of the few
3155 productions that exist under H-2A, is there anything that to
3156 stop an employer from saying, "Well, we have got this, you
3157 know, makeshift, rustic bunk that we have put up here. We
3158 have had to give it to people for free before."

3159 Is there anything under the legislation that would stop
3160 them from saying, "We will rent you this space and we will
3161 make a further deduction from your constantly shrinking
3162 wage?"

3163 Ms. Lofgren. No. Reclaiming my time. You are exactly
3164 right because the other provisions of the bill allow for
3165 deductions, not only for transportation but for housing.
3166 So, you could charge for what you have previously been
3167 required to provide, absolutely.

3168 But when you are talking about ag, you know, these are
3169 generally remote areas. And so, the situation you have
3170 described, yeah, I think tend to be more in urban areas
3171 where you have workers. Although, when you talk about the
3172 food processing industry, oftentimes that is close to an

3173 urban area and you would have the phenomena that you have
3174 described.

3175 I think that the amendment you have offered is the
3176 right thing to do. It is the status quo, and it may be that
3177 we can improve this. I know, years ago, there were funding
3178 for farmworker housing that actually did help. And
3179 California stepped up to that. Really everybody is better
3180 off, not only the farmers, the farmworkers, the neighbors.

3181 Honestly, the neighbors of these farms do not want
3182 homeless farmworkers sleeping by the side of the road
3183 either. And finally, the consumer who wants healthy
3184 products because there is adequate sanitation.

3185 So, it is a good amendment. I endorse it. I hope to
3186 vote for it, and I thank you for offering it. And I yield
3187 back, Mr. Chairman.

3188 Chairman Goodlatte. The question occurs on the
3189 amendment offered by the gentleman from Maryland.

3190 All those in favor respond by saying aye.

3191 Those opposed, no.

3192 In the opinion of the chair, the noes have it. The
3193 amendment is not agreed to.

3194 Ms. Lofgren. Could we have a recorded vote, Mr.
3195 Chairman?

3196 Chairman Goodlatte. Recorded vote is requested, and
3197 the clerk will call the roll.

3198 Ms. Adcock. Mr. Goodlatte?
3199 Chairman Goodlatte. No.
3200 Ms. Adcock. Mr. Goodlatte votes no.
3201 Mr. Sensenbrenner?
3202 [No response.]
3203 Mr. Smith?
3204 [No response.]
3205 Mr. Chabot?
3206 [No response.]
3207 Mr. Issa?
3208 [No response.]
3209 Mr. King?
3210 Mr. King. No.
3211 Ms. Adcock. Mr. King votes no.
3212 Mr. Franks?
3213 Mr. Franks. No.
3214 Ms. Adcock. Mr. Franks votes no.
3215 Mr. Gohmert?
3216 [No response.]
3217 Mr. Jordan?
3218 [No response.]
3219 Mr. Poe?
3220 [No response.]
3221 Mr. Marino?
3222 Mr. Marino. No.

3223 Ms. Adcock. Mr. Marino votes no.
3224 Mr. Gowdy?
3225 Mr. Gowdy. No.
3226 Ms. Adcock. Mr. Gowdy votes no.
3227 Mr. Labrador?
3228 Mr. Labrador. No.
3229 Ms. Adcock. Mr. Labrador votes no.
3230 Mr. Farenthold?
3231 Mr. Farenthold. No.
3232 Ms. Adcock. Mr. Farenthold votes no.
3233 Mr. Collins?
3234 Mr. Collins. No.
3235 Ms. Adcock. Mr. Collins votes no.
3236 Mr. DeSantis?
3237 [No response.]
3238 Mr. Buck?
3239 Mr. Buck. No.
3240 Ms. Adcock. Mr. Buck votes no.
3241 Mr. Ratcliffe?
3242 Mr. Ratcliffe. No.
3243 Ms. Adcock. Mr. Ratcliffe votes no.
3244 Mrs. Roby?
3245 Mrs. Roby. No.
3246 Ms. Adcock. Mrs. Roby votes no.
3247 Mr. Gaetz?

3248 Mr. Gaetz. No.

3249 Ms. Adcock. Mr. Gaetz votes no.

3250 Mr. Johnson of Louisiana?

3251 Chairman Goodlatte. Let me interrupt the clerk.

3252 Before members leave, if you would advise them that

3253 immediately after this vote series we will return to

3254 continue the markup.

3255 Mr. Johnson of Louisiana. No.

3256 Ms. Adcock. Mr. Johnson votes no.

3257 Mr. Biggs?

3258 [No response.]

3259 Mr. Rutherford?

3260 Mr. Rutherford. No.

3261 Ms. Adcock. Mr. Rutherford votes no.

3262 Mrs. Handel?

3263 Mrs. Handel. No.

3264 Ms. Adcock. Mrs. Handel votes no.

3265 Mr. Conyers?

3266 Mr. Conyers. Aye.

3267 Ms. Adcock. Mr. Conyers votes aye.

3268 Mr. Nadler?

3269 Mr. Nadler. Aye.

3270 Ms. Adcock. Mr. Nadler votes aye.

3271 Ms. Lofgren?

3272 Ms. Lofgren. Aye.

3273 Ms. Adcock. Ms. Lofgren votes aye.

3274 Ms. Jackson Lee?

3275 [No response.]

3276 Mr. Cohen?

3277 [No response.]

3278 Mr. Johnson of Georgia?

3279 [No response.]

3280 Mr. Deutch?

3281 [No response.]

3282 Mr. Gutierrez?

3283 [No response.]

3284 Ms. Bass?

3285 [No response.]

3286 Mr. Richmond?

3287 [No response.]

3288 Mr. Jeffries?

3289 [No response.]

3290 Mr. Cicilline?

3291 Mr. Cicilline. Aye.

3292 Ms. Adcock. Mr. Cicilline votes aye.

3293 Mr. Swalwell?

3294 [No response.]

3295 Mr. Lieu?

3296 Mr. Lieu. Aye.

3297 Ms. Adcock. Mr. Lieu votes aye.

3298 Mr. Raskin?

3299 Mr. Raskin. Aye.

3300 Ms. Adcock. Mr. Raskin votes aye.

3301 Ms. Jayapal?

3302 Ms. Jayapal. Aye.

3303 Ms. Adcock. Ms. Jayapal votes aye.

3304 Mr. Schneider?

3305 Mr. Schneider. Aye.

3306 Ms. Adcock. Mr. Schneider votes aye.

3307 Chairman Goodlatte. The gentleman from California?

3308 Mr. Issa. No.

3309 Ms. Adcock. Mr. Issa votes no.

3310 Chairman Goodlatte. The gentleman from Texas?

3311 Mr. Poe. No.

3312 Ms. Adcock. Mr. Poe votes no.

3313 Chairman Goodlatte. Has every member voted who wishes

3314 to vote? The clerk will report.

3315 Ms. Adcock. Mr. Chairman, 8 members voted aye; 17

3316 members voted no.

3317 Chairman Goodlatte. And the amendment is not agreed

3318 to. The committee will stand in recess until immediately

3319 after this series of votes.

3320 [Recess.]

3321 Mr. Collins. [Presiding.] The committee will come to

3322 order. For what purpose does the gentleman from Texas seek

3323 recognition?

3324 Mr. Farenthold. I have an amendment at the desk.

3325 Mr. Collins. The clerk will read the note.

3326 Mr. Farenthold. All right. We will find it here.

3327 Hang on.

3328 Mr. Collins. We are waiting. We are waiting. We
3329 shall return momentarily. All right, while we are waiting

3330 on the gentleman from Texas, we will go to the gentleman

3331 from Rhode Island. For what purpose do you seek

3332 recognition?

3333 Mr. Cicilline. Thank you, Mr. Chairman. I have an
3334 amendment at the desk.

3335 Mr. Collins. The clerk will read the amendment.

3336 Ms. Adcock. Amendment to the amendment in the nature
3337 of the --

3338 [The amendment of Mr. Cicilline follows:]

3339 ***** COMMITTEE INSERT *****

3340 Mr. Collins. Without objection, the reading of the
3341 amendment is waived. The gentleman from Rhode Island is
3342 recognized for 5 minutes.

3343 Mr. Cicilline. Thank you, Mr. Chairman. My amendment
3344 eliminates inappropriate tax incentives for hiring of
3345 foreign guestworkers for temporary or seasonal jobs, as well
3346 as some year-round jobs, over U.S. workers. If the
3347 Agricultural Guestworker Act is enacted, displacement of
3348 U.S. agricultural workers is all but guaranteed, given the
3349 outrageously low levels of wages in the bill.

3350 U.S. workers will also lose jobs in fields outside of
3351 the traditional agricultural sector because this bill cuts
3352 wages in industries such as forestry and logging, poultry
3353 and meat processing, fish farming, and food manufacturing.
3354 Even if they are not displaced, U.S. workers in these fields
3355 will face huge wage cuts.

3356 On top of this, the Agricultural Guestworker Act
3357 rewards some employers who hire guestworkers with tax
3358 breaks. Under the H-2A program, employers of agricultural
3359 guestworkers are currently exempt from paying the Social
3360 Security and Federal unemployment taxes on wages paid to
3361 their H-2A workers. By employing a guestworker instead of a
3362 U.S. worker, an employer will unfairly avoid paying 10
3363 percent of these tax obligations.

3364 This tax exemption creates a huge monetary incentive to

3365 hire such foreign seasonal workers over U.S. workers. I
3366 want to repeat that: This tax exemption creates a huge
3367 monetary incentive to hire such foreign seasonal workers
3368 over U.S. workers. The Agricultural Guestworker Act takes a
3369 step towards addressing the problem by requiring employers
3370 to pay an equal amount of tax money saved into a trust fund
3371 for the administration and enforcement of the newly created
3372 H-2C program.

3373 However, the requirement to pay into the trust fund
3374 does not apply to employers hiring H-2C guestworkers for
3375 temporary or seasonal jobs, nor does it apply to employers
3376 hiring H-2C guestworkers for year-round jobs in
3377 sheepherding, goat herding, and the range production of
3378 livestock. All H-2C employers should pay into the
3379 established trust fund so that employers do not receive an
3380 unfair advantage for hiring a certain H-2C worker, which
3381 would also displace U.S. workers. My amendment would remove
3382 this tax incentive by applying the bill's trust fund
3383 requirement to all companies employing H-2C workers.

3384 And as our ranking members have said, there is no
3385 question that this bill allows employers to bring in
3386 millions of new guestworkers without real wage protections
3387 and labor protections, or even the minimal protections found
3388 in other temporary worker programs. And it will certainly
3389 disadvantage U.S. workers and displace many, but at the very

3390 least, we should not create a tax incentive to achieve those
3391 terrible objectives. So, I urge my colleagues to support
3392 this amendment. And with that, I yield back.

3393 Mr. Collins. The gentleman yields back. The chair
3394 recognizes himself to speak in opposition to the amendment.

3395 The requirement that employers amount equivalent to
3396 certain Federal taxes is an additional safeguard designed to
3397 ensure that employers only hire guestworkers to fill year-
3398 round jobs as a last resort. Alternatively, there is
3399 virtually no dispute that a significant labor shortage
3400 exists with respect to seasonal agriculture. This
3401 requirement would be a significant burden for employers in
3402 those industries.

3403 Under the status quo in California and other States,
3404 farms are facing chronic employee shortages. Just
3405 yesterday, the California Farm Bureau announced the results
3406 of an informal survey of its members. The survey showed 69
3407 percent of those surveyed were experiencing labor
3408 shortfalls. Despite all of the efforts California farmers
3409 and ranchers have made to find and hire people to work on
3410 their operations, they still cannot find enough willing and
3411 qualified employees. California Farm Bureau President Paul
3412 Wenger said, "Farmers have offered higher wages, benefits,
3413 and more year-round jobs. They have tried to mechanize
3414 operations where possible, and have even changed crops or

3415 left ground idle, but employee shortages persist. The Labor
3416 Force status quo is simply unsustainable for American
3417 agriculture and I believe this amendment would continue to
3418 do harm to that."

3419 Ms. Lofgren. Mr. Chairman?

3420 Mr. Collins. The gentlelady from California?

3421 Ms. Lofgren. To strike the last word.

3422 Mr. Collins. The gentlelady from California is
3423 recognized for 5 minutes.

3424 Ms. Lofgren. I think this is a reasonable approach,
3425 and especially since the cost of administering this program
3426 is not addressed directly in the legislation. There are no
3427 additional fees that I can see provided for in the bill. It
3428 does actually provide a further disincentive to hire
3429 Americans.

3430 I think, you know, as Mr. Cicilline has pointed out, it
3431 would not solve all the other problems in the bill, but it
3432 does something useful and also provides a source of funds
3433 for administration that would be helpful and useful. And
3434 with that, unless Mr. Cicilline wants additional time, I
3435 would be happy to yield to Mr. Cicilline.

3436 Mr. Cicilline. I thank the gentlelady for yielding,
3437 and I just want to respond to the comments made in
3438 opposition to the amendment. While the general
3439 acknowledgment of a labor shortage is interesting, it does

3440 not respond to the amendment.

3441 This amendment simply is intended to prevent American
3442 taxpayers for subsidizing the loss of American jobs, and to
3443 incentivize the hiring of foreign temporary workers. That
3444 is something we should all agree on, and with that, I yield
3445 back to the gentlelady.

3446 Ms. Lofgren. Reclaiming my time, I will just say as
3447 the chair of the California Democratic Delegation and
3448 someone who meets with California ag with great frequency,
3449 there is, in fact, a labor shortage in the agricultural
3450 industry in California. This bill is not the way to fix it.
3451 I think that Mr. Gutierrez's amendment that was voted down
3452 on party-line votes would be a more sensible approach. I
3453 personally believe that this bill, if it gets out of
3454 committee, will never become law.

3455 I am hopeful that we can revisit the Ag Jobs bill. It
3456 is a bipartisan effort and has always been a bipartisan
3457 effort. So, that we can actually deal with the issue, which
3458 is real in the ag sector. And with that, I -- unless Mr.
3459 Cicilline wants additional time -- I would be happy to yield
3460 back.

3461 Mr. Collins. The gentlelady yields back. Anybody
3462 seeking further time? If not, the question is on the
3463 amendment offered by Mr. Cicilline from Rhode Island.

3464 All those in favor respond by saying aye.

3465 All opposed, no.

3466 In the opinion of the chair, the noes have it.

3467 Mr. Cicilline. Mr. Chairman, I request a recorded
3468 vote.

3469 Mr. Collins. Recorded vote is requested. The clerk
3470 will call the roll.

3471 Ms. Adcock. Mr. Goodlatte?

3472 [No response.]

3473 Mr. Sensenbrenner?

3474 [No response.]

3475 Mr. Smith?

3476 [No response.]

3477 Mr. Chabot?

3478 Mr. Chabot. No.

3479 Ms. Adcock. Mr. Chabot votes no.

3480 Mr. Issa?

3481 [No response.]

3482 Mr. King?

3483 [No response.]

3484 Mr. Franks?

3485 [No response.]

3486 Mr. Gohmert?

3487 [No response.]

3488 Mr. Jordan?

3489 [No response.]

3490 Mr. Poe?
3491 [No response.]
3492 Mr. Marino?
3493 Mr. Marino. No.
3494 Ms. Adcock. Mr. Marino votes no.
3495 Mr. Gowdy?
3496 Mr. Gowdy. No.
3497 [No response.]
3498 Mr. Labrador?
3499 [No response.]
3500 Mr. Farenthold?
3501 Mr. Farenthold. No.
3502 Ms. Adcock. Mr. Farenthold votes no.
3503 Mr. Collins?
3504 Mr. Collins. No.
3505 Ms. Adcock. Mr. Collins votes no.
3506 Mr. DeSantis?
3507 [No response.]
3508 Mr. Buck?
3509 Mr. Buck. No.
3510 Ms. Adcock. Mr. Buck votes no.
3511 Mr. Ratcliffe?
3512 [No response.]
3513 Mrs. Roby?
3514 [No response.]

3515 Mr. Gaetz?
3516 [No response.]
3517 Mr. Johnson of Louisiana?
3518 Mr. Johnson of Louisiana. No.
3519 Ms. Adcock. Mr. Johnson votes no.
3520 Mr. Biggs?
3521 Mr. Biggs. No.
3522 Ms. Adcock. Mr. Biggs votes no.
3523 Mr. Rutherford?
3524 Mr. Rutherford. No.
3525 Ms. Adcock. Mr. Rutherford votes no.
3526 Mrs. Handel?
3527 Mrs. Handel. No.
3528 Ms. Adcock. Mrs. Handel votes no.
3529 Mr. Conyers?
3530 [No response.]
3531 Mr. Nadler?
3532 Mr. Nadler. Aye.
3533 Ms. Adcock. Mr. Nadler votes aye.
3534 Ms. Lofgren?
3535 Ms. Lofgren. Aye.
3536 Ms. Adcock. Ms. Lofgren votes aye.
3537 Ms. Jackson Lee?
3538 [No response.]
3539 Mr. Cohen?

3540 [No response.]
3541 Mr. Johnson of Georgia?
3542 [No response.]
3543 Mr. Deutch?
3544 [No response.]
3545 Mr. Gutierrez?
3546 [No response.]
3547 Ms. Bass?
3548 [No response.]
3549 Mr. Richmond?
3550 [No response.]
3551 Mr. Jeffries?
3552 [No response.]
3553 Mr. Cicilline?
3554 Mr. Cicilline. Aye.
3555 Ms. Adcock. Mr. Cicilline votes aye.
3556 Mr. Swalwell?
3557 Mr. Swalwell. Aye.
3558 Ms. Adcock. Mr. Swalwell votes aye.
3559 Mr. Lieu?
3560 Mr. Lieu. Aye.
3561 Ms. Adcock. Mr. Lieu votes aye.
3562 Mr. Raskin?
3563 Mr. Raskin. Aye.
3564 Ms. Adcock. Mr. Raskin votes aye.

3565 Ms. Jayapal?

3566 Ms. Jayapal. Aye.

3567 Ms. Adcock. Ms. Jayapal votes aye.

3568 Mr. Schneider?

3569 Mr. Schneider. Aye.

3570 Ms. Adcock. Mr. Schneider votes aye.

3571 Chairman Goodlatte. And the chairman votes no.

3572 Ms. Adcock. Mr. Goodlatte votes no.

3573 Chairman Goodlatte. And the gentleman from Michigan?

3574 Mr. Conyers. Aye.

3575 Ms. Adcock. Mr. Conyers votes aye.

3576 Chairman Goodlatte. The gentleman from Florida?

3577 Mr. DeSantis. No.

3578 Ms. Adcock. Mr. DeSantis votes no.

3579 Chairman Goodlatte. The gentleman from Idaho?

3580 Mr. Labrador. No.

3581 Ms. Adcock. Mr. Labrador votes no.

3582 Chairman Goodlatte. Has every member voted who wishes

3583 to vote? The clerk will report.

3584 Ms. Adcock. Mr. Chairman, 9 members voted aye, 13

3585 members voted no.

3586 Chairman Goodlatte. And the amendment is not agreed

3587 to. For what purpose does the gentleman from Texas seek

3588 recognition?

3589 Mr. Farenthold. I have an amendment at the desk.

3590 Chairman Goodlatte. The clerk will report the
3591 amendment.

3592 Ms. Adcock. Amendment to the amendment in the nature
3593 of a substitute to H.R. 4092 offered by Mr. Farenthold. On
3594 page 2, line 20 --

3595 [The amendment of Mr. Farenthold follows:]

3596 ***** COMMITTEE INSERT *****

3597 Chairman Goodlatte. Without objection, the amendment
3598 is considered as read, and the gentleman is recognized for 5
3599 minutes on his amendment.

3600 Mr. Farenthold. Thank you, Mr. Chairman. This
3601 amendment recognizes the fundamental difference between
3602 meatpacking jobs and seasonal agricultural field workers.
3603 It is almost universally recognized that much of seasonal
3604 agricultural field labor is performed by illegal aliens,
3605 with some estimates exceeding 80 percent. Yet there are
3606 still many American workers and refugees and other legal
3607 immigrants who work in meatpacking.

3608 These jobs have historically been high-paying and
3609 continue to be so. I want to make sure that nothing in the
3610 bill could give employers an incentive to hire guestworkers
3611 over domestic meatpackers or dissuade Americans from seeking
3612 these jobs. This amendment makes sure that for those areas
3613 of the country where meatpackers are paid well above the
3614 State and Federal minimum wage, employers seeking H-2C
3615 meatpackers must pay them no less than the local prevailing
3616 wage.

3617 For example, in Boise, Idaho, the average meatpacking
3618 wage is over \$30,000. And an experienced skilled meatpacker
3619 has an average wage of almost \$36,000 a year. This wage
3620 standard is not appropriate for the totally different
3621 situation of unskilled seasonal field workers, and it is

3622 inappropriate for meatpacking jobs.

3623 In addition, this amendment provides that only entry-
3624 level meatpacking jobs are eligible for the H-2C program,
3625 the actual killing of livestock and the breakdown of their
3626 carcasses. This amendment will close the H-2C program to
3627 more skilled meatpacking work, preserving those jobs for
3628 American workers. Finally, this amendment provides if there
3629 is not enough demand each year to reach the 40,000 cap on
3630 the number of meat packers who can be granted H-2C status
3631 that year, the cap for the next year can fall below 40,000.

3632 I urge my colleagues to support this amendment which is
3633 designed to protect American meat packers and their highly-
3634 paid jobs.

3635 Chairman Goodlatte. Would the gentleman yield?

3636 Mr. Farenthold. Sure.

3637 Chairman Goodlatte. I thank the gentleman for
3638 yielding. I think this is a very good amendment, and I
3639 support it.

3640 Mr. Farenthold. Thank you.

3641 Mr. Raskin. Would the gentleman yield?

3642 Mr. Farenthold. Certainly.

3643 Mr. Raskin. The amendment also looks good to me, but I
3644 am just curious whether you would support making the exact
3645 same provisions applicable across the board within the
3646 legislation?

3647 Mr. Farenthold. Reclaiming my time, the shortage of
3648 workers is most obvious is within the seasonal agricultural
3649 workers. And this bill, in addition to the seasonal
3650 agricultural workers, includes the meat packers where there
3651 is not the same situation. So that is why I see a
3652 difference there and do not want to expand it.

3653 Mr. Raskin. If I could just ask one final -- would you
3654 support application of the same protections that you want
3655 for meat and poultry processing for the loggers?

3656 Mr. Farenthold. Again, I am trying to keep this as
3657 narrow as possible. And if that is something that you are
3658 interested in doing, that is obviously within your purview.

3659 Ms. Lofgren. Would the gentleman yield?

3660 Mr. Farenthold. Yes.

3661 Ms. Lofgren. Oh, I am sorry. It is your time.

3662 Mr. Farenthold. It is my time, but I would be happy to
3663 yield to the gentlelady from California.

3664 Ms. Lofgren. Because looking at this, it appears that
3665 we are applying the State and local minimum wage, which is
3666 115 percent of the Federal minimum. Really, the only thing
3667 that is different than the underlying bill is the prevailing
3668 wage level for the occupational classification in the area
3669 of employment which would essentially be level 1 salary data
3670 under the existing Immigration and Nationality Act. Would
3671 that be correct?

3672 Mr. Farenthold. I believe so. Yes.

3673 Ms. Lofgren. Okay. So, as I read this, it does not
3674 really deal with the underlying problem, which is that the
3675 Fair Labor Standards Act has been suspended, and you can
3676 deduct as many expenses as you can find to lower the wage
3677 below these levels.

3678 Mr. Farenthold. Reclaiming my time, the difference in
3679 this -- particularly, is these meat packing jobs are at a
3680 fixed location, typically in a more urban area than, say,
3681 agricultural workers who move around from farm to farm in
3682 far more rural areas.

3683 Ms. Lofgren. I understand that. If I could continue,
3684 if the gentleman would continue to yield. For example, in
3685 Victoria, Texas, a metropolitan statistical area, level 1
3686 wage is \$9.28 an hour, \$19,302 a year. If you deduct fees,
3687 travel to the United States, uniforms, equipment, which you
3688 can legally do under this bill, you could very easily get
3689 below the Fair Labor Standard, the Federal Minimum Wage and
3690 unfairly --

3691 Mr. Farenthold. In reclaiming my time --

3692 Ms. Lofgren. Yes, it is your time.

3693 Mr. Farenthold. I do actually represent Victoria,
3694 Texas. And the meat packers have told us that this is not
3695 going to affect how they work within the Fair Labor
3696 Standards Act. And I see I am already 10 seconds over.

3697 Ms. Lofgren. Then I will ask for time.

3698 Chairman Goodlatte. The gentlewoman from California is
3699 recognized for 5 minutes.

3700 Ms. Lofgren. I would like to strike last word. As I
3701 mentioned, and I just pick this out because it is the
3702 author's district, Victoria, Texas metropolitan statistical
3703 area. And this is from the Department of Labor Office of
3704 Foreign Labor Certification. The level 1 wage is \$9.28 an
3705 hour; 115 percent of the Federal wage is \$8.34 an hour. So,
3706 it is not that much if you go to level 1.

3707 But if you take a look at what can be deducted, it is
3708 not just the housing, if that it is an issue. But it is the
3709 tools, and the definition of meat, poultry and fish cutters,
3710 and trimmers under the regulation is they use hand or hand
3711 tools to perform routine cutting and trimming of meat,
3712 poultry, and seafood.

3713 The tools could be offset against the wage. The
3714 uniforms could be offset against the wage. The fees and the
3715 transportation to the United States could be offset against
3716 the fees to bring it below the Federal Minimum Wage,
3717 certainly below level 1 wage.

3718 Mr. Raskin. Would the gentlelady yield?

3719 Ms. Lofgren. If I could finish, I would be happy to do
3720 so. So, I understand that the gentleman wants to protect,
3721 you know, the meat cutters, but this amendment does not

3722 actually do it. And I, therefore, think it should not be
3723 supported. And I would be happy to yield to the gentleman
3724 from Maryland.

3725 Mr. Raskin. Thank you very much. That was precisely
3726 my question. If I get the import of what you are saying,
3727 the amendment appears to be intended to say that a
3728 prevailing wage would have to be paid to the new
3729 agricultural guestworkers brought in under this program.
3730 But in reality, because there can be all of these deductions
3731 of expenses made for things like tools, equipment, uniforms,
3732 transportation to and from the source country, and so on, in
3733 fact, they will end up paying a lot less because those
3734 things may not be deducted as against American workers.

3735 So if the purpose here is to actually create within the
3736 limited category of meat and poultry processing a parity
3737 between the new guestworkers and the American workers, it
3738 does not accomplish that. And it is completely illusory.
3739 Is that the point you are making?

3740 Ms. Lofgren. That is the point, Mr. Raskin. And I
3741 would like to note also that there is no prohibition in this
3742 bill, and this amendment would not change it, from firing
3743 people who have these jobs now. So, if you have somebody
3744 who is at, say, level 3 wage or level 4 wage, they are
3745 earning \$26,000 a year. You can fire them, and you can
3746 replace them with an H-2C worker who earns \$9.28 an hour

3747 less the tools, the transportation, the uniform, the
3748 equipment. And the Fair Labor Standards Act is no longer
3749 protecting.

3750 So, you could be firing \$26,000 a year people and
3751 replacing them with \$5.00 an hour people, and there is no
3752 protection against that, even with this amendment.

3753 Mr. Raskin. Would the gentlelady yield for one other
3754 question?

3755 Ms. Lofgren. I would be happy to yield.

3756 Mr. Raskin. Therefore, if we really wanted to follow
3757 through and create parity within the meat and poultry
3758 processing labor sector, what we would do is to nullify the
3759 exemption from the Fair Labor Standards Act so all of those
3760 deductions could not be made.

3761 Ms. Lofgren. Which we had an amendment to do that, as
3762 you will recall, earlier and which was defeated on a party
3763 line vote.

3764 Mr. Raskin. And I do not know, perhaps the author
3765 would yield to you or would request whether he could --

3766 Mr. Farenthold. If the gentlelady would yield, I would
3767 like a quick response.

3768 Ms. Lofgren. I would be happy to yield.

3769 Mr. Farenthold. Typically, in these first stage meat
3770 processing, the employer provides the uniform. There is a
3771 fair amount of cleaning and sanitation associated with that.

3772 And so, the requirement to buy a uniform just does not fit.
3773 And there are not typically these deductions within that
3774 industry, but it is well established that deductions from
3775 pay can bring people below minimum wage. Health insurance
3776 costs bring people below minimum wage. Federal taxes bring
3777 people below minimum wage.

3778 Ms. Lofgren. Reclaiming my time, that is actually not
3779 correct. The Fair Labor Standards Act does protect people
3780 against falling below the minimum wage, and I would also
3781 note that just because there has been a past practice in an
3782 industry does not mean that when you change the law, that
3783 practice continues. And I am going to assume that you have
3784 talked to wonderful employers in your district who have no
3785 intention of abusing their employers.

3786 We all know people like that in our districts. They
3787 are going to be competing with people who are willing to do
3788 things that they are unwilling to do. So, in the end, this
3789 is going to be a race to the bottom. And even the good
3790 employers are going to end up having to change their
3791 practices if they want to remain competitive. I think this
3792 does not fix the underlying problem. I yield back.

3793 Chairman Goodlatte. The time of the gentlewoman has
3794 expired. For what reason does the gentleman from Georgia
3795 seek recognition?

3796 Mr. Collins. Thank you, Mr. Chairman. I appreciate

3797 the chairman's interest in this bill. It is something,
3798 especially for my district which, although the gentleman
3799 from Virginia may disagree, is poultry capital of the world.
3800 We have a lot of processers. It is something we do all the
3801 time, and we are continuing. Although the processers are
3802 offering good wages and higher wages work environment, the
3803 problem is getting enough workers. We cannot do that, and
3804 it does not matter where they are at in the plan. This is
3805 not something that is affected just on the front end.

3806 I do understand the intent of the author of this
3807 amendment. I will support the amendment, but I do wish that
3808 we would continue to look ahead at the issues that are being
3809 faced by these industries. And, you know, the chairman has
3810 done good work here. I will support the chairman in his
3811 support of this, but I also believe that there is still a
3812 need to look at this as we go further, not just limiting it
3813 to a certain segment. But I will support the gentleman's
3814 amendment.

3815 Chairman Goodlatte. Would the gentleman yield?

3816 Mr. Collins. I will.

3817 Chairman Goodlatte. I thank the gentleman for
3818 yielding. First of all, I do share the gentleman's
3819 concerns, but I also think that this has been carefully
3820 vetted. But I just want to respond to a couple things that
3821 have been alleged on the other side.

3822 First of all, that employers could fire workers and
3823 then hire people under this program. That is a violation of
3824 current law, and it will be a violation of the law under the
3825 new H-2C program where the employer has to certify that they
3826 cannot find U.S. citizens to fill the job. So, that is not
3827 correct.

3828 And then secondly, these are jobs that pay considerably
3829 above the minimum wage, and they still cannot find workers
3830 for these two positions which, by the way, this amendment
3831 narrows to those two positions: working on the kill floor
3832 and for the breakdown or the separation of the carcasses. I
3833 mean, just the description of those jobs indicates how hard
3834 it would be to find workers to fill these positions.

3835 So, the pay is going to be substantially higher, and
3836 these numbers that the gentleman from Texas has included
3837 here are the minimum. The prevailing wage is going to well,
3838 well, well above the minimum wage in almost every
3839 circumstance. And even if it costs the worker to travel
3840 here, these are jobs that are basically all year long.

3841 They will have to touch back in their home country
3842 periodically, but that is not something that is going to
3843 drive these wages anywhere near the minimum wage. So, I
3844 thank the gentleman for offering the amendment because I
3845 think it is in just right spirit. And as I indicated
3846 earlier, I support it.

3847 But I will also work with the gentleman from Georgia to
3848 make sure that this bill accomplishes its goal, which is to
3849 make sure we have the workers to keep these industries in
3850 the United States because the industries employ hundreds of
3851 thousands if not millions of Americans, not only in these
3852 very facilities that we are talking about and on farms but
3853 also in all of the further processing plants that are not
3854 covered by this bill.

3855 So, for example, if you have a poultry operation, and
3856 you make chicken nuggets at your plant, you cannot hire
3857 these workers because that is further processing. And now
3858 with the gentleman from Texas' limitation, it has clearly
3859 narrowed the area of offering these jobs to the area where
3860 there truly is the greatest shortage of finding workers.

3861 So, I commend the gentleman, and I --

3862 Mr. Collins. Mr. Chairman, reclaiming my time.

3863 Chairman Goodlatte. Yes, sir.

3864 Mr. Collins. The question, and I understand that and
3865 like I said I am going to support this amendment, although
3866 with some concerns because there is some concern on what is
3867 considered stage 1 and stage 2 in the poultry evisceration
3868 and in killing or carcass separation. So, I just want to
3869 make sure that we are not having something that flows into
3870 what would be considered under a different section and
3871 taking this out from that.

3872 Chairman Goodlatte. We will work with you to make sure

3873 --

3874 Mr. Collins. With that, I yield back.

3875 Chairman Goodlatte. All raw food processing has that
3876 carefully considered. For what purpose does the gentleman
3877 from Rhode Island seek recognition?

3878 Mr. Cicilline. I move to strike the last word.

3879 Chairman Goodlatte. The gentleman is recognized for 5
3880 minutes.

3881 Mr. Cicilline. I strongly oppose the amendment for the
3882 very eloquent arguments advanced by the gentlelady from
3883 California and the gentleman from Maryland, and I regret
3884 that the earlier amendment which would have addressed this
3885 issue in a more constructive way was defeated along party
3886 lines. And with that, I yield the balance of my time to the
3887 gentlelady from California.

3888 Ms. Lofgren. I do not need 5 minutes. I will just
3889 point out that if you take a look at page 3 of the Manager's
3890 Amendment, definitions line 4, displace: "The term displace
3891 means to lay off a United States worker from a job for which
3892 H-2C workers are sought. Job refers to all positions with
3893 an employer that a) involve essentially the same
3894 responsibilities and are held by workers with substantially
3895 equivalent qualifications and experience."

3896 The point I was making earlier was level 4 wages are

3897 \$26,000 a year. You could under this bill fire the level 4
3898 wage employees and replace them with level 1 wage H-2C
3899 employees, and then because of the other provisions, and I
3900 will not be go through it again, when you offset the costs,
3901 you could end up with a sub-minimum wage foreign employee
3902 replacing the level 4 wage earner. I do not think that is
3903 what we should be doing, and this amendment would not solve
3904 that problem, which is embedded in the bill itself. So, I
3905 would return the time to Mr. Cicilline with thanks for his
3906 yielding to me. Then I will yield back, Mr. Chairman.

3907 Ms. Jayapal. Mr. Chairman?

3908 Chairman Goodlatte. For what purpose does the
3909 gentlewoman from Washington seek recognition?

3910 Ms. Jayapal. I move to strike the last word.

3911 Chairman Goodlatte. The gentlewoman is recognized for
3912 five minutes.

3913 Ms. Jayapal. Thank you, Mr. Chairman. I just want to
3914 recognize that I think Mr. Farenthold is trying to make sure
3915 that we protect workers in this industry, and I too have an
3916 amendment that I am not sure if I will offer only because I
3917 am not sure -- none of our amendments seem to ever get votes
3918 from the other side even if they are reasonable.

3919 But in the meat and poultry processing industry, even
3920 though you have addressed this a little bit, you still are
3921 going to end up -- I mean, if you look at how much these

3922 workers are making, butchers and meat cutters on average
3923 \$15.26 per hour, miscellaneous food processing workers
3924 \$14.86 an hour, going up to \$20.00 an hour in some places,
3925 you are still going to undercut those jobs dramatically.

3926 So, my amendment would actually say let's exempt meat
3927 and poultry industry workers from this bill so that we can
3928 make sure that in those industries we do not see a decrease
3929 in wages. And I wanted to just echo the labor shortage
3930 argument that Ms. Lofgren has been making, which is that all
3931 you have to do to recruit U.S. workers at this deflated --
3932 employers just have to recruit U.S. workers at this deflated
3933 rate, which through your amendment is a little bit higher
3934 than before, but still significantly below -- otherwise, you
3935 can artificially declare a labor shortage if U.S. workers
3936 fail to apply for that lower rate.

3937 And so, that would empower employers to bring in dozens
3938 of workers to replace those American workers at those
3939 artificially low wages. And so, because I am so thrilled
3940 that there is actually an amendment that is trying to
3941 respond to some of the issues in the bill, I just want to
3942 say thank you for offering it. I do not think it does what
3943 you want it to do.

3944 And maybe I will offer my amendment and ask for your
3945 support in protecting those workers in these different
3946 industries because according to the Bureau of Labor

3947 Statistics, just to point out some of the workers in States
3948 that my colleagues across the aisle represent: Alabama,
3949 Florida, Georgia, and Texas have some of the largest numbers
3950 of people employed in the meat and poultry industries.

3951 That is 17,690 Texans, 14,890 Georgians, 13,850
3952 Floridians, and 14,890 Georgians. And Gainesville, Georgia,
3953 in Mr. Collins' district has the highest concentration of
3954 workers employed in the meat, poultry, and fish cutters and
3955 trimmers industry with 2,510 of his constituents working in
3956 this field. So, I hope that --

3957 Mr. Collins. Will the gentlelady yield?

3958 Ms. Jayapal. I would.

3959 Mr. Collins. Thank you. Also, we also have a chronic
3960 shortage of workers in our poultry processing plants. I
3961 have constituents who have worked there and worked there for
3962 many years, but we have a constant shortage that also puts
3963 my workers in jeopardy because if they have to slow down the
3964 plant or they cannot process, then they are not working.
3965 This is something that needs to be addressed.

3966 I appreciate you bringing it out, and this is why we
3967 are supporting the amendment. And, you know, I think this
3968 is why we are dealing with this. And it is not about
3969 protection. It is about issuing these jobs and getting
3970 workers into these plants and taking care of it. If we had
3971 everybody there was filling these jobs, American workers

3972 filling these jobs, then this bill would not even be
3973 necessary. It is necessary because we do not have those
3974 jobs.

3975 Ms. Jayapal. Thank you. Reclaiming my time, what I
3976 would just say is that there is a way to address this that
3977 allows for workers to come in without depressing the wages
3978 of existing workers, and that is the question that we are
3979 talking about. It is not whether or not we need workers. I
3980 think our side has been saying consistently that --

3981 Mr. Raskin. Would the gentlelady yield?

3982 Ms. Jayapal. No, I would not. The U.S. economy
3983 requires the labor of immigrant workers, and we should
3984 provide an appropriate way for those workers to come into
3985 the country, to be here legally, and to get the rights that
3986 they deserve. And so, what I would say is that we do not
3987 disagree. In fact, we are thrilled to hear you say that we
3988 need these workers.

3989 We have been trying to say that for a long time, but
3990 what we are saying is let's not bring them in and depress
3991 the wages of workers that are currently in that industry.
3992 And I think that Mr. Farenthold's amendment is somewhat
3993 recognizing that that is what this bill does, and that is
3994 why it is attempting to set a slightly higher wage except it
3995 does not achieve the end result that it seeks to achieve.
3996 And I will yield to my colleague from Maryland.

3997 Mr. Raskin. Thank you so much. That is illuminating,
3998 and I would like to ask you this question: If it is so
3999 difficult to do these jobs and there are labor shortages,
4000 why are we cutting the minimum wage, and why are we reducing
4001 the benefits and protections for people in order to induce
4002 them to take the jobs?

4003 Ms. Jayapal. Well, I think that is an excellent
4004 question, and I cannot remember if it was Mr. Nadler that
4005 spoke to the idea of a free market which has been raised
4006 many times by the other side --

4007 Chairman Goodlatte. The time of the gentlewoman has
4008 expired. For what purpose does the gentleman from Florida
4009 seek recognition?

4010 Mr. DeSantis. Strike the last word.

4011 Chairman Goodlatte. The gentleman is recognized for 5
4012 minutes.

4013 Mr. DeSantis. I would like to yield as much time as he
4014 may consume to my friend from Georgia, Mr. Collins.

4015 Mr. Collins. I appreciate it. I just want to continue
4016 this for another moment. I do not think the worry here is
4017 depressing wages. The wages will continue to be there
4018 because you are not going to lose workers, and we do not
4019 have that many folks coming in to take these jobs anyway.
4020 And by the way, we have been talking about this for a while,
4021 and it is not the first of joining you and looking at this.

4022 We have been talking about it for a while as well. So, at
4023 this point, I would just move the question, and let's move
4024 on. I yield back.

4025 Mr. DeSantis. And I yield back the balance of my time.
4026 Chairman Goodlatte. For what purpose does the
4027 gentleman from Texas seek recognition?

4028 Mr. Poe. I move to strike the last word.

4029 Chairman Goodlatte. The gentleman is recognized for 5
4030 minutes.

4031 Mr. Poe. Thank you, Mr. Chairman. I thank Mr.
4032 Farenthold for this legislation. During this debate, the
4033 other side has talked about slavery, indentured servants,
4034 and even the word was mentioned about sharecropper. Let me
4035 tell the gentleman from Georgia something. My grandmother,
4036 when she was a child, her family were sharecroppers. That
4037 is what they did. They did not own the land. They just
4038 worked the land, and their payment was usually the food.

4039 And I appreciate my grandmother and her family going
4040 through that process even before the Depression started, but
4041 times changed and people were able to get off of that type
4042 of living, Americans living. And I somewhat resent the
4043 connotation that those were inferior people who were
4044 sharecroppers in the United States.

4045 Saying that, this legislation of Mr. Farenthold -- we
4046 are both from Texas. We believe in strong border security,

4047 but we understand the reality of workers. And I have told
4048 some of my friends who continue to say Americans will take
4049 jobs. Well, you know, that is just not true. It is a fact
4050 that there are some jobs Americans will not do. I will give
4051 you one example. It is not involved in this, but I live in
4052 Houston, Texas. I doubt if there is a person in this room
4053 who would work on a roof in August for \$100,000.

4054 There are lot of reasons for that. One, I do not think
4055 anyone in this room is qualified to do roofing. And second,
4056 they just will not do it. They will figure out some other
4057 way to support their families. And I do not know what that
4058 says about people in the United States, but it is just a
4059 truism. Then we have this situation where we need workers.
4060 Nobody is forcing people to take these jobs. This is not
4061 slavery. People do not have to take the jobs that we are
4062 talking about today. They can turn them down.

4063 And so, I just wanted to mention that, Mr. Chairman, in
4064 the debate here. I support the legislation. I appreciate
4065 Mr. Farenthold for bringing it up and the chairman in his
4066 original bill. Thank you.

4067 Mr. Nadler. Mr. Chairman?

4068 Chairman Goodlatte. For what purpose does the
4069 gentleman from New York seek recognition?

4070 Mr. Nadler. I move to strike the last word.

4071 Chairman Goodlatte. The gentleman is recognized for 5

4072 minutes.

4073 Mr. Nadler. Mr. Chairman, the chairman said earlier
4074 that this bill had considerable support. I am not aware of
4075 many groups that do support it. I would like to know. I do
4076 not think it has much industry support either. And having
4077 made that observation, I yield to the gentlelady from
4078 California.

4079 Ms. Lofgren. Thank you, Mr. Nadler. I have a lot of
4080 respect. I do not always agree with Mr. Poe, the gentleman
4081 from Texas, but we work together on a lot of things. And I
4082 think he knows I like him, and I respect him. And it made
4083 me feel bad to think that he felt that there was any kind of
4084 insult to his family or to a class of people. That is
4085 definitely not the case, and I just thought it was important
4086 to say that.

4087 I have ancestors that were treated unfairly
4088 economically, and that is what they had to go through, and
4089 they did the best they could, and I admire what they went
4090 through. But I want to make sure that people in America
4091 today get a better shake than my grandfather did, honestly.
4092 And that is not a negative about my grandfather, far from
4093 it. I admire him enormously.

4094 Mr. Poe. Will the gentlelady yield just --

4095 Ms. Lofgren. I would be happy to yield.

4096 Mr. Poe. I thank her for her comments. I appreciate

4097 you saying that. Thank you.

4098 Ms. Lofgren. Thank you. And we may disagree on this
4099 bill, but I just thought it was important to say that. And
4100 I yield back.

4101 Mr. Johnson of Georgia. Will the gentlelady yield?

4102 Ms. Lofgren. Yes, to --

4103 Mr. Johnson of Georgia. Thank you. People treated
4104 unfairly, poor whites treated unfairly in a sharecropping
4105 system, certainly they were treated unfairly, but in no way
4106 can it relate to how black folks were treated in terms of
4107 American sharecropping after slavery was ended and after and
4108 during the period of Jim Crow after Reconstruction because
4109 sharecropping was a legacy of a racist slavery system. And
4110 slavery was about black folks being subhuman.

4111 Poor white folks were never treated as subhumans in a
4112 sharecropping system, but black folks in sharecropping were
4113 which is what I can relate to how we are going to treat the
4114 sharecroppers who come to the U.S. pursuant to this new
4115 system under this legislation, which deprives them of the
4116 rights of being a person working here in this country. They
4117 may not be citizens, but you put them in a second-class
4118 status. And it is almost dehumanizing what will happen to
4119 them. Now, you give them an opportunity to come here, but
4120 you do not give them an opportunity, a pathway, towards any
4121 future. And you lay the groundwork for a system where they

4122 might be barred from leaving. And with that, I will yield
4123 back.

4124 Ms. Lofgren. I just think we can take judicial notice,
4125 all of us, of the fact that there was nothing worse than
4126 slavery in the American history. So, I do not think we need
4127 to have an argument about that at all. I mentioned kind of
4128 indentured status because people who are brought over into
4129 this program would have the chance to disappear into the
4130 woodwork. If they stayed, they would be paid almost
4131 nothing. They could barely live.

4132 I have strong disagreements with this bill for the
4133 reasons that we have outlined at great length, but I did
4134 want to make sure that -- and I accept Mr. Poe's comment
4135 that nobody is trying to insult anybody's family. And I
4136 yield back the time to --

4137 Mr. Nadler. Mr. Chairman? Thank you, and I just want
4138 to make one observation in seconding what Ms. Lofgren and
4139 Mr. Johnson said. We have spent much of the day debating
4140 the aspect of this bill which would, in our opinion, bid
4141 down wages of Americans and use foreign workers to degrade
4142 the wages and the working conditions of Americans. And that
4143 is true, and it is one problem with the bill.

4144 But the other problem with the bill, which we have not
4145 mentioned too much, is that the status of the people who
4146 will be brought here will be permanently second-class or

4147 third-class or fourth-class without an opportunity to become
4148 permanent citizens, without an opportunity to live here,
4149 having to go back, and always being in a position of
4150 economic servitude.

4151 So, it is a terrible thing to dehumanize people from
4152 another country, Mexico in this case most of the time, as
4153 well as to use them to pit one class of exploited people to
4154 make them agents of exploitation of another class of people
4155 who will now be exploited, namely current American workers.
4156 I yield back.

4157 Mr. Nadler. Mr. Chairman?

4158 Chairman Goodlatte. Before I recognize anybody else, I
4159 want to just advise the members of the planning for the rest
4160 of the day. At about 3:50, maybe a little sooner, we are
4161 going to have a bill on the floor of the House. And,
4162 therefore, the committee will stand in recess until after
4163 that bill's general debate amendments are considered and
4164 then voted upon. And then we will return to the committee
4165 to complete this bill and the E-Verify bill. So, we will go
4166 as late tonight as necessary to complete both of those
4167 bills. So, I will now ask the gentleman from California for
4168 what purpose he seeks recognition.

4169 Mr. Issa. I move to strike the last word.

4170 Chairman Goodlatte. The gentleman is recognized for 5
4171 minutes.

4172 Mr. Issa. Mr. Chairman, in addition to the short
4173 statement, I would like to enter into a colloquy with you to
4174 get an understanding because there have been so many things
4175 said that are either wrong on the other side or need
4176 clarification. First of all, this bill is substantially
4177 replacing the H-2A Program, is it not?

4178 Chairman Goodlatte. That is correct.

4179 Mr. Issa. And the H-2A is a permanent nonimmigrant
4180 visa program. So, if I understand correctly, in no way are
4181 we changing the status. The people who choose to come here
4182 as guestworkers are choosing not an immigration path but, in
4183 fact, to come here as guestworkers. Is not that true?

4184 Chairman Goodlatte. That is absolutely true.

4185 Mr. Issa. Secondly, there are a number of provisions
4186 in the bill that I have researched based on perhaps my
4187 wanting not to be naïve that deal with limitations on the
4188 Fair Labor Act. And one of them specifically says that we
4189 are waiving the act for purposes of holding back 10 percent
4190 of the wages until the person leaves the country. And it
4191 was necessary to waive that because otherwise that would not
4192 be allowed under the law. Is that correct?

4193 Chairman Goodlatte. That is correct.

4194 Mr. Issa. So that is a reasonable waiver that I hope
4195 both sides would understand that the tradition of temporary
4196 labor is that you do create an incentive to eventually

4197 return. Additionally, there is some language about
4198 healthcare deductions, which, of course, U.S. citizens also
4199 would have.

4200 As a U.S. citizen, if an employer provides health care
4201 and there is a, let's say, 20 percent that I have to pay to
4202 have it, that would normally be deducted. And it could drop
4203 you below minimum wage from a standpoint of you receive
4204 minimum wage. You are taxed on or above minimum wage, but
4205 then there is a deduction for health care which happens in
4206 the ordinary course for all Americans. Is not that true?

4207 Chairman Goodlatte. That is correct.

4208 Mr. Issa. And so, I would suggest to the chairman that
4209 as we go through the technical changes, that we may in no
4210 way, shape, or form have to waive that provision for
4211 healthcare because we are treating, as far as I can tell,
4212 this guestworker program, we are treating them with the
4213 exception of 10 percent holdback in every, way, shape, and
4214 form exactly as the U.S. citizen who may be working beside
4215 them is treated.

4216 Chairman Goodlatte. I think that is true. If the
4217 gentleman would continue to yield, with regard to the health
4218 care, that is not necessarily going to be it has to be
4219 provided by the worker. If the employer chooses to provide
4220 that, that can be done. But if it is going to be provided
4221 by the worker, the worker could arrange a number of

4222 different ways. And it is not the same as the mandate under
4223 Obamacare. But you are absolutely correct that American
4224 citizens have that mandate.

4225 Mr. Issa. So, and the employer as I understand, of
4226 course, would have to provide workers' comp and those other
4227 insurances that other workers have. This is only the
4228 healthcare mandate under the Affordable Care Act. The
4229 employee in this case being a non-U.S. person would have to
4230 provide it, correct?

4231 Chairman Goodlatte. That is correct.

4232 Mr. Issa. So, the assurance I would like to receive
4233 from the chairman for any other technical provisions that
4234 the minority or others may discover is that you would work
4235 with all of us to make sure before the bill goes to the
4236 floor, that it would be fair to say with the exception of
4237 those provisions that we would not be waiving any treatment
4238 that would not be the same, let's say, for Darryl Issa who
4239 is coming from California to work in North Carolina for that
4240 person that the only things that would be deductible would
4241 be things which would be contractually deductible with any
4242 person seeking a job.

4243 Chairman Goodlatte. I would be willing to work with
4244 the gentleman, but there are things that U.S. workers are
4245 entitled to that a guestworker may not be entitled to. For
4246 example, the Earned Income Tax Credit. So, I certainly

4247 understand the spirit of what the gentleman is intending,
4248 but I would not want to give an encompassing answer to that
4249 other than to say I will work with you to try to address the
4250 interests you have in that aspect of the bill.

4251 Mr. Issa. Because I believe, and I am going to yield
4252 to the gentlelady from California if I may, but I believe
4253 that the spirit of what we are trying to achieve and from
4254 what I have read in the language is, in fact, to in no way
4255 allow for any other unfair treatment of these guestworkers.

4256 And to the greatest extent possible -- with the
4257 exception of the obvious differences of someone coming from
4258 another country, the holdback and so on, and as you said,
4259 not being eligible for the Earned Income Tax Credit -- that
4260 we would treat these people with the same normal rights that
4261 any other worker would have.

4262 Because I think the minority has made a point. And I
4263 would like to have us carefully make sure that in all cases
4264 we provide no second-class citizen -- I know they are not
4265 citizens -- requirement, but I think we can achieve it. I
4266 think you are agreeing to it. Ms. Lofgren, you wanted me to
4267 yield?

4268 Ms. Lofgren. Yes. I just wanted to make two points on
4269 this. First, it is true that Americans may be required to
4270 get healthcare insurance, but they also get subsidies and
4271 tax credits, which these individuals are not eligible for

4272 which brings the wage down. And then I would like to draw
4273 your attention to page 17 because the lead case, Arriaga v.
4274 Florida Pacific Farms basically says you cannot charge
4275 employees for stuff unless the stuff benefits them.

4276 What we have done in this bill is to make a
4277 determination that anything is equal; and, therefore, you
4278 can charge. And that is very different than American
4279 workers.

4280 Mr. Issa. And if I could ask unanimous consent for an
4281 additional minute, Mr. Chairman.

4282 Chairman Goodlatte. Without objection, the gentleman
4283 is recognized for an additional 2 minutes since one of those
4284 is almost gone.

4285 Mr. Issa. Thank you, Mr. Chairman. You know, I share
4286 with the gentlelady that the language of the bill needs to
4287 be refined to ensure that what is reasonable for the
4288 employer to pay, the employer pays. For example, from the
4289 time I get to the jobsite to the time I get to the field and
4290 transported around, those are for the benefit of the
4291 employer. And there is a lot of case law there.

4292 I would share with the gentlelady that when looking
4293 over the combination of regulations by the last two
4294 administrations and these court cases, I would say that
4295 notwithstanding the guestworker, it is a fairly muddy area
4296 of the law that I think the gentlelady rightfully so would

4297 make the point that probably we and other committees of the
4298 Congress should clarify.

4299 I think the important thing here is that that which is
4300 in the employer's best interest clearly and limited, for
4301 example, a meat worker who comes to a plant and has to put a
4302 uniform on at the plant for purposes of working and then
4303 take it off when they leave, that is clearly to the
4304 employer's benefit. And I certainly want to make sure that
4305 this is a good bill, but it could be a better bill if it
4306 clarifies those areas.

4307 Ms. Lofgren. If the gentleman would further yield, the
4308 bill does clarify that. It says in that case, if you look
4309 on page 17, that the determination is that such matters
4310 mutually benefit the worker and employer and, therefore, can
4311 be charged against the worker. So, it clears up the
4312 ambiguity, but, in a way, I think is quite unreasonable.

4313 Mr. Issa. Reclaiming my time briefly, I agree with the
4314 gentlelady that those statements, although intended to deal
4315 with some ambiguity and regulations in law, create the
4316 additional ambiguity that if I am a meat slaughterhouse, and
4317 I put a uniform on to work and take it off when I leave,
4318 that is not the same as something I can wear at home. And,
4319 therefore, it clearly would in that case benefit only the
4320 employer. So, I fully agree that those things which are
4321 substantially to the benefit of the employer such as taking

4322 me from the side of the road to the work site and so on.

4323 So, I will work with the gentlelady both now and
4324 afterwards and with the chairman because I do think we want
4325 to make that clearer. And I yield back.

4326 Chairman Goodlatte. The chair thanks the gentleman.

4327 Ms. Jackson Lee. Mr. Chairman?

4328 Chairman Goodlatte. For what purpose does the
4329 gentlewoman from Texas seek recognition?

4330 Ms. Jackson Lee. I know that we are ending, and I just
4331 wanted to indicate that as some comment has been that this
4332 is a better bill or better structure, I want to counter that
4333 and find this bill particularly disturbing. In a number of
4334 the amendments that we attempted to place for an improvement
4335 of the bill, one in particular about simple access to legal
4336 aid which certainly is not catastrophic, the question of how
4337 workers will be replaced, and really the crux of the bill
4338 that indicates that the guestworkers would not only come to
4339 work on farms, this is a debate that we are having about
4340 American workers who are in meat packing industries and
4341 poultry processing. We know them very well. We engage with
4342 them very well in many areas in the south and beyond.

4343 These people are hardworking. It is a brutal business.
4344 They suffer injuries. But they are American workers, just
4345 as I know it is hot in Houston, and there are probably a lot
4346 of American that would not want to be on a hot roof. But

4347 then again, without a detailed survey, we probably would
4348 find some Americans on that roof only to provide for their
4349 family.

4350 So, this bill in particular has that impact, and there
4351 is not any orderliness to it. The bill uses a new and
4352 extremely broad definition of agriculture, which again
4353 includes the meat and poultry processing. And it is in
4354 particular, although certain temporary or seasonal jobs in
4355 this sector may currently be found on the H-2B workers, the
4356 new program would cover year-round work.

4357 So, I just want to conclude on this note. I think we
4358 could have answered the call of the farmers. We could have
4359 dealt with these workers, providing them decent benefits and
4360 respect for that they do. Producing food is a lifeline. It
4361 is vital work. And I think we should be treating those, no
4362 matter whether they are Americans or undocumented or
4363 individuals under the particular visa program, with decency
4364 and dignity. With that, I yield.

4365 Mr. Raskin. Would the gentlelady yield?

4366 Ms. Jackson Lee. I would be happy to yield to the
4367 gentleman.

4368 Mr. Raskin. Thank you very much. And I wanted to
4369 follow up on something you just said because something has
4370 been bugging me since a series of arguments were made that
4371 the legislation before us vindicates the free market. And

4372 yet the argument was made, but it is hard to get people to
4373 do roofing in 100-degree weather in the hills of Texas or
4374 Dallas or Houston or what have you. But the market has a
4375 solution for that which is you pay people more to go out
4376 there and do it.

4377 But what we seem to have is certain industries that are
4378 saying we do not want to pay American workers more. We want
4379 to import guest labor at subminimum wages with subminimum
4380 standards. Well, what does that have to do with the free
4381 market? In other places, we say if you are having a hard
4382 time getting someone being a roofer for \$20, you pay them
4383 \$50 or you pay them \$75. That is how you do it. So, it is
4384 not about the free market.

4385 Then we were just invited to believe by Mr. Issa that
4386 the legislation says that except for the 10 percent
4387 withholding, the holdback, we are treating them, and I think
4388 I got this verbatim, we are treating them exactly the same
4389 way as the American workers next to them.

4390 But, in fact, that runs contrary to the whole purpose
4391 of the legislation which is to create a different subminimum
4392 wage to allow for the withholding of all kinds of expenses
4393 that could never be withheld against American workers; to
4394 deny people access to legal aid lawyers; to forbid them to
4395 go to courts to vindicate the few rights they have left to
4396 them; to force them into mediation and corporate

4397 arbitration. It is exactly the reverse.

4398 We are creating a subclass, a subclass of guestworkers
4399 who come in who have none of the rights that American
4400 workers get. And why not just say the Fair Labor Standards
4401 Act applies? It was passed in 1938 to say that all American
4402 workers should be able to make a decent wage, a minimum
4403 wage, be paid time and a half for overtime. Why would we do
4404 this to our own American workers: undermine their living
4405 standards, their working standards, exert a downward
4406 pressure on their wages, and create this new class of people
4407 who are basically without any rights at all?

4408 And I am very happy to stand by the characterization of
4409 this as akin to indentured servitude except indentured
4410 servants were given housing, and these people are not given
4411 housing. They are being thrown to the curb or the R.V. or
4412 the car or what have you. I yield back.

4413 Ms. Jackson Lee. I just want to conclude by saying we
4414 could rename the bill a number of things that were not
4415 unpleasant in America's history, from indentured servant to
4416 sharecroppers to people that are without organizing rights
4417 or legal rights or human rights. But we are hoping that we
4418 can find common ground. I know the Senate will be looking
4419 at legislation, and we hope we can get to the point where we
4420 work with the industry for it is providing food to the world
4421 and to America. And we hope that we can have a place for

4422 American workers and others. I yield back.

4423 Chairman Goodlatte. The time of the gentlewoman has
4424 expired.

4425 Mr. Johnson of Georgia. Mr. Chairman?

4426 Chairman Goodlatte. For what purpose does the
4427 gentleman from Georgia seek recognition?

4428 Mr. Johnson of Georgia. I move to strike the last
4429 word.

4430 Chairman Goodlatte. The gentleman is recognized for 5
4431 minutes.

4432 Mr. Johnson of Georgia. This is a system, this H-2C
4433 system, is like the system that it replaces in that it does
4434 not offer permanency to those who come in under it. But
4435 this piece of legislation takes it to the next level. It
4436 creates a system where the individual who is attracted to
4437 America would be forced to return to their homeland in
4438 either 18 or 36 months, whatever the particular case might
4439 be.

4440 But during that 18 or 36 months while the person is
4441 here, this H-2C process does not mandate that that worker is
4442 covered under workers' comp protection. It just leaves it
4443 up to State law, and I would say that most States do not
4444 provide workers' comp protection for agricultural workers.

4445 So, I do not want that to be something that is
4446 mischaracterized about this legislation that we are

4447 considering. And I would say that as far as the 10 percent
4448 incentive to leave, in other words, we are going to withhold
4449 10 percent of your, not net, but your gross pay. And from
4450 that gross pay, you are also going to deduct the cost of
4451 sometimes housing, transportation. It can be food. It is
4452 going to be health insurance. And you are setting up a
4453 situation where at the end of the pay period, there is not
4454 going to be any money owed to the worker.

4455 In fact, the worker will owe to the company or to the
4456 association or to the farmer. The worker will actually owe
4457 money. And so, with the requirement that that worker have
4458 to leave within 18 or 36 months, if their bill is not
4459 cleared up by that worker within that time, that worker
4460 could be prosecuted for theft of some type. And under the
4461 13th Amendment where you cannot be held in indentured
4462 servitude, but you certainly can be held to work off your
4463 debt.

4464 And so, the bill is opening up a drastic scenario of
4465 possibilities. I am not saying that it will happen, but I
4466 am saying that you are opening the door for bad things to
4467 happen to people who do not have rights, who cannot go to
4468 court according to this legislation to sue, who have no
4469 voice. And they are in a prime situation to be mistreated
4470 and abused, and we should not be walking down this road in
4471 America in 2017. And with that, I will yield back.

4472 Chairman Goodlatte. The question occurs on the
4473 amendment offered by the gentleman from Texas.

4474 All those in favor respond by saying aye.

4475 Those opposed, no.

4476 In the opinion of the chair, the ayes have it. The
4477 amendment is agreed to. Are there further amendments to
4478 H.R. 4092?

4479 For what purpose does the gentleman from Florida seek
4480 recognition?

4481 Mr. DeSantis. I have an amendment at the desk.

4482 Chairman Goodlatte. The clerk will report the
4483 amendment.

4484 Ms. Adcock. Amendment to the Labrador Amendment in the
4485 nature of a substitute to H.R. 4019 offered by Mr. DeSantis.

4486 Page --

4487 [The amendment of Mr. DeSantis follows:]

4488 ***** COMMITTEE INSERT *****

4489 Chairman Goodlatte. Without objection, the amendment
4490 is considered as read. And the gentleman is recognized for
4491 5 minutes on his amendment.

4492 Mr. DeSantis. Mr. Chairman, over the years this
4493 committee in particular has discussed the importance of
4494 linking any type of agriculture worker program with a
4495 mandatory E-Verify. And a lot of members and constituents
4496 have a concern that if you do something on the ag side, but
4497 then somehow E-Verify just seems to disappear into the
4498 ether. And the American people never get the E-Verify
4499 system that they want.

4500 So, what this amendment does is it ties the initiatives
4501 together so the provisions of the Ag Act would not go into
4502 effect until a mandatory E-Verify requirement such as
4503 contained in the legislation offered by my friend from
4504 Texas, Lamar Smith, to which this committee will consider
4505 later today is actually enacted, signed into law by the
4506 President.

4507 Such an amendment is prudent to ensure that all
4508 employers are on a level playing field with regard to their
4509 workforce. And, obviously, the American people, after years
4510 and years and years of tolerating a lot of illegal
4511 employment, they want a legal workforce. And this is the
4512 way to do it. And I yield back the balance of my time.

4513 Chairman Goodlatte. If the gentleman would yield.

4514 Mr. DeSantis. Yes. I yield to the chairman.

4515 Chairman Goodlatte. I thank the gentleman for
4516 yielding, and I thank him for his amendment. I think it is
4517 an excellent amendment and accomplishes something that I
4518 think is a reality anyway and that is that the fact of the
4519 matter is we have to have an electronic verification of
4520 employment system to make sure that an ag guestworker
4521 program, and every other area of employment, protects
4522 American workers.

4523 At the same time, when we do that, history has shown
4524 that there is going to be a shortage of workers in
4525 agriculture. And, therefore, we need this Ag Act. So, I
4526 thank the gentleman for tying the two together in a
4527 conclusive way that I think makes sure that one does not
4528 happen without the other. I yield back.

4529 Ms. Lofgren. Mr. Chairman?

4530 Chairman Goodlatte. For what purpose does the
4531 gentlewoman from California seek recognition?

4532 Ms. Lofgren. I move to strike the last word.

4533 Chairman Goodlatte. The gentlewoman is recognized for
4534 5 minutes.

4535 Ms. Lofgren. I oppose the amendment, and I will tell
4536 you why. Doubling down to enforce a dysfunctional
4537 immigration system is not going to work. And to think that
4538 number one, the ag position, the ag bill that we have been

4539 marking up, is not an adequate answer to the shortage of
4540 farm labor. But linking that already inadequate bill to E-
4541 Verify ignores the fact that we have a broader economy. It
4542 is not just ag where we have a problem.

4543 Go to the restaurant industry. Go in to the back of
4544 the restaurant. Take a look at the busboys. Go and check
4545 out the nannies who are unauthorized. If you do mandatory
4546 E-Verify before we have actually reformed immigration law so
4547 we can meet the actual economic needs of the United States,
4548 it will just be chaos.

4549 I would like to say something else about the -- since
4550 you have referenced the bill that is coming up next, the
4551 mandatory E-Verify bill that we will mark up later today or
4552 this evening does not have meaningful due process protection
4553 for authorized workers who lose their jobs because of errors
4554 in the system.

4555 Now, I will give credit to USCIS and the Social
4556 Security Administration. It is a voluntary program now, and
4557 they have worked hard to reduce the error rates in E-Verify.
4558 And they have, in fact, reduced the error rate in the E-
4559 Verify system. But there is still evidence that an
4560 estimated 0.3 percent of authorized workers, and that
4561 includes United States citizens, receive -- Mr. Chairman,
4562 could I ask for order in the committee?

4563 Chairman Goodlatte. The gentlewoman is correct. The

4564 committee will be in order.

4565 Ms. Lofgren. A 0.3 percent of authorized workers,
4566 which includes U.S. citizens, receive tentative
4567 nonconfirmations through the system and must follow up with
4568 the DHS or the Social Security Administration to avoid
4569 losing their jobs.

4570 Now 0.3 percent error does not sound like very much,
4571 but when you take a look at mandating this system on all the
4572 new hires which is roughly 54 million people a year in the
4573 United States, permitting re-verification of all current
4574 workers currently 155 million give or take a few, the 0.3
4575 percent error rate would place between 162,000 to 465,000
4576 authorized workers at risk of losing their jobs.

4577 Now, many of these people are not going to be able to
4578 correct the errors because they have not been notified.
4579 They are poor and do not have the capacity to go. They do
4580 not have due process protections. So, we have the
4581 possibility of American citizens losing their jobs and not
4582 being able to correct the error.

4583 I know that is not something that the author of the
4584 amendment would want any more than I would. But the absence
4585 of consequences for an employer who fails to provide the
4586 required notice to a worker renders the notice requirement
4587 completely toothless.

4588 So, the new version of the bill really does not correct

4589 the bill's most important flaws: primarily a reform of the
4590 system so it actually meets the economic needs of the United
4591 States, a system that is easy to use, near to 100 percent
4592 accuracy, but primarily a due process system that is
4593 enforceable and reliable so Americans who get dinged and
4594 lose their jobs unfairly do not just pay the price. So, I
4595 cannot accept this amendment.

4596 I will say finally in closing this: you know, we have
4597 had discussions about immigration reform here for many
4598 years, and those Republicans who worked with us to try and
4599 find common ground know that there has been agreement that
4600 once you get a workable system, it should be enforced,
4601 including E-Verify. So, I do not object to the E-Verify
4602 system. But what I do object to is enforcing a system that
4603 is dysfunctional at this point. So, I would urge that we
4604 oppose the amendment. And I yield back.

4605 Chairman Goodlatte. For what purpose does the
4606 gentleman from Texas seek recognition?

4607 Mr. Smith. Mr. Chairman, I move to strike the last
4608 word.

4609 Chairman Goodlatte. The gentleman is recognized for 5
4610 minutes.

4611 Mr. Smith. Mr. Chairman, I, first of all, want to
4612 thank the gentleman from Florida for offering this
4613 amendment. I think it is a great solution and certainly

4614 will address the concerns of those who were worried that we
4615 might enact a guestworker program without E-Verify. And by
4616 joining the two, this goes a long way, I think, to
4617 reassuring anybody who had any of those types of concerns.

4618 I would also respond very briefly to the gentlewoman
4619 from California. And I know we will get into a further
4620 debate on the E-Verify bill shortly, but anyone who takes a
4621 look at the legislation and the actual language of the
4622 legislation will recognize that there is ample due process
4623 for the very small miniscule fraction of 1 percent of those
4624 who might be wrongfully denied employment verification.

4625 This is a program that is over 99 percent accurate. I
4626 do not know of any other government entity or agency
4627 anywhere that has that kind of accuracy. Furthermore, as I
4628 say, there is ample due process. And we will discuss that
4629 further.

4630 The E-Verify bill is very simple and very
4631 straightforward. If you want to put the interests of
4632 American workers first, if you want to put the interests of
4633 American workers and legal immigrants first, you will
4634 obviously like the E-Verify system. If you want to reduce
4635 illegal immigration, you are going to like the E-Verify
4636 system which happens to be the most popular immigration
4637 reform component that is most popular with the American
4638 people. It has over 80 percent approval. The objection to

4639 E-Verify is, I think, in the single digits.

4640 And, you know, those who do not want to put the
4641 interests of American workers and legal immigrants first,
4642 who want to put the interests of illegal immigrants first,
4643 you know, they are entitled to do that. That is just not
4644 why I think we were elected, and that is certainly not the
4645 point of the legislation.

4646 So, Mr. Chairman, I will yield back. But again, I
4647 appreciate the gentleman from Florida offering this
4648 amendment. Rather than yield back, I will yield to the
4649 gentleman from Louisiana, Mr. Johnson.

4650 Chairman Goodlatte. The gentleman yields back. The
4651 question occurs on the amendment offered by the gentleman
4652 from Florida.

4653 All those in favor respond by saying aye.

4654 Those opposed, no.

4655 In the opinion of the chair, the ayes have it, and the
4656 amendment is agreed to. Are there further amendments to
4657 H.R. 4092?

4658 Ms. Jayapal. Mr. Chairman, I have an amendment at the
4659 desk.

4660 Chairman Goodlatte. The clerk will report the
4661 amendment.

4662 Ms. Adcock. Amendment to the amendment in the nature
4663 of a substitute offered by Ms. Jayapal. Beginning on page

4664 27, strike line 21 through --

4665 [The amendment of Ms. Jayapal follows:]

4666 ***** COMMITTEE INSERT *****

4667 Chairman Goodlatte. Without objection, the amendment
4668 is considered as read, and the gentlewoman is recognized for
4669 5 minutes.

4670 Ms. Jayapal. Thank you, Mr. Chairman. My amendment
4671 would remove the mandatory deduction of 10 percent of farm
4672 workers' wages under the proposed H-2C program. Withholding
4673 10 percent of these wages is unconscionable and makes these
4674 workers even more vulnerable to exploitation.

4675 Guestworkers, by their very nature, are already
4676 vulnerable because they are dependent on their employers to
4677 maintain their employment and their ability to remain in the
4678 United States. Increasing the vulnerability of these
4679 workers by withholding 10 percent of their wages as a form
4680 of bonding is unacceptable.

4681 As we have discussed through markup, the bill would
4682 already result in significant wage cuts, bringing wages down
4683 to extremely low levels of \$8.34 an hour, a wage cut of
4684 almost \$4 an hour. Cutting an additional 10 percent from
4685 someone who makes \$8.34 an hour, which is only about \$17,000
4686 a year, is just wrong.

4687 In addition to hurting workers, this withholding will
4688 hurt families. Many guestworkers have spouses and children
4689 to support, whether here on in their home countries. And
4690 these workers and the U.S. workers that they work alongside
4691 already face tremendous challenges feeding and clothing

4692 their families, locating safe housing, and affording secure
4693 transportation on the wages that they currently earn. The
4694 H-2C's low wages compounded by the 10 percent wage
4695 withholding will make it that much more difficult for these
4696 families to survive.

4697 Further, guestworkers face severe financial burdens
4698 when they do travel to the United States making them
4699 vulnerable to exploitation, debt bondage, and trafficking.
4700 And this bill just exacerbates these problems. There is no
4701 measure in the bill to prohibit recruitment fees or fraud or
4702 trafficking. And as we have already discussed numerous
4703 times, with the requirement to pay for their own
4704 transportation and housing, these workers are really going
4705 to be in a terrible economic situation.

4706 So, reducing wages by 10 percent on top of all of this
4707 would place them in, I think, a really horrendous situation.
4708 We do have a long history, tragic history, of wage deduction
4709 abuses. More than 50 years after the Bracero Program ended,
4710 there was still litigation going on about the withheld wages
4711 of Mexican guestworkers who worked on America's farms. And
4712 while that litigation is now ended, there are still former
4713 workers who are trying to recoup lost wages.

4714 More recently, Jamaican H-2A guestworkers in Florida's
4715 sugar cane fields and New England's apple orchards had
4716 deductions taken out of their paychecks supposedly for

4717 health insurance and savings. The difficulties that workers
4718 had in obtaining the supposed health insurance and in
4719 obtaining their savings led to years of investigation and
4720 litigations.

4721 Workers should not have to pay money to obtain wages
4722 that they have already earned, and requiring H-2C
4723 guestworkers to file applications with DHS, then travel to
4724 their consulate to retrieve those wages, is costly and
4725 extremely burdensome. Most farm workers are from rural
4726 areas, and traveling to cities where there are U.S.
4727 consulates costs money that they cannot afford to spend.

4728 Moreover, some workers would be in the United States
4729 for 3 years, would not receive their hard-earned wages until
4730 years after they have earned them. Workers should receive
4731 their wages when they earn them.

4732 Further, the requirement that workers prove that they
4733 complied with program requirements will lead to abuses.
4734 Unscrupulous employers and labor recruiters could threaten
4735 to report H-2C guestworkers for violating program
4736 requirements when they, in fact, have not, forcing them to
4737 accept substandard wages and working conditions.

4738 The last iteration of the bill was unacceptable, and
4739 this version is -- we have discussed this over and over
4740 again -- I think, unfathomably cruel. This is just a small
4741 amendment to try and make sure that we do not further

4742 undercut the wages of this vulnerable workers. With that, I
4743 yield back.

4744 Chairman Goodlatte. The chair thanks the gentlewoman,
4745 recognizes himself, only to say that I oppose this amendment
4746 and yield back.

4747 The question occurs on the amendment offered by the
4748 gentlewoman from Washington.

4749 All those in favor, respond by saying aye.

4750 Those opposed, no.

4751 In the opinion of the chair, the noes have it, and the
4752 amendment is not agreed to.

4753 Are there further amendments to H.R. 4092?

4754 The question is on the amendment in the nature of a
4755 serious substitute to H.R. 4092.

4756 Those in favor will say aye.

4757 Those opposed, no.

4758 In the opinion of the chair, the ayes have it, and the
4759 amendment is agreed to.

4760 A reporting quorum being present, the question is on
4761 the motion to report the bill H.R. 4092 as amended favorably
4762 to the House.

4763 Those in favor will say aye.

4764 Those opposed, no.

4765 The ayes have it, and the bill is reported favorably.

4766 A recorded vote is requested, and the clerk will call

4767 the roll.

4768 Ms. Adcock. Mr. Goodlatte?

4769 Chairman Goodlatte. Aye.

4770 Ms. Adcock. Mr. Goodlatte votes aye.

4771 Mr. Sensenbrenner?

4772 [No response.]

4773 Mr. Smith?

4774 Mr. Smith. Aye.

4775 Ms. Adcock. Mr. Smith votes aye.

4776 Mr. Chabot?

4777 Mr. Chabot. Aye.

4778 Ms. Adcock. Mr. Chabot votes aye.

4779 Mr. Issa?

4780 Mr. Issa. Aye.

4781 Ms. Adcock. Mr. Issa votes aye.

4782 Mr. King?

4783 Mr. King. No.

4784 Ms. Adcock. Mr. King votes no.

4785 Mr. Franks?

4786 [No response.]

4787 Mr. Gohmert?

4788 Mr. Gohmert. No.

4789 Ms. Adcock. Mr. Gohmert votes no.

4790 Mr. Jordan?

4791 [No response.]

4792 Mr. Poe?
4793 [No response.]
4794 Mr. Marino?
4795 Mr. Marino. Yes.
4796 Ms. Adcock. Mr. Marino votes yes.
4797 Mr. Gowdy?
4798 [No response.]
4799 Mr. Labrador?
4800 Mr. Labrador. Yes.
4801 Ms. Adcock. Mr. Labrador votes yes.
4802 Mr. Farenthold?
4803 Mr. Farenthold. Yes.
4804 Ms. Adcock. Mr. Farenthold votes yes.
4805 Mr. Collins?
4806 Mr. Collins. Yes.
4807 Ms. Adcock. Mr. Collins votes yes.
4808 Mr. DeSantis?
4809 Mr. DeSantis. Yes.
4810 Ms. Adcock. Mr. DeSantis votes yes.
4811 Mr. Buck?
4812 Mr. Buck. Yes.
4813 Ms. Adcock. Mr. Buck votes yes.
4814 Mr. Ratcliffe?
4815 Mr. Ratcliffe. Yes.
4816 Ms. Adcock. Mr. Ratcliffe votes yes.

4817 Mrs. Roby?
4818 Mrs. Roby. Aye.
4819 Ms. Adcock. Ms. Roby votes aye.
4820 Mr. Gaetz?
4821 [No response.]
4822 Mr. Johnson of Louisiana?
4823 Mr. Johnson of Louisiana. Aye.
4824 Ms. Adcock. Mr. Johnson votes aye.
4825 Mr. Biggs?
4826 [No response.]
4827 Mr. Rutherford?
4828 Mr. Rutherford. Aye.
4829 Ms. Adcock. Mr. Rutherford votes aye.
4830 Mrs. Handel?
4831 Mrs. Handel. Aye.
4832 Ms. Adcock. Mrs. Handel votes aye.
4833 Mr. Conyers?
4834 Mr. Conyers. No.
4835 Ms. Adcock. Mr. Conyers votes no.
4836 Mr. Nadler?
4837 Mr. Nadler. No.
4838 Ms. Adcock. Mr. Nadler votes no.
4839 Ms. Lofgren?
4840 Ms. Lofgren. No.
4841 Ms. Adcock. Ms. Lofgren votes no.

4842 Ms. Jackson Lee?
4843 [No response.]
4844 Mr. Cohen.
4845 Mr. Cohen. No.
4846 Ms. Adcock. Mr. Cohen votes no.
4847 Mr. Johnson of Georgia?
4848 Mr. Johnson of Georgia. No.
4849 Ms. Adcock. Mr. Johnson votes no.
4850 Mr. Deutch?
4851 [No response.]
4852 Mr. Gutierrez?
4853 Mr. Gutierrez. No.
4854 Ms. Adcock. Mr. Gutierrez votes no.
4855 Ms. Bass?
4856 Ms. Bass. No.
4857 Ms. Adcock. Ms. Bass votes no.
4858 Mr. Richmond?
4859 [No response.]
4860 Mr. Jeffries?
4861 [No response.]
4862 Mr. Cicilline.
4863 Mr. Cicilline. No.
4864 Ms. Adcock. Mr. Cicilline votes no.
4865 Mr. Swalwell?
4866 [No response.]

4867 Mr. Lieu?

4868 Mr. Lieu. No.

4869 Ms. Adcock. Mr. Lieu votes no.

4870 Mr. Raskin?

4871 Mr. Raskin. No.

4872 Ms. Adcock. Mr. Raskin votes no.

4873 Ms. Jayapal?

4874 Ms. Jayapal. No.

4875 Ms. Adcock. Ms. Jayapal votes no.

4876 Mr. Schneider?

4877 Mr. Schneider. No.

4878 Ms. Adcock. Mr. Schneider votes no.

4879 Chairman Goodlatte. The gentleman from Texas, Mr. Poe?

4880 Mr. Poe. Yes.

4881 Ms. Adcock. Mr. Poe votes yes.

4882 Chairman Goodlatte. The gentlewoman from Texas, Ms.

4883 Jackson Lee?

4884 Ms. Adcock. Not recorded.

4885 Chairman Goodlatte. Not recorded.

4886 Ms. Jackson Lee. No.

4887 Ms. Adcock. Ms. Jackson Lee votes no.

4888 Chairman Goodlatte. The gentleman from Florida?

4889 Ms. Adcock. Not recorded.

4890 Mr. Gaetz. Yes.

4891 Ms. Adcock. Mr. Gaetz votes yes.

4892 Chairman Goodlatte. Has every member voted who wishes
4893 to vote?

4894 Ms. Lofgren. Mr. Chairman, I think there is a member
4895 in the hallway.

4896 Chairman Goodlatte. Yes. How does the gentleman from
4897 Georgia report?

4898 Ms. Adcock. Yes.

4899 Mr. Raskin. Mr. Chairman. Mr. Chairman.

4900 Chairman Goodlatte. We are waiting. You do not have
4901 to ask.

4902 Mr. Raskin. Okay.

4903 Chairman Goodlatte. But we will only wait but so long.
4904 They have got to actually be in the corridor.

4905 Ms. Lofgren. We are counting on our ace staff that is
4906 looking animated there.

4907 Chairman Goodlatte. The gentleman from California?

4908 Mr. Swalwell. No.

4909 Ms. Adcock. Mr. Swalwell votes no.

4910 Chairman Goodlatte. The gentleman voted. The clerk
4911 will report.

4912 Ms. Adcock. Mr. Chairman, 17 members voted aye; 16
4913 members voted no.

4914 Chairman Goodlatte. And the ayes have it and the bill
4915 is reported favorably to the House. Members will have 2
4916 days to submit views.

4917 Without objection, the bill is reported as a single
4918 amendment in the nature of a substitute incorporating all
4919 adopted amendments, and the staff is authorized to make
4920 technical and conforming changes.

4921 Pursuant to notice, I now call up H.R. 3711 for
4922 purposes of markup and move that the committee report the
4923 bill favorably to the House. The clerk will report the
4924 bill.

4925 Ms. Adcock. H.R. 3711, to amend the Immigration and
4926 Nationality Act to make mandatory and permanent requirements
4927 relating to use of an electronic employment eligibility
4928 verification system and for other purposes.

4929 [The bill follows:]

4930 ***** INSERT 1 *****

4931 Chairman Goodlatte. Without objection, the bill is
4932 considered as read and open for amendment at any time, and I
4933 will begin by recognizing myself for an opening statement.

4934 The American people want our immigration laws to be
4935 enforced. In the past, they were promised tougher
4936 enforcement in exchange for the legalization of those
4937 unlawfully in the United States. But administrations never
4938 kept these promises, and today we are left with a broken
4939 immigration system. One way to make sure we discourage
4940 illegal immigration in the future is to prevent unlawful
4941 immigrants from getting jobs in the United States.

4942 Requiring the use of E-Verify by all employers across
4943 the country will help do just that. The web-based program
4944 is a reliable and fast way for employers to electronically
4945 check the work eligibility of newly-hired employees. H.R.
4946 3711, the Legal Workforce Act, builds on E-Verify's success
4947 and finally implements one part of the strong enforcement
4948 that was promised to the American people many years ago.

4949 The Legal Workforce Act does not simply leave
4950 enforcement to the Federal Government. In fact, it actually
4951 empowers us to help enforce the E-Verify requirement, ensuring
4952 that we do not continue the mistakes of the past where a
4953 president can turn off Federal enforcement efforts
4954 unilaterally.

4955 Over 740,000 employers are currently signed up to use

4956 E-Verify. It is easy for employers to use, and it is
4957 effective. In fact, E-Verify quickly confirms work-eligible
4958 employees nearly 99 percent of the time. But the current
4959 system is not perfect.

4960 For instance, in the case of identity theft, when an
4961 individual submits stolen identity documents and
4962 information, E-Verify may confirm the work eligibility of
4963 that individual. This happens because E-Verify uses a
4964 Social Security number and certain other corresponding
4965 identifying information such as the name and date of birth
4966 of an individual to determine if the person submitting the
4967 Social Security number is work-eligible.

4968 Thus, if an individual uses a stolen Social Security
4969 number and the real name corresponding with that Social
4970 Security number, a false positive could occur.

4971 The Legal Workforce Act addresses identity theft in
4972 several ways. First, it requires notification to the
4973 rightful owner of a Social Security number whenever that
4974 number is submitted to E-Verify in a manner indicating a
4975 pattern of unusual multiple use. The rightful owner of the
4976 Social Security number will know that his or her number may
4977 have been compromised, and once they confirm this, the
4978 Department of Homeland Security and the Social Security
4979 Administration must lock that Social Security number so that
4980 no one else can use it for employment eligibility purposes.

4981 Among other things, the bill also creates a program
4982 through which parents or other legal guardians can lock the
4983 Social Security numbers of their minor children for work
4984 eligibility purposes. This is to combat the rise in the
4985 number of thefts of children's identities.

4986 The bill phases in E-Verify use in 6-month increments,
4987 beginning with the largest U.S. businesses, raises penalties
4988 for employers who do not use E-Verify according to the
4989 requirements, allows employers to use E-Verify prior to the
4990 date they hire an employee and provides meaningful safe
4991 harbors for employers who use this system in good faith.

4992 I understand that some in the agricultural industry
4993 have concerns about the impact of mandatory E-Verify on the
4994 agricultural workforce. That is why the Legal Workforce and
4995 the Agricultural Guestworker Act will both be marked up
4996 today. I have been and remain committed to moving such
4997 agricultural guestworker reform through this committee,
4998 which the committee has just done.

4999 Unfortunately, past presidents have tied our hands by
5000 refusing to enforce immigration laws. The current
5001 administration has done the opposite, and we must provide
5002 this president with the additional legislative tools he
5003 needs in order to effectively control illegal immigration.

5004 At the same time, we must prevent any subsequent
5005 administration from again stopping immigration enforcement

5006 mechanisms. Requiring all U.S. employers to use E-Verify is
5007 on way to do so.

5008 H.R. 3711 balances the needs of the American people,
5009 regarding immigration enforcement, with the needs of the
5010 business community, regarding a fair and workable electronic
5011 employment verification system. I urge my colleagues to
5012 support the bill today, and I yield back the balance of my
5013 time.

5014 It is now my pleasure to recognize the ranking member
5015 of the Judiciary Committee, the gentleman from Michigan, Mr.
5016 Conyers, for his opening statement.

5017 [The prepared statement of Chairman Goodlatte follows:]

5018 ***** COMMITTEE INSERT *****

5019 Mr. Conyers. Thank you, Chairman Goodlatte. Almost
5020 all of us know our Nation's immigration system is broken.
5021 It does not work for American families, businesses, or the
5022 economy. These problems require real legislative solutions,
5023 but the approach that the committee is taking this week, I
5024 am sorry to say, fall short of what we need.

5025 H.R. 3711 would make E-Verify, an existing electronic
5026 system for voluntarily verifying employment eligibility
5027 mandatory for all employers. We have considered this bill
5028 only three times before, and I have previously said that E-
5029 Verify is an important tool, but the truth is that we cannot
5030 require all employers to use E-Verify if we do not also
5031 adopt comprehensive reforms to our Nation's broken
5032 immigration system and reform E-Verify itself.

5033 We are very likely to hear today that E-Verify will
5034 help American workers, because every time an undocumented
5035 immigrant is denied a job, an unemployed American can get
5036 hired. Unfortunately, that is not quite how it works.

5037 Immigrants fill major gaps in our workforce. This is
5038 particularly evident in agriculture, where half or more of
5039 the on-the-field farm workers lack immigration status. If
5040 we mandated the use of E-Verify without also providing a
5041 fair and meaningful opportunity for those experienced
5042 undocumented farm workers to obtain legal status, here is
5043 what we would see.

5044 One: farms across the Nation would be forced out of
5045 business. Americans would further be forced to rely on
5046 foreign markets to import our fruits and vegetable, and
5047 millions of upstream and downstream American jobs supported
5048 by agriculture would be lost.

5049 In recognition of this problem, the majority has chosen
5050 to move this bill along with the bill from the chairman to
5051 reform our temporary agricultural worker programs. But, as
5052 we will see shortly, when we mark up the bill, or as we just
5053 saw when we marked up that bill, the chairman's bill is not,
5054 I am sorry to say, a workable solution to our agricultural
5055 labor needs.

5056 In addition, we must also ensure that any E-Verify
5057 legislation sufficiently protects American citizens and
5058 other authorized workers so that they are not
5059 inappropriately prevented from working.

5060 It is true that this bill contains several requirements
5061 intended to protect such workers. For example, employers
5062 must inform workers when the system issues a tentative
5063 nonconfirmation of eligibility. Also, employers cannot
5064 rescind offers or fire workers until they get a chance to
5065 fix any errors.

5066 However, the bill lacks any penalties for failing to
5067 follow these guidelines, and we know that employers who are
5068 currently using the system frequently do not comply with

5069 current requirements. Why should this be any different if
5070 E-Verify is made mandatory?

5071 Finally, the bill offers no protection for American
5072 citizens and other work-authorized persons who are
5073 incorrectly identified as unauthorized to work. Under this
5074 bill, such workers will be fired, and their only remedy is
5075 through a Federal court claims act. Yet we all know how
5076 many procedural hurdles are involved in pursuing a claim
5077 under this law.

5078 How many of us can afford to be out of work for 6
5079 months while waiting for a decision on an administrative
5080 claim? How many will bring a lawsuit after that
5081 administrative claim goes unanswered for 6 months? How many
5082 will actually be compensated for lost wages by proving that
5083 the erroneous nonconfirmation resulted from a negligent or
5084 wrongful act of remission of any employee of the government?

5085 I do not think any of us want to bar an American
5086 citizen from working because Congress failed to provide due
5087 process while mandating the use of E-Verify by all
5088 employers.

5089 In closing, let me note that there is broad bipartisan
5090 agreement that our Nation's immigration system is nearly
5091 broken or really broken, but legislation that focuses on
5092 enforcement without adequately reforming the current system
5093 is not the solution. I thank you, Mr. Chairman.

5094 Chairman Goodlatte. The chair thanks the gentleman.
5095 The chair would advise the committee that we have a bill on
5096 the floor imminently and therefore the committee will have
5097 to stand in recess until after that bill is debated and
5098 voted on, and so sometime after 6:30, we will reconvene the
5099 committee to complete this bill. The committee will stand
5100 in recess.

5101 [Recess.]

5102 Chairman Goodlatte. The committee will reconvene.
5103 When the committee recessed we were hearing opening
5104 statements on H.R. 3711, and the chair now recognizes the
5105 gentleman from Texas, Mr. Smith, the chief sponsor of the
5106 legislation.

5107 Mr. Smith. Thank you, Mr. Chairman. And Mr. Chairman,
5108 I want to thank you also for bringing up this legislation
5109 today, and for your strong support of it, past and present.

5110 The labor participation rate is at a 40-year low.
5111 Twenty million Americans are unemployed or underemployed;
5112 meanwhile, millions of people continue to be hired who are
5113 not eligible to work in the United States. These jobs
5114 should go to American citizens and legal immigrants. The
5115 Legal Workforce Act turns off the jobs magnet that induces
5116 so many illegal immigrants to enter the United States. The
5117 bill expands the E-Verify system and applies it to all U.S.
5118 employers.

5119 AFTER 6:00 p.m.

5120 Illegal immigrants take jobs from American workers and
5121 depress their wages, according to nearly all objective
5122 studies on the subject. For example, illegal immigration
5123 reduces the wages of American workers by \$100 billion per
5124 year, with unskilled workers hit the hardest, according to
5125 George Borjas, Harvard expert on immigration. As the
5126 people's representatives in Congress, we should do all we
5127 can to protect the jobs and wages of hardworking Americans
5128 and legal immigrants.

5129 The Legal Workforce Act opens up millions of jobs for
5130 unemployed Americans by requiring employers to use E-Verify.
5131 The bill creates a fully electronic employment eligibility
5132 verification system. The E-Verify system is quick and
5133 effective, confirming 99 percent of work-eligible employees,
5134 according to USCIS. Over 740,000 businesses voluntarily use
5135 E-Verify, and an average of 1,500 new employers sign up for
5136 it each week. One third of American jobs are now protected
5137 by E-Verify.

5138 The program is free and easy to use. In fact, E-Verify
5139 is available for use on smartphones and takes about 2
5140 minutes. The cost is miniscule. One study showed that
5141 three quarters of employers stated the cost of using E-
5142 Verify is zero. Individuals provide their Social Security
5143 number when they visit a doctor, open a bank account, or buy

5144 a home. It makes sense that businesses be able to check the
5145 Social Security number of prospective employees to ensure
5146 they have a legal workforce.

5147 Under the Legal Workforce Act, employers use E-Verify
5148 to check the work eligibility of new hires. The
5149 verification requirement is phased in and the length of time
5150 depends on the size and nature of the employer's business.
5151 Smaller businesses have 2 years to implement E-Verify;
5152 agricultural businesses have 1 and a half years; and larger
5153 businesses have 6 months. The legislation also gives
5154 employers a safe harbor, so they cannot be held liable if
5155 they use the system in good faith

5156 The Legal Workforce Act increases penalties on
5157 employers who knowingly violate the requirements of E-Verify
5158 and imposes criminal penalties on employers and employees
5159 who engage in identity theft. To protect identities, the
5160 bill gives U.S. Citizenship and Immigration Services the
5161 ability to block Social Security numbers that have been
5162 misused in order to protect identities. And the bill allows
5163 individuals to lock their own Social Security number so that
5164 it cannot be used by others to verify work eligibility.

5165 The legislation enables parents to lock the Social
5166 Security Number of a minor child to prevent identity theft.
5167 If a Social Security number shows an unusual amount of
5168 multiple uses, the Social Security Administration locks the

5169 number for employment verification purposes and notifies the
5170 owner that their personal information they have been
5171 compromised.

5172 Importantly, the American people like and support E-
5173 Verify. A September 2017 Washington Post/ABC News poll
5174 shows that 82 percent of voters favor requiring business
5175 owners to check the immigration status of the employees they
5176 hire. E-Verify receives the most public support of any
5177 proposed immigration reform. This bill offers a commonsense
5178 approach that discourages illegal immigration and saves jobs
5179 for legal workers. It deserves the enthusiastic vote of all
5180 members of Congress who want to put the interest of millions
5181 of American workers first. Thank you, Mr. Chairman. I
5182 yield back.

5183 [The prepared statement of Mr. Smith follows:]

5184 ***** COMMITTEE INSERT *****

5185 Chairman Goodlatte. Thank you, Mr. Smith. And I would
5186 now like to recognize the ranking member of the Subcommittee
5187 on Immigration and Border Security, Ms. Lofgren of
5188 California, for her opening statement.

5189 Ms. Lofgren. Thank you, Mr. Chairman. We have marked
5190 up different versions of the Legal Workforce Act each
5191 Congress since 2011. Each time the bill has changed a
5192 little bit. Some of those changes are improvements; the
5193 bill no longer carries mandatory minimum criminal sentences
5194 related to unlawful employment, and the bill now contains
5195 provisions to make E-Verify more workable for the Social
5196 Security Administration, which of course serves a number of
5197 other critically important functions. And the bill now
5198 seeks to relieve some of the burdens that small businesses
5199 disproportionately face or expect to face once they are
5200 required to use E-Verify.

5201 Now, I am sure we will discuss small businesses more
5202 since the small businesses have been the heart of our
5203 economic and job recovery in recent years, but I did want to
5204 recognize the steps taken to address concerns raised during
5205 previous markups. That being said, the bill's most
5206 important flaws have not yet been addressed. For example,
5207 the bill continues to provide no meaningful due process
5208 protections for authorized workers who lose their jobs

5209 because of errors in the system.

5210 The idea that Americans and authorized immigrants would
5211 lose their jobs as a result of this bill is not simply
5212 theoretical. Although we know that USCIS and the Social
5213 Security Administration continue to work hard to reduce
5214 error rates in E-Verify, errors absolutely still exist. The
5215 most recent evidence shows that an estimated 0.3 percent of
5216 authorized workers, including U.S. citizens, receive
5217 tentative nonconfirmation through the system and must follow
5218 up with DHS or the Social Security Administration in order
5219 to avoid losing their jobs. A 0.3 percent error rate sounds
5220 real small, but the real-world impact on new and existing
5221 hires could be quite dramatic.

5222 By requiring verification of all newly hired workers,
5223 which is approximately 54 million people each year, and
5224 permitting reverification of all current workers,
5225 approximately 155 million, a 0.3 percent error rate would
5226 place between 162,000 and 465,000 authorized workers at risk
5227 of losing their jobs or job offers.

5228 Of course, many of these people will not be able to
5229 correct the errors. Some will be able to correct the
5230 errors, and some with great effort, but many will not.
5231 Without adequate due process protections, people will
5232 unfairly lose their jobs and be without any meaningful
5233 recourse.

5234 The bill also provides no penalties at all for
5235 employers who fail to provide employees with notice of
5236 potential errors so they can correct them. Although USCIS
5237 now provides direct notice of tentative nonconfirmations to
5238 persons who provide an email address on their Form I-9s,
5239 this accounts for only a small percentage of such notices.

5240 The vast majority are provided only to employers, which
5241 means that they hold the key to the ability of employees to
5242 correct potential errors. The absence of any consequence
5243 for an employer who fails to provide the required notice to
5244 a worker renders the notice requirement completely
5245 toothless.

5246 Finally, the new version has done nothing to correct
5247 the bill's most important flaw: the lack of a reasonable
5248 path for undocumented workers to regularize their status.
5249 We could design the best E-Verify system imaginable, a
5250 system that is easy to use, 100 percent accurate, available
5251 at no cost to big and small businesses alike, but if we
5252 impose that system nationwide and did nothing to fix our
5253 broken immigration system, the consequences would be dire.

5254 This point is easily demonstrated when we look at the
5255 ag sector. Without meaningful provisions to regularize that
5256 workforce, expanding E-Verify would be grim for the
5257 agricultural economy, resulting in closed farms, less secure
5258 America, mass offshoring of millions of jobs.

5259 Ironically enough, a prior version of the Legal
5260 Workforce Act recognized this fact. In the 112th Congress,
5261 the bill expressly exempted returning seasonal farm workers
5262 from its verification requirements. Some called this
5263 exemption amnesty; others saw it for what it was: a clear
5264 admission that mandatory E-Verify without other meaningful
5265 reforms to the immigration system would impair our
5266 agricultural industry and the millions of jobs held by U.S.
5267 workers that are supported by that industry.

5268 Now, of course, the majority tries to address this
5269 problem by moving this bill, along with the chairman's
5270 Agricultural Guestworker Act. But as we saw in the markup
5271 of that bill all day today, the Agricultural Guestworker Act
5272 is an unacceptable solution to our country's agricultural
5273 needs.

5274 Moreover, the majority offers no solution for other
5275 parts of our economy. For example, we know that expanding
5276 E-Verify alone would drive undocumented workers off the
5277 books and into the underground economy, which would increase
5278 the deficit and decrease tax revenues.

5279 Indeed, the Congressional Budget Office and the Joint
5280 Committee on Taxation has previously concluded that the
5281 Legal Workforce Act would have resulted in a net revenue
5282 loss of \$39 billion over 10 years and increase budget
5283 deficits over that period by about 30 billion. Contrast

5284 that with the CBO and JCT's conclusion that the bipartisan
5285 Senate bill, S744, that the Senate passed and the House
5286 refused to vote on, would have reduced budget deficits by
5287 150 billion over the first 10 years, and by about 685
5288 billion over the next 10 years.

5289 I firmly believe that E-Verify must play an important
5290 role in helping to fix our immigration system. And in fact,
5291 I am not opposed to E-Verify. What I am opposed to is
5292 imposing E-Verify and a system that does not work. Our job
5293 will not be done if we simply fix some of the glaring
5294 omissions in this bill and report it to the House floor. We
5295 need to fix the underlying problem with a broken immigration
5296 system, including the presence of 11 million undocumented
5297 immigrants looking for a way to earn permanent legal status,
5298 and we have yet to see a proposal that even touches on that
5299 point.

5300 And I would note further that in addition to the ag
5301 sector, we have crucial workforce support from undocumented
5302 immigrants as nannies, in the restaurant industry, in the
5303 hotel industry. And without them, restaurants would close,
5304 and parents would be without the help that they need. So,
5305 we need to have a provision in an ongoing immigration reform
5306 bill that not only addresses the status of those who are
5307 undocumented but figures out a way for those who we need to
5308 provide services in our country to come here legally, with

5309 dignity, and with protection -- for their rights as well as
5310 our own -- so that our economy will be well-served. Until
5311 we do that, just doubling down through E-Verify is a big
5312 mistake, and I oppose the bill. I yield back.

5313 Chairman Goodlatte. The chair thanks the gentlewoman,
5314 and I now recognize Mr. Smith of Texas for purposes of
5315 offering an amendment in the nature of a substitute. The
5316 clerk will report the amendment.

5317 Ms. Adcock. Amendment in the nature of a substitute to
5318 H.R. 3711, offered by Mr. Smith of Texas. Strike all after
5319 the clause --

5320 [The amendment of Mr. Smith follows:]

5321 ***** INSERT 2 *****

5322 Chairman Goodlatte. Without objection, the amendment
5323 will be considered as read, and I now recognize Mr. Smith to
5324 explain his amendment.

5325 Mr. Smith. Thank you, Mr. Chairman. This amendment
5326 makes two technical changes to the Legal Workforce Act
5327 requested by U.S. Citizenship and Immigration Services.
5328 First, the amendment adds driver's licenses or
5329 identification cards issued by American Samoa to the list of
5330 documents to establish identity under section 2 of the bill.

5331 Second, the amendment clarifies the photo matching tool
5332 in section 12. It ensures that an employer can use Photo
5333 Tool to match the photo to a photograph with a picture on
5334 the unemployment eligibility documents or the face of the
5335 employee -- or both -- to confirm identity of the employee.

5336 I urge my colleagues to support the amendment, which
5337 helps the Department of Homeland Security improve the
5338 administration of E-Verify to save jobs for American
5339 workers. Thank you, Mr. Chairman. I yield back.

5340 Chairman Goodlatte. I thank you. For what purpose
5341 does the gentleman from Michigan seek recognition? Oh, are
5342 there any amendments to H.R. 3711?

5343 Mr. Conyers. Yes. I do have an amendment, Mr.
5344 Chairman, for 3711.

5345 Chairman Goodlatte. Yes. The clerk will report the

5346 amendment.

5347 Ms. Adcock. Amendment in the nature of a substitute
5348 offered by Mr. Smith of Texas, offered by Mr. Conyers. In
5349 section 2 in the eighth sentence --

5350 [The amendment of Mr. Conyers follows:]

5351 ***** COMMITTEE INSERT *****

5352 Chairman Goodlatte. Without objection, the amendment
5353 will be considered as read and the gentleman is recognized
5354 for 5 minutes on his amendment.

5355 Mr. Conyers. I thank the gentleman. And members of
5356 the committee, this amendment corrects a serious imbalance
5357 in the bill by adding an enforcement mechanism to the bill's
5358 worker protections. This added enforcement mechanism is
5359 very necessary. H.R. 3711 contains several requirements
5360 intended to protect American workers, but these provisions
5361 are really nothing more than mere suggestions without any
5362 associated mechanisms for enforcement.

5363 As we know, the bill imposes a series of new mandates
5364 on employers, including requirements that they, one, verify
5365 approximately 54 million new hires each year; to re-verify
5366 current employees in certain circumstances; three, notify
5367 DHS if the employer chooses not to terminate an employee
5368 after receiving a final nonconfirmation; and four, and last,
5369 refrain from putting false information into the system.

5370 Now, if an employer violates any of these requirements,
5371 there are penalties. But when it comes to the bill's
5372 protections for American workers and authorized noncitizens,
5373 the bill is absolutely silent. For example, the bill
5374 requires employers to notify workers when E-Verify provides
5375 a tentative nonconfirmation, but imposes no penalty if the

5376 employer fails to provide such notification, thus robbing
5377 the employee of the ability to correct an error.

5378 In addition, the bill prohibits employers from
5379 terminating an employee or rescinding a job offer based on a
5380 tentative nonconfirmation until that employer receives a
5381 final nonconfirmation. But again, the bill lacks any
5382 penalty provisions for violating that protection.

5383 H.R. 3711 also requires employers who choose to re-
5384 verify an existing employee to also re-verify all other
5385 employees at the same geographic location or all employees
5386 in the same job category. Once again, the bill fails to
5387 subject employers to any penalty if they break this rule.

5388 In fact, re-verification can be a powerful tool to
5389 retaliate against workers at particular job sites or in
5390 certain job categories that are organizing for better worker
5391 protections. But this legislation actually bars review of
5392 an employer's decision to re-verify the workforce in any
5393 government investigation.

5394 So, my amendment addresses these oversights by applying
5395 the existing penalty structure to violations of these
5396 provisions. These changes will better protect American
5397 workers.

5398 And finally, this amendment makes the intentional
5399 misuse of the verification system an unfair immigration-
5400 related employment practice. This will empower the Office

5401 of Special Counsel to investigate such abuses and to ensure
5402 that persons harmed by unlawful conduct at least have an
5403 opportunity to obtain relief.

5404 I urge my colleagues on the committee to protect
5405 American workers and support, I think, a very commonsense
5406 amendment. I thank the chair and yield back the balance of
5407 my time.

5408 Chairman Goodlatte. The chair thanks the gentleman.
5409 For what purpose does the gentleman from Louisiana seek
5410 recognition?

5411 Mr. Johnson of Louisiana. Thank you, Mr. Chairman. I
5412 move to strike the last word.

5413 Chairman Goodlatte. The gentleman is recognized for 5
5414 minutes.

5415 Mr. Johnson of Louisiana. It has been a long day, but
5416 the two bills we have considered here are critically
5417 important for our Nation. And I just wanted to take this
5418 opportunity to briefly reiterate why, as we are discussing
5419 amendments to this bill and others.

5420 Look, farmers across the country, and back home in my
5421 State of Louisiana, face numerous obstacles. And yet they
5422 continue to feed the United States and the world. Just last
5423 year, Louisiana exported over \$16 billion in agricultural
5424 products, which directly supported over 155,000 jobs.
5425 Farmers know all too well that when it is time for harvest,

5426 any shortage of labor can severely threaten the life of the
5427 business and/or the quality of the crop.

5428 And that is why the agricultural guestworker visa
5429 program was created, to provide a reliable safety net for
5430 many of our farmers to fill the unintended labor gaps with
5431 temporary, legal options. While I had some pending concern.
5432 While I had some pending concern with aspects of the
5433 underlying legislation, I voted in support of the necessary
5434 overall reforms included in the Agricultural Guestworker Act
5435 earlier today. And this current bill, H.R. 3711, the Legal
5436 Workforce Act, also referred to as E-Verify, has some
5437 critical reforms that I fully support.

5438 I trust our whole committee will acknowledge the need
5439 our communities are facing and the important step of
5440 implementing E-Verify. I am convinced that any path forward
5441 to ensure any immigration legislation is effective requires
5442 mandatory E-Verify to safeguard the security and eligibility
5443 of employment across the U.S.

5444 Mandatory E-Verify has long been overdue, and Congress
5445 must now deliver on this needed security for authorized
5446 employment in American jobs. One important thing that
5447 today's bill can collectively accomplish is decreasing
5448 illegal immigration and increasing our adherence to the rule
5449 of law. The most effective way to curtail illegal
5450 immigration is to begin with the enforcement of those laws.

5451 And for that reason, I am voting today to move both of these
5452 bills out of the committee so that they can work together to
5453 accomplish the goal of decreasing illegal immigration.

5454 I commend my farmers back home in Louisiana for their
5455 resiliency, because not only do they work in the face of
5456 adversity and uncertainty, and Mother Nature, but also in
5457 spite of the burdensome red tape of the Federal bureaucracy.
5458 So, I would underscore the importance of providing our
5459 farmers with the resources they need. I think it is
5460 important to note the key role in my State, Louisiana, that
5461 they play in delivering their goods throughout the Nation.

5462 And with that, Mr. Chairman, I yield back the balance
5463 of my time.

5464 Mr. Smith. [Presiding.] All right. Thank you, Mr.
5465 Johnson. The gentlewoman from California, Ms. Lofgren, is
5466 recognized.

5467 Ms. Lofgren. I move to strike the last word.

5468 Mr. Smith. The gentlewoman is recognized for 5
5469 minutes.

5470 Ms. Lofgren. I will not take 5 minutes. I just want
5471 to thank Mr. Conyers for offering this amendment and note
5472 that, you know, a requirement without any enforcement is
5473 unlikely to be utilized.

5474 In 2009, Westat actually did some research on this, on
5475 persons who received tentative noncompliant notices. Now,

5476 current law prohibits taking adverse actions until you have
5477 a final notice. What they found was that more than one
5478 third of the employers admitted that they took an action to
5479 reduce pay, restrict work assignments, delay trainings, even
5480 though they were not supposed to do that, because there is
5481 no penalty.

5482 Now, that does not sound like a lot, but if we have got
5483 465,000 Americans who are subject to this; a third of that
5484 is 153,000 Americans who could lose their jobs or have
5485 adverse implications to their job because there is no
5486 requirement, really, for notification that is enforceable.

5487 So, we have got penalties spread throughout this bill.
5488 I know that most employers want to do the right thing. But
5489 there are at least a third of employers who have already
5490 admitted they do not follow the law on another similar
5491 aspect. And I think Mr. Conyers's amendment would fix that.
5492 And it is modest, it is reasonable, and I hope we can adopt
5493 it. And I yield back.

5494 Mr. Smith. Do you yield back?

5495 Ms. Lofgren. I do.

5496 Mr. Smith. Thank you, Ms. Lofgren. I will recognize
5497 myself in opposition to the amendment. First, it makes
5498 sweeping changes to the employment actions considered to be
5499 in violation of E-Verify under H.R. 3711. And second, it
5500 strikes provisions designed to make the E-Verify system more

5501 employer-friendly.

5502 The prohibition on an employer taking, "adverse
5503 employment action against the individual" seeking work could
5504 apply to almost any action. It is not defined in the
5505 amendment and is overly broad. We should not punish
5506 employers for undefined mistakes.

5507 The amendment also strikes the provision in the Legal
5508 Workforce Act that allows a job offer to be contingent on
5509 the confirmation of work eligibility. This commonsense
5510 provision spares an employer from having to go through the
5511 process of hiring an individual who turns out not to be
5512 eligible to work. Just a reminder: under the E-Verify
5513 system, 99 percent of prospective employees receive a
5514 confirmation of work eligibility, 99 percent. As far as the
5515 other 1 percent, the average time to resolve their situation
5516 is only 2-and-a-half days. So, no one is being subjected to
5517 any hardship here.

5518 The amendment unnecessarily burdens employers who use
5519 E-Verify and it allows illegal immigrants to continue to
5520 take jobs that should go to American workers. So, I urge my
5521 colleagues to oppose the amendment.

5522 Are there any other members who wish to be heard? If
5523 not, the vote is on the Conyers amendment.

5524 All in favor, say aye.

5525 Opposed, nay.

5526 Clearly, the nays have it and the amendment is not
5527 agreed to.

5528 Mr. Conyers. A record vote, sir.

5529 Mr. Smith. Is there a record vote requested?

5530 Mr. Conyers. Yes.

5531 Mr. Smith. Okay. A record vote has been requested and
5532 the clerk will call the roll.

5533 Ms. Adcock. Mr. Goodlatte?

5534 [No response.]

5535 Mr. Sensenbrenner?

5536 [No response.]

5537 Mr. Smith?

5538 Mr. Smith. No.

5539 Ms. Adcock. Mr. Smith votes no.

5540 Mr. Chabot?

5541 [No response.]

5542 Mr. Issa?

5543 [No response.]

5544 Mr. King?

5545 Mr. King. No.

5546 Ms. Adcock. Mr. King votes no.

5547 Mr. Franks?

5548 Mr. Franks. No.

5549 Ms. Adcock. Mr. Franks votes no.

5550 Mr. Gohmert?

5551 [No response.]
5552 Mr. Jordan?
5553 [No response.]
5554 Mr. Poe?
5555 [No response.]
5556 Mr. Marino?
5557 Mr. Marino. No.
5558 Ms. Adcock. Mr. Marino votes no.
5559 Mr. Gowdy?
5560 [No response.]
5561 Mr. Labrador?
5562 [No response.]
5563 Mr. Farenthold?
5564 [No response.]
5565 Mr. Collins?
5566 Mr. Collins. No.
5567 Ms. Adcock. Mr. Collins votes no.
5568 Mr. DeSantis?
5569 [No response.]
5570 Mr. Buck?
5571 Mr. Buck. No.
5572 Ms. Adcock. Mr. Buck votes no.
5573 Mr. Ratcliffe?
5574 [No response.]
5575 Mrs. Roby?

5576 [No response.]

5577 Mr. Gaetz?

5578 Mr. Gaetz. No.

5579 Ms. Adcock. Mr. Gaetz votes no.

5580 Mr. Johnson of Louisiana?

5581 Mr. Johnson of Louisiana. No.

5582 Ms. Adcock. Mr. Johnson votes no.

5583 Mr. Biggs?

5584 [No response.]

5585 Mr. Rutherford?

5586 Mr. Rutherford. No.

5587 Ms. Adcock. Mr. Rutherford votes no.

5588 Mrs. Handel?

5589 Mrs. Handel. No.

5590 Ms. Adcock. Mrs. Handel votes no.

5591 Mr. Conyers?

5592 Mr. Conyers. Aye.

5593 Ms. Adcock. Mr. Conyers votes aye.

5594 Mr. Nadler?

5595 [No response.]

5596 Ms. Lofgren?

5597 Ms. Lofgren. Aye.

5598 Ms. Adcock. Ms. Lofgren votes aye.

5599 Ms. Jackson Lee?

5600 Ms. Jackson Lee. Aye.

5601 Ms. Adcock. Ms. Jackson Lee votes aye.
5602 Mr. Cohen?
5603 [No response.]
5604 Mr. Johnson of Georgia?
5605 Mr. Johnson of Georgia. Aye.
5606 Ms. Adcock. Mr. Johnson votes aye.
5607 Mr. Deutch?
5608 Mr. Deutch. Aye.
5609 Ms. Adcock. Mr. Deutch votes aye.
5610 Mr. Gutierrez?
5611 [No response.]
5612 Ms. Bass?
5613 [No response.]
5614 Mr. Richmond?
5615 [No response.]
5616 Mr. Jeffries?
5617 [No response.]
5618 Mr. Cicilline?
5619 [No response.]
5620 Mr. Swalwell?
5621 [No response.]
5622 Mr. Lieu?
5623 Mr. Lieu. Aye.
5624 Ms. Adcock. Mr. Lieu votes aye.
5625 Mr. Raskin?

5626 Mr. Raskin. Aye.

5627 Ms. Adcock. Mr. Raskin votes aye.

5628 Ms. Jayapal?

5629 Ms. Jayapal. Aye.

5630 Ms. Adcock. Ms. Jayapal votes aye.

5631 Mr. Schneider?

5632 Mr. Schneider. Aye.

5633 Ms. Adcock. Mr. Schneider votes aye.

5634 Mr. Smith. Are there any other members who wish to be

5635 recorded? The chairman from Virginia?

5636 Chairman Goodlatte. No.

5637 Ms. Adcock. Mr. Goodlatte votes no.

5638 Mr. Smith. The chairman from New Jersey? The

5639 gentleman from New Jersey? Rhode Island. I am sorry.

5640 Mr. Cicilline. Yes.

5641 Ms. Adcock. Mr. Cicilline votes yes.

5642 Mr. Smith. The gentleman from Idaho?

5643 Mr. Labrador. No.

5644 Ms. Adcock. Mr. Labrador votes no.

5645 Mr. Smith. The gentleman who up first -- Ohio?

5646 Mr. Jordan. No.

5647 Mr. Smith. The gentleman from --

5648 Ms. Adcock. Mr. Jordan votes no.

5649 Mr. Smith. The gentleman from Texas?

5650 Mr. Poe. No.

5651 Mr. Smith. Mr. Poe?

5652 Ms. Adcock. Mr. Poe votes no.

5653 Mr. Smith. The gentleman from Texas, Mr. Farenthold?

5654 Mr. Farenthold. No.

5655 Ms. Adcock. Mr. Farenthold votes no.

5656 Mr. Smith. The gentleman from Ohio?

5657 Mr. Chabot. No.

5658 Ms. Adcock. Mr. Chabot votes no.

5659 Mr. Smith. I think we are both holding here. The

5660 gentleman from New York?

5661 Mr. Nadler. Aye.

5662 Ms. Adcock. Mr. Nadler votes aye.

5663 Mr. Smith. The clerk will report.

5664 Ms. Adcock. Mr. Chairman, 11 members voted aye, 16

5665 members voted no.

5666 Mr. Smith. The nays have it and the amendment is not

5667 agreed to. Are there any other amendments? The gentlewoman

5668 from California, Ms. Lofgren, is recognized.

5669 Ms. Lofgren. I have an amendment at the desk.

5670 Mr. Smith. The clerk will report the amendment.

5671 Ms. Adcock. Amendment to the amendment in the nature

5672 of a substitute, offered by Ms. Lofgren. In Section 2, in

5673 the proposed subsection --

5674 [The amendment of Ms. Lofgren follows:]

5675 ***** COMMITTEE INSERT *****

5676 Mr. Smith. Without objection, the amendment will be
5677 considered as read and the gentlewoman is recognized to
5678 explain her amendment.

5679 Ms. Lofgren. This amendment delays verification
5680 requirements from applying to seasonal agricultural workers
5681 until the Department of Homeland Security, in consultation
5682 with the Department of Agriculture, certifies that requiring
5683 verification of such workers will not cause such a
5684 significant shortage of persons available to perform
5685 agricultural labor or services in the country.

5686 Now, I think we have to delay E-Verify in agriculture
5687 until DHS and USDA can certify. Why? If we do not provide
5688 meaningful legal status to undocumented farmworkers, then we
5689 should at least delay the bill's application to agriculture
5690 until we have confidence that the industry will not be
5691 decimated by a loss of workers.

5692 Now, I realize, in the prior bill, we had a trigger
5693 that the bill would go into effect. It was linked with E-
5694 Verify. My colleagues on the other side of the aisle have a
5695 lot more confidence than I do that the bill that we marked
5696 up and reported out of the committee is actually going to
5697 work. And if we do not actually tie the imposition of
5698 mandatory E-Verify to a workable farm labor program, we
5699 could end up with a huge mess on our hands. Without reforms

5700 that work, E-Verify could cause disruptions in the Nation's
5701 food system. And as we know, over 15 percent of our economy
5702 relies on agriculture. The industry itself represents 2
5703 percent of GDP.

5704 Now, a 2016 survey of the Department of Agriculture
5705 reveals that a massive 93 percent of foreign-born
5706 farmworkers have been here for at least 5 years. Fifty-five
5707 percent have been here for at least 15 years, many for more
5708 than 15 years. And as I mentioned during the markup in the
5709 prior bill, extending the possibility of a temporary visa
5710 once those workers of long-standing residents in the U.S. is
5711 unlikely to bring them forward. So, they are going to be
5712 underground. We have got this untried ag job bill that the
5713 chairman believes and apparently my colleagues across the
5714 aisle believe will work.

5715 But if it does not, and we mandatory E-Verify the ag
5716 sector, we will find out what we already know, which is that
5717 more than half of those who are working there are
5718 undocumented. And if they go away with no replacement, we
5719 are not going to be eating too many salads.

5720 So, I do think that this is a modest effort, as we
5721 know. Donald Trump is president and the Department of
5722 Agriculture and the Department of Homeland Security
5723 secretaries were appointed by him. So, this decision would
5724 be made by departments that are headed by members of the

5725 majority party here in the House. I would hope that we
5726 would trust them to call it as they see it and see whether
5727 we are going to have an adequate work force before the
5728 hammer comes down on the agricultural sector. So, that is
5729 my amendment. I think it makes sense. I hope we support
5730 and I yield back the balance of my time.

5731 Mr. Smith. Thank you, Ms. Lofgren. And I will
5732 recognize myself in opposition to the amendment. I oppose
5733 this amendment because it makes the application of E-Verify
5734 to the agriculture industry condition on the approval of two
5735 Cabinet secretaries. Chairman Goodlatte is committed to
5736 providing the agricultural industry with a workable system
5737 through which to get needed workers. The markup of his
5738 guestworker bill is proof of this commitment.

5739 The Legal Workforce Act gives agricultural employers 1-
5740 and-a-half years from the date of enactment to transition to
5741 E-Verify for their newly-hired employees. This
5742 implementation time matches the timeframe in Chairman
5743 Goodlatte's guestworker bill.

5744 Besides delaying implementation of E-Verify, this
5745 amendment abrogates Congress's role in determining
5746 immigration policy, which is established clearly in the
5747 Constitution. So, I urge my colleagues to oppose the
5748 amendment. I will yield back.

5749 Is there any other member who wishes to be heard on the

5750 amendment? If not, the vote is on the Lofgren Amendment.

5751 All in favor, say aye.

5752 Opposed, nay.

5753 In the opinion of the chair, the nays have it and the
5754 amendment is not agreed to.

5755 Ms. Lofgren. Mr. Chairman, could I have a recorded
5756 vote on this one?

5757 Mr. Smith. Okay. A record vote has been requested and
5758 the clerk will call the roll.

5759 Ms. Adcock. Mr. Goodlatte?

5760 [No response.]

5761 Mr. Sensenbrenner?

5762 [No response.]

5763 Mr. Smith?

5764 Mr. Smith. No.

5765 Ms. Adcock. Mr. Smith votes no.

5766 Mr. Chabot?

5767 Mr. Chabot. No.

5768 Ms. Adcock. Mr. Chabot votes no.

5769 Mr. Issa?

5770 [No response.]

5771 Mr. King?

5772 Mr. King. No.

5773 Ms. Adcock. Mr. King votes no.

5774 Mr. Franks?

5775 [No response.]

5776 Mr. Gohmert?

5777 Mr. Gohmert. No.

5778 Ms. Adcock. Mr. Gohmert votes no.

5779 Mr. Jordan?

5780 Mr. Jordan. No.

5781 Ms. Adcock. Mr. Jordan votes no.

5782 Mr. Poe?

5783 [No response.]

5784 Mr. Marino?

5785 Mr. Marino. No.

5786 Ms. Adcock. Mr. Marino votes no.

5787 Mr. Gowdy?

5788 [No response.]

5789 Mr. Labrador?

5790 [No response.]

5791 Mr. Farenthold?

5792 Mr. Farenthold. No.

5793 Ms. Adcock. Mr. Farenthold votes no.

5794 Mr. Collins?

5795 Mr. Collins. No.

5796 Ms. Adcock. Mr. Collins votes no.

5797 Mr. DeSantis?

5798 [No response.]

5799 Mr. Buck?

5800 Mr. Buck. No.

5801 Ms. Adcock. Mr. Buck votes no.

5802 Mr. Ratcliffe?

5803 Mr. Ratcliffe. No.

5804 Ms. Adcock. Mr. Ratcliffe votes no.

5805 Mrs. Roby?

5806 [No response.]

5807 Mr. Gaetz?

5808 Mr. Gaetz. No.

5809 Ms. Adcock. Mr. Gaetz votes no.

5810 Mr. Johnson of Louisiana?

5811 Mr. Johnson of Louisiana. No.

5812 Ms. Adcock. Mr. Johnson votes no.

5813 Mr. Biggs?

5814 [No response.]

5815 Mr. Rutherford?

5816 Mr. Rutherford. No.

5817 Ms. Adcock. Mr. Rutherford votes no.

5818 Mrs. Handel?

5819 Mrs. Handel. No.

5820 Ms. Adcock. Ms. Handel votes no. Mr. Conyers?

5821 Mr. Conyers. Aye.

5822 Ms. Adcock. Mr. Conyers votes aye.

5823 Mr. Nadler?

5824 Mr. Nadler. Aye.

5825 Ms. Adcock. Mr. Nadler votes aye.

5826 Ms. Lofgren?

5827 Ms. Lofgren. Aye.

5828 Ms. Adcock. Ms. Lofgren votes aye.

5829 Ms. Jackson Lee?

5830 [No response.]

5831 Mr. Cohen?

5832 [No response.]

5833 Mr. Johnson of Georgia?

5834 Mr. Johnson of Georgia. Aye.

5835 Ms. Adcock. Mr. Johnson votes aye.

5836 Mr. Deutch?

5837 Mr. Deutch. Aye.

5838 Ms. Adcock. Mr. Deutch votes aye.

5839 Mr. Gutierrez?

5840 [No response.]

5841 Ms. Bass?

5842 [No response.]

5843 Mr. Richmond?

5844 [No response.]

5845 Mr. Jeffries?

5846 [No response.]

5847 Mr. Cicilline?

5848 Mr. Cicilline. Aye.

5849 Ms. Adcock. Mr. Cicilline votes aye.

5850 Mr. Swalwell?

5851 [No response.]

5852 Mr. Lieu?

5853 Mr. Lieu. Aye.

5854 Ms. Adcock. Mr. Lieu votes aye.

5855 Mr. Raskin?

5856 [No response.]

5857 Ms. Jayapal?

5858 Ms. Jayapal. Aye.

5859 Ms. Adcock. Ms. Jayapal votes aye.

5860 Mr. Schneider?

5861 Mr. Schneider. Aye.

5862 Ms. Adcock. Mr. Schneider votes aye.

5863 Mr. Smith. Are there any other members who wish to

5864 record their vote? The chairman from Virginia?

5865 Chairman Goodlatte. No.

5866 Ms. Adcock. Mr. Goodlatte votes no.

5867 Mr. Smith. The gentleman from Idaho?

5868 Mr. Labrador. No.

5869 Ms. Adcock. Mr. Labrador votes no.

5870 Mr. Smith. The gentleman from Arizona, Mr. Franks?

5871 Mr. Franks. No.

5872 Ms. Adcock. Mr. Franks votes no.

5873 Mr. Smith. The gentleman from Texas?

5874 Mr. Poe. No.

5875 Ms. Adcock. Mr. Poe votes no.

5876 Mr. Smith. Any other members who wish to record their
5877 vote? The gentleman from Maryland is not recorded, and he
5878 is free to vote.

5879 Mr. Raskin. Aye.

5880 Ms. Adcock. Mr. Raskin votes aye.

5881 Mr. Smith. Okay. The clerk will report.

5882 Ms. Adcock. Mr. Chairman, 10 members voted aye, 18
5883 members voted no.

5884 Mr. Smith. The nays have it and the amendment is not
5885 agreed to. Are there other amendments? The gentleman from
5886 Georgia is recognized.

5887 Mr. Johnson of Georgia. I have an amendment at the
5888 desk.

5889 Mr. Smith. The clerk will report the amendment.

5890 Ms. Adcock. Amendment to the amendment in the nature
5891 of a substitute offered by Mr. Johnson. In section 2, in
5892 the proposed --

5893 [The amendment of Mr. Johnson of Georgia follows:]

5894 ***** COMMITTEE INSERT *****

5895 Mr. Smith. Without objection, the amendment is
5896 considered as read and the gentleman from Georgia is
5897 recognized to explain the amendment.

5898 Mr. Johnson of Georgia. Thank you, Mr. Chairman. My
5899 amendment provides critical due process protections for
5900 authorized workers who incorrectly receive final
5901 nonconfirmations. The amendment provides an administrative
5902 appeal process with judicial review which allows workers to
5903 retain their jobs during an appeal and ensure that back pay
5904 and attorney's fees will be awarded to workers who lose
5905 their jobs due to system or employer error.

5906 As it stands, the bill has no protections for workers
5907 who receive erroneous final nonconfirmations. My amendment
5908 provides the following basic protections. It establishes an
5909 administrative appeal process to challenge final
5910 nonconfirmations and judicial review of such appeals.
5911 Employers must inform workers about the administrative
5912 appeals process when providing them with written final
5913 nonconfirmations. Workers have 15 business days to file an
5914 appeal.

5915 Appeals from persons claiming to be U.S. citizens or
5916 nationals go to Social Security Administration and appeals
5917 from persons claiming to be authorized aliens go to
5918 Department of Homeland Security. And final nonconfirmations

5919 are stayed until resolution of the appeal. And if the
5920 appeal is denied, a further stay for 30 days to provide time
5921 to seek judicial review.

5922 The initial stay may be terminated if SSA or DHS
5923 determine the appeal is frivolous or dilatory, and the 30-
5924 day stay may similarly be terminated if a court makes that
5925 finding. Also, up to \$75,000 in compensation and up to
5926 \$50,000 in reasonable attorney's fees are available from the
5927 government if a stay of nonconfirmation is denied during an
5928 administrative appeal or a court reverses a denial of an
5929 administrative appeal and the error is not the result of
5930 employee or employer error.

5931 And the amendment makes available compensation for lost
5932 wages upon wrongful termination. Without this amendment,
5933 U.S. workers and authorized immigrants will be wrongfully
5934 fired, and left without recourse. This amendment would
5935 ensure that citizens and other authorized workers do not
5936 wrongly lose their jobs as a result of this bill, and that
5937 those who do lose their jobs due to errors receive basic due
5938 process protections to ensure that we make things right, and
5939 help them get back on their feet. And with that, Mr.
5940 Chairman, I will yield the balance of my time.

5941 Mr. Smith. Thank you, Mr. Johnson, and I will
5942 recognize myself in opposition. This amendment is an
5943 attempt to make E-Verify overly burdensome. Its wage

5944 compensation provision overturns a Supreme Court ruling that
5945 employers do not need to pay back wages to illegal
5946 immigrants, since they held those jobs illegally. The Legal
5947 Workforce Act balances the legitimate concerns of all
5948 interested parties regarding E-Verify: the business
5949 community, the American people who want to see immigration
5950 laws enforced, and legal employees. But this amendment
5951 upsets that balance in favor of one party, to the detriment
5952 of another.

5953 Specifically, the amendment creates an administrative
5954 process following an E-Verify nonconfirmation. So if an
5955 individual's employment is terminated, but they are not
5956 hired based on E-Verify's issuance of a nonconfirmation of
5957 work eligibility, the individual has access to the
5958 administrative and judicial review process. The Legal
5959 Workforce Act retains the current deadlines for a final
5960 verification determination. The bill requires DHS to issue
5961 the final determination within 10 working days of the date
5962 that the employee or potential employee receives notice of a
5963 tentative nonconfirmation.

5964 H.R. 3711 provides for the process that U.S.
5965 Citizenship and Immigration Services has in place to help
5966 ensure the resolution of a nonconfirmation contested by an
5967 employee. In those situations, DHS issues a letter
5968 requesting that the employer not take action on the final

5969 nonconfirmation until a resolution has occurred. The
5970 average resolution time under this process is only 2-and-a-
5971 half days. A final determination deadline is necessary in
5972 order to give employers an opportunity to find another
5973 employee, and to prevent illegal immigrants from taking
5974 jobs. The administrative process created by this amendment
5975 could postpone by several months a final determination of
5976 work eligibility, or it could leave the eligibility process
5977 open-ended.

5978 There is no actual deadline for the time within which
5979 an individual must file the initial administrative appeal.
5980 Illegal immigrants could work for years under this amendment
5981 as their appeals drag on, which abuses the process.

5982 The lack of a time limit on final determination of work
5983 eligibility is an unnecessary burden on American businesses.
5984 Companies should have a cut-off date at which point they can
5985 move on to find a different employee if necessary.

5986 The amendment also requires the government to
5987 compensate the individual for lost wages, reasonable costs,
5988 and attorney's fees. Taxpayers should not be required to
5989 foot this bill. Furthermore, the bill already allows a
5990 remedy if an individual alleges that they would not have
5991 been dismissed from a job but for an error of the E-Verify
5992 system. The individual can file a claim using the Federal
5993 Tort Claims Act, and seek injunctive relief.

5994 The last provision of the amendment attempts to
5995 overturn the Supreme Court ruling in Hoffman Plastic
5996 Compounds vs. National Labor Relations Board. The court
5997 ruled that the NLRB could not order a company to give back
5998 pay to an unauthorized worker, but this amendment
5999 specifically states that a former employee's status as an
6000 illegal immigrant or illegal worker shall not be a basis for
6001 denying backpay remedies to the employee. So under this
6002 amendment, businesses will be forced to pay back wages to
6003 illegal immigrants, contrary to the Supreme Court's ruling.

6004 For all of these reasons, I oppose the amendment, and
6005 urge my colleagues to do the same. Are there any other
6006 members who wish to be heard on this amendment? If not, the
6007 vote is on.

6008 The gentleman from Georgia's amendment, all in favor,
6009 say aye.

6010 All opposed, nay.

6011 The nays have it, and the amendment is not agreed to.

6012 Are there any other amendments tonight? And voting
6013 quorum being present -- oh, pardon me. Who seeks
6014 recognition?

6015 Mr. Deutch. Mr. Chairman, I do have an amendment at
6016 the desk.

6017 Mr. Smith. The gentleman from Florida is recognized
6018 for the purpose of offering an amendment, and the clerk will

6019 report the amendment.

6020 Ms. Adcock. Amendment to the amendment in the nature
6021 of a substitute offered by Mr. Deutch. In section 274A of
6022 the Immigration and Nationality Act, as proposed to be
6023 amended by section 3 of the bill, strike the final sentence.

6024 [The amendment of Mr. Deutch follows:]

6025 ***** COMMITTEE INSERT *****

6026 Mr. Smith. Without objection, the amendment will be
6027 considered as read, and the gentleman from Florida is
6028 recognized to explain the amendment.

6029 Mr. Deutch. Thank you, Mr. Chairman. Mr. Chairman, my
6030 amendment would strike the provision in the underlying bill
6031 that prohibits class actions from being brought by workers
6032 who unjustly lose their jobs due to an error in the E-Verify
6033 system.

6034 This provision would severely limit and in many cases
6035 eliminate any legal recourse for thousands of workers who
6036 lose their jobs due to database error. Prohibiting class
6037 actions would also remove the ability of the courts to
6038 effectively and efficiently resolve cases involving large
6039 numbers of workers who are harmed by similar systemic E-
6040 Verify errors.

6041 Class actions are an essential means by which the
6042 courts can effectively address claims that are systemic in
6043 nature, or impact a large number of people in a similar
6044 manner. Cases that would be too expensive to litigate on an
6045 individual case-by-case basis are often brought as class
6046 actions. Class actions enable individuals who are not in a
6047 position financially to bring their own lawsuits to have a
6048 court hear and adjudicate the claim as part of a group of
6049 people similarly impacted.

6050 Class actions also enable a court to efficiently
6051 administer their dockets, to resolve cases involving a large
6052 number of people who are being harmed by a similar practice,
6053 rather than having to resolve numerous individual cases.

6054 The Legal Workforce Act provides a process for
6055 individuals to seek protection in the courts if that
6056 individual would not have been dismissed from a job but for
6057 an error of the verification mechanism. However, this
6058 process limits individuals to seeking compensation through
6059 the Federal Tort Claims Act, an injunctive relief to correct
6060 the verification error.

6061 This section of the bill also prohibits class actions
6062 from being filed to seek relief for a verification error
6063 that may have occurred under the E-Verify system.
6064 Prohibiting class actions would remove a tool used by
6065 overburdened Federal courts to effectively manage their
6066 dockets and limited finances.

6067 If class actions are prohibited, courts would be unable
6068 to address potential E-Verify error problems having similar
6069 characteristics, involving a large number of individuals in
6070 a single case.

6071 Consolidating similar claims into a class action allows
6072 our Federal courts to resolve similar allegations in an
6073 economic manner that avoids redundant litigation, something
6074 that I know that the chairman deems important. Class

6075 actions also open the courthouse doors to people to have
6076 their claims of wrongdoing heard and resolved in the
6077 judicial system. The Legal Workforce Act limits a worker
6078 who unjustly loses a job due to an E-Verify error to seek
6079 restitution through the extremely lengthy and expensive
6080 Federal Tort Claims Act or injunctive relief.

6081 In addition, the Tort Claims Act has a cap on fees for
6082 attorneys that successfully recover lost wages for an
6083 individual worker who loses his job with an E-Verify error.
6084 This creates yet another barrier for aggrieved individuals
6085 to receive back pay for losing their jobs from an error. It
6086 makes it financially impractical for any attorney to
6087 represent an aggrieved lower-income individual against the
6088 Federal Government on a contingency basis to recover lost
6089 wages.

6090 Indeed, under this bill, cases seeking lost wages filed
6091 by aggrieved individuals will be very costly. These cases
6092 have to be filed in Federal court, it will take months and
6093 in some cases years to resolve. And in these instances, a
6094 class action may be the only way for a group of individuals
6095 to receive legal representation, and have their case against
6096 the Federal Government heard in Federal court, for wages
6097 that were unjustly lost as a result of an E-Verify error.

6098 Moreover, the members of this committee are not in a
6099 position to determine that claims alleging wrongful

6100 termination due to an E-Verify error are too diverse, and do
6101 not justify class certification. That is a determination
6102 that should be left to those who are in the best position to
6103 review the specific facts of a particular case.

6104 Those would be our Federal judges. Because a class
6105 action could be the best method for individual workers who
6106 lose their jobs for similar E-Verify errors to have their
6107 cases heard in court, and permits a court to efficiently
6108 manage their docket and consolidate claims into one case, I
6109 urge support of my very reasonable amendment, and I yield
6110 back the balance of my time.

6111 Mr. Smith. Thank you, Mr. Deutch. I will recognize
6112 myself in opposition to a very well-stated amendment.
6113 However, pursuant to the Federal Rules of Civil Procedure,
6114 class actions may be brought where the class is so large as
6115 to make individual suits impractical, and where there is a
6116 legal and factual claim in common among the class members.
6117 Termination on grounds of employment eligibility is fact-
6118 specific.

6119 There is no justification for class actions in this
6120 instance, since each individual who alleges they were
6121 wrongfully terminated based on the employment eligibility
6122 verification process has unique circumstances surrounding
6123 the determination. Employers already are subject to
6124 penalties if they misuse the system. If an individual was

6125 harmed on account of the program, the Legal Workforce Act
6126 allows individuals to file suit using the Federal Tort
6127 Claims Act.

6128 Advocates for illegal immigration might be tempted to
6129 use this class action to shut down E-Verify with an
6130 injunction. To me, this is contrary to protecting jobs for
6131 American workers, which should be the job of Congress. So
6132 for those reasons, I urge my colleagues to oppose the
6133 amendment. Is there any other member who wishes to be heard
6134 on the amendment? If not, the vote is on the Deutch
6135 amendment.

6136 All in favor, say aye.

6137 Opposed, nay.

6138 The nays have it, and the amendment is not agreed to.

6139 Mr. Lieu. Mr. Chairman, I ask for a recorded vote.

6140 Mr. Smith. A recorded vote has been requested, and the
6141 clerk will call the roll.

6142 Ms. Adcock. Mr. Goodlatte?

6143 [No response.]

6144 Mr. Sensenbrenner?

6145 [No response.]

6146 Mr. Smith?

6147 Mr. Smith. No.

6148 Ms. Adcock. Mr. Smith votes no.

6149 Mr. Chabot?

6150 [No response.]
6151 Mr. Issa?
6152 [No response.]
6153 Mr. King?
6154 [No response.]
6155 Mr. Franks?
6156 [No response.]
6157 Mr. Gohmert?
6158 Mr. Gohmert. No.
6159 Ms. Adcock. Mr. Gohmert votes no.
6160 Mr. Jordan?
6161 [No response.]
6162 Mr. Poe?
6163 [No response.]
6164 Mr. Marino?
6165 [No response.]
6166 Mr. Gowdy?
6167 [No response.]
6168 Mr. Labrador?
6169 [No response.]
6170 Mr. Farenthold?
6171 Mr. Farenthold. No.
6172 Ms. Adcock. Mr. Farenthold votes no.
6173 Mr. Collins?
6174 Mr. Collins. No.

6175 Ms. Adcock. Mr. Collins votes no.
6176 Mr. DeSantis?
6177 [No response.]
6178 Mr. Buck?
6179 Mr. Buck. No.
6180 Ms. Adcock. Mr. Buck votes no.
6181 Mr. Ratcliffe?
6182 Mr. Ratcliffe. No.
6183 Ms. Adcock. Mr. Ratcliffe votes no.
6184 Mrs. Roby?
6185 [No response.]
6186 Mr. Gaetz?
6187 [No response.]
6188 Mr. Johnson of Louisiana?
6189 Mr. Johnson of Louisiana. No.
6190 Ms. Adcock. Mr. Johnson votes no.
6191 Mr. Biggs?
6192 Mr. Biggs. No.
6193 Ms. Adcock. Mr. Biggs votes no.
6194 Mr. Rutherford?
6195 Mr. Rutherford. No.
6196 Ms. Adcock. Mr. Rutherford votes no.
6197 Mrs. Handel?
6198 Mrs. Handel. No.
6199 Ms. Adcock. Mrs. Handel votes no.

6200 Mr. Conyers?
6201 Mr. Conyers. Aye.
6202 Ms. Adcock. Mr. Conyers votes aye.
6203 Mr. Nadler?
6204 Mr. Nadler. Aye.
6205 Ms. Adcock. Mr. Nadler votes aye.
6206 Ms. Lofgren?
6207 Ms. Lofgren. Aye.
6208 Ms. Adcock. Ms. Lofgren votes aye.
6209 Ms. Jackson Lee?
6210 [No response.]
6211 Mr. Cohen?
6212 [No response.]
6213 Mr. Johnson of Georgia?
6214 Mr. Johnson of Georgia. Aye.
6215 Ms. Adcock. Mr. Johnson votes aye.
6216 Mr. Deutch?
6217 Mr. Deutch. Aye.
6218 Ms. Adcock. Mr. Deutch votes aye.
6219 Mr. Gutierrez?
6220 [No response.]
6221 Ms. Bass?
6222 [No response.]
6223 Mr. Richmond?
6224 [No response.]

6225 Mr. Jefferies?

6226 [No response.]

6227 Mr. Cicilline?

6228 Mr. Cicilline. Aye.

6229 Ms. Adcock. Mr. Cicilline votes aye.

6230 Mr. Swalwell?

6231 Mr. Swalwell. Aye.

6232 Ms. Adcock. Mr. Swalwell votes aye.

6233 Mr. Lieu?

6234 Mr. Lieu. Aye.

6235 Ms. Adcock. Mr. Lieu votes aye.

6236 Mr. Raskin?

6237 [No response.]

6238 Ms. Jayapal?

6239 Ms. Jayapal. Aye.

6240 Ms. Adcock. Ms. Jayapal votes aye.

6241 Mr. Schneider?

6242 Mr. Schneider. Aye.

6243 Ms. Adcock. Mr. Schneider votes aye.

6244 Mr. Smith. Are there other members who wish to be

6245 recorded? The chairman from Virginia?

6246 Chairman Goodlatte. No.

6247 Ms. Adcock. Mr. Goodlatte votes no.

6248 Mr. Smith. The gentleman from Idaho?

6249 Ms. Adcock. Mr. Labrador votes no.

6250 Mr. Smith. Okay, the gentlewoman from Alabama?

6251 Ms. Adcock. Mrs. Roby votes no.

6252 Mr. Smith. The gentleman from Ohio.

6253 Ms. Adcock. Mr. Jordan votes no.

6254 Mr. Smith. Pennsylvania?

6255 Ms. Adcock. Mr. Marino votes no.

6256 Mr. Smith. The gentleman from Florida?

6257 Mr. DeSantis. No.

6258 Mr. Smith. The gentleman from Ohio?

6259 Mr. Chabot. No.

6260 Mr. Smith. The gentleman from Texas, Mr. Poe.

6261 Mr. Poe. No.

6262 Ms. Adcock. Mr. Poe votes no.

6263 Mr. Smith. The gentleman from Arizona?

6264 Mr. Franks. No.

6265 Ms. Adcock. Mr. Franks votes no.

6266 Mr. Smith. The gentleman from Iowa?

6267 Mr. King. No.

6268 Mr. Smith. Okay.

6269 Ms. Adcock. Mr. King votes no.

6270 Mr. Smith. The gentleman from Florida?

6271 Mr. Gaetz. No.

6272 Mr. Smith. Okay.

6273 Ms. Adcock. Mr. Gaetz votes no.

6274 Mr. Smith. How is the gentleman from Ohio recorded?

6275 Ms. Adcock. No.

6276 Mr. Smith. He is recorded as no. The clerk will
6277 report.

6278 Ms. Adcock. Mr. Chairman, 10 members voted aye; 20
6279 members voted no.

6280 Mr. Smith. Okay, the nays have it, and the amendment
6281 is not agreed to.

6282 Mr. Cicilline. Mr. Chairman?

6283 Mr. Smith. I am hoping there are not many more
6284 amendments. Yes, the gentleman is recognized for the
6285 purpose of offering an amendment.

6286 Mr. Cicilline. Sorry to disappoint you, but I have an
6287 amendment at the desk.

6288 Mr. Smith. I am sorry?

6289 Mr. Cicilline. I said, sorry to disappoint you, but I
6290 have an amendment at the desk.

6291 Mr. Smith. Okay, the clerk will report the amendment.

6292 Ms. Adcock. Amendment to the amendment in the nature
6293 of a substitute offered by Mr. Cicilline.

6294 [The amendment of Mr. Cicilline follows:]

6295 ***** COMMITTEE INSERT *****

6296 Mr. Smith. Without objection, the amendment will be
6297 considered as read, and the gentleman is recognized to
6298 explain his amendment.

6299 Mr. Cicilline. Thank you, Mr. Chairman. If enacted,
6300 H.R. 3711 would require the universal use of E-Verify for
6301 entities that receive payment for referring individuals for
6302 employment. Even though labor unions, hiring halls, and day
6303 labor centers receive no payment for employee referrals,
6304 under H.R. 3711 these entities are required to verify
6305 individuals before they can assist them with getting a job.
6306 My amendment would simply strike this requirement.

6307 This provision is clearly meant to target unions and
6308 hiring halls, who are simply working to protect workers and
6309 find them employment. These entities do not benefit from
6310 the employees' services, and do not even receive payment
6311 from the ultimate employer for recruitment or referral
6312 services, yet in some cases the E-Verify requirement might
6313 fall entirely into the hands of labor unions.

6314 H.R. 3711 says nothing about whether employers who hire
6315 referred workers as independent contractors will have to use
6316 E-Verify. Employers who do not have to verify workers
6317 referred by unions get a free pass, and shift the cost and
6318 responsibility onto those unions. It is not the union's job
6319 to make sure an employer does not violate the law by hiring

6320 unauthorized workers. It only makes sense that the employer
6321 who benefits from the work performed should confirm work
6322 authorization.

6323 This bill also allows for selective reverification of
6324 workers, and gives employers a powerful tool to crack down
6325 on workers who are organizing for better wages and working
6326 conditions. This is because H.R. 3711 allows employers to
6327 E-Verify workers at a single geographic location, or at the
6328 option of the employer, all employees in a single job
6329 category. Employers will be able to retaliate against
6330 employees at a particular job site, or in a particular job
6331 category, simply because they are organizing for better
6332 treatment.

6333 Even worse, under H.R. 3711, if employers conduct
6334 discriminatory reverification, employers will have immunity
6335 from further scrutiny of these decisions. The bill states,
6336 and I quote, "An employer's decision about whether or not
6337 voluntarily to seek verification of its current workforce
6338 may not be considered by any government agency in any
6339 proceeding, investigation or review."

6340 This is a blatant attempt to prevent the National Labor
6341 Relations Board and other government agencies from
6342 scrutinizing whether reverification decisions were made to
6343 suppress lawful organizing activities, or discriminate
6344 against certain classes of workers. H.R. 3711 harms the

6345 ability of labor unions to organize, and represent the
6346 rights of workers. I strongly oppose this attack on labor
6347 unions, and urge my colleagues to support my amendment, and
6348 with that I yield back the balance of my time.

6349 Mr. Smith. I thank the gentleman from Rhode Island for
6350 his amendment, I will recognize myself in opposition. The
6351 Legal Workforce Act requires day labor centers, union hiring
6352 halls, and other labor service entities to use E-Verify for
6353 those individuals they recruit for employment, regardless of
6354 whether or not they receive payment for doing so.

6355 This amendment alters the text so that only entities
6356 that receive payment for recruiting and referring employees
6357 are required to use E-Verify. Many localities around the
6358 country have opened day labor sites to provide places where
6359 workers, often illegal immigrants, are matched with
6360 employers for the day. Localities that open these sites are
6361 deliberately seeking to aid illegal immigrants, and
6362 employers who want to evade immigration laws.

6363 Section 4 of H.R. 3711 requires localities that set up
6364 day labor sites to use E-Verify to check the employment
6365 eligibility of those seeking jobs at those sites. It helps
6366 ensure that illegal immigrants do not wrongfully obtain
6367 employment.

6368 All entities that recruit or refer potential employees
6369 should be required to use E-Verify to help ensure the

6370 potential employee is work-eligible. Exemption from this
6371 requirement simply based on the fact that they do not
6372 receive a fee for the referral or recruitment undercuts the
6373 goal of the legislation, which is to save jobs for American
6374 workers. I urge my colleagues to oppose the amendment, and
6375 I yield back.

6376 The question is on the gentleman from Rhode Island's
6377 amendment.

6378 All in favor, say aye.

6379 Opposed, nay.

6380 The nays have it, and the amendment is not agreed to.

6381 Mr. Cicilline. Request a recorded vote, Mr. Chairman.

6382 Mr. Smith. A recorded vote has been requested, and the
6383 clerk will call the roll.

6384 Ms. Adcock. Mr. Goodlatte?

6385 [No response.]

6386 Mr. Sensenbrenner?

6387 [No response.]

6388 Mr. Smith?

6389 Mr. Smith. No.

6390 Ms. Adcock. Mr. Smith votes no.

6391 Mr. Chabot?

6392 [No response.]

6393 Mr. Issa?

6394 [No response.]

6395 Mr. King?
6396 Mr. King. No.
6397 Ms. Adcock. Mr. King votes no.
6398 Mr. Franks?
6399 [No response.]
6400 Mr. Gohmert?
6401 Mr. Gohmert. No.
6402 Ms. Adcock. Mr. Gohmert votes no.
6403 Mr. Jordan?
6404 Mr. Jordan. No.
6405 Ms. Adcock. Mr. Jordan votes no.
6406 Mr. Poe?
6407 [No response.]
6408 Mr. Marino?
6409 Mr. Marino. No.
6410 Ms. Adcock. Mr. Marino votes no.
6411 Mr. Gowdy?
6412 [No response.]
6413 Mr. Labrador?
6414 [No response.]
6415 Mr. Farenthold?
6416 Mr. Farenthold. No.
6417 Ms. Adcock. Mr. Farenthold votes no.
6418 Mr. Collins?
6419 Mr. Collins. No.

6420 Ms. Adcock. Mr. Collins votes no.
6421 Mr. DeSantis?
6422 [No response.]
6423 Mr. Buck?
6424 Mr. Buck. No.
6425 Ms. Adcock. Mr. Buck votes no.
6426 Mr. Ratcliffe?
6427 Mr. Ratcliffe. No.
6428 Ms. Adcock. Mr. Ratcliffe votes no.
6429 Mrs. Roby.
6430 Mrs. Roby. No.
6431 Ms. Adcock. Mrs. Roby votes no.
6432 Mr. Gaetz?
6433 Mr. Gaetz. No.
6434 Ms. Adcock. Mr. Gaetz votes no.
6435 Mr. Johnson of Louisiana?
6436 Mr. Johnson of Louisiana. No.
6437 Ms. Adcock. Mr. Johnson votes no.
6438 Mr. Biggs?
6439 Mr. Biggs. No.
6440 Ms. Adcock. Mr. Biggs votes no.
6441 Mr. Rutherford?
6442 Mr. Rutherford. No.
6443 Ms. Adcock. Mr. Rutherford votes no.
6444 Mrs. Handel?

6445 Mrs. Handel. No.

6446 Ms. Adcock. Mrs. Handel votes no.

6447 Mr. Conyers?

6448 Mr. Conyers. Aye.

6449 Ms. Adcock. Mr. Conyers votes aye.

6450 Mr. Nadler?

6451 Mr. Nadler. Aye

6452 Ms. Adcock. Mr. Nadler votes aye.

6453 Ms. Lofgren?

6454 Ms. Lofgren. Aye.

6455 Ms. Adcock. Ms. Lofgren votes aye.

6456 Ms. Jackson Lee?

6457 [No response.]

6458 Mr. Cohen?

6459 [No response.]

6460 Mr. Johnson of Georgia?

6461 Mr. Johnson of Georgia. Aye.

6462 Ms. Adcock. Mr. Johnson votes aye.

6463 Mr. Deutch?

6464 Mr. Deutch. Aye.

6465 Ms. Adcock. Mr. Deutch votes aye.

6466 Mr. Gutierrez?

6467 [No response.]

6468 Ms. Bass?

6469 [No response.]

6470 Mr. Richmond?

6471 [No response.]

6472 Mr. Jefferies?

6473 [No response.]

6474 Mr. Cicilline?

6475 Mr. Cicilline. Aye.

6476 Ms. Adcock. Mr. Cicilline votes aye.

6477 Mr. Swalwell?

6478 Mr. Swalwell. Aye.

6479 Ms. Adcock. Mr. Swalwell votes aye.

6480 Mr. Lieu?

6481 Mr. Lieu. Aye.

6482 Ms. Adcock. Mr. Lieu votes aye.

6483 Mr. Raskin?

6484 [No response.]

6485 Ms. Jayapal?

6486 Ms. Jayapal. Aye.

6487 Ms. Adcock. Ms. Jayapal votes aye.

6488 Mr. Schneider?

6489 Mr. Schneider. Aye.

6490 Ms. Adcock. Mr. Schneider votes aye.

6491 Mr. Smith. Are there any other members who wish to be

6492 recorded? The chairman from Virginia, Mr. Goodlatte?

6493 Chairman Goodlatte. No.

6494 Ms. Adcock. Mr. Goodlatte votes no.

6495 Mr. Smith. And how is the gentleman from Ohio, Mr.
6496 Jordan, recorded?
6497 Ms. Adcock. No.
6498 Mr. Smith. Okay, thank you. The gentleman from Ohio,
6499 Mr. Chabot?
6500 Mr. Chabot. No.
6501 Ms. Adcock. The gentleman from Texas, Mr. Poe?
6502 Mr. Poe. No.
6503 Ms. Adcock. Mr. Poe votes no.
6504 Mr. Smith. The gentleman from Arizona?
6505 Mr. Franks. No.
6506 Ms. Adcock. Mr. Franks votes no.
6507 Mr. Smith. The clerk will report.
6508 Ms. Adcock. Mr. Chairman, 10 members voted aye, 19
6509 members voted no.
6510 Mr. Smith. The nays have it, and the amendment is not
6511 agreed to. Any further amendments?
6512 Ms. Lofgren. Mr. Chairman?
6513 Mr. Smith. The gentlewoman from California, Ms.
6514 Lofgren.
6515 Ms. Lofgren. Mr. Chairman, I have an amendment at the
6516 desk, I believe.
6517 Mr. Smith. The clerk -- you do not have that
6518 amendment?
6519 Ms. Lofgren. It is being walked down right now.

6520 Mr. Smith. The clerk will report the amendment.

6521 Ms. Adcock. Amendment to the amendment, in the nature

6522 of a substitute offered by Ms. Lofgren. In section 8 --

6523 [The amendment of Ms. Lofgren follows:]

6524 ***** COMMITTEE INSERT *****

6525 Mr. Smith. Without objection, the amendment is
6526 considered as read, and the gentlewoman is recognized to
6527 explain her amendment.

6528 Ms. Lofgren. Mr. Chairman, this is the Lofgren-Jayapal
6529 amendment to the Legal Workforce Act. It increases
6530 penalties for unfair immigration-related employment
6531 practices.

6532 Now, the bill before us increases penalties for
6533 unlawful employment, but it does similarly raise penalties
6534 for unfair immigration-related employment practices found in
6535 section 274B of the Immigration and Nationality Act. This
6536 amendment makes sure that both sets of penalties are
6537 increased equally, so that discrimination based on national
6538 origin and citizenship, and other forms of intimidation and
6539 harassment, are sufficiently penalized.

6540 Why should the penalties on 274A of the Immigration and
6541 Nationality Act go up, but 274B of the Act be ignored? The
6542 amendment would help ensure that we fight discrimination
6543 against foreign-born citizens, and legal immigrants.

6544 The current E-Verify users are disproportionately large
6545 businesses and Federal contractors, relatively sophisticated
6546 employers, that voluntarily enroll in this system. There
6547 are some small businesses as well, but the current users are
6548 more likely to use the system properly than a mom and pop

6549 store that may not really have used the system before, and
6550 may not have the advice and an H.R. program like a large
6551 company may have.

6552 Noncompliance with program rules would almost certainly
6553 increase if all employers were required to use this system.
6554 Now, I mentioned the Westat study that was done earlier, and
6555 they found that employers in Arizona are generally less
6556 compliant with E-Verify procedures than E-Verify employers
6557 outside of Arizona. This is probably because unlike most E-
6558 Verify users, most Arizona employers did not volunteer to
6559 use the program. I do not think it is about Arizona; it is
6560 about mandating the use so that smaller companies and those
6561 who did not volunteer were also included.

6562 According to that famous Westat study, many employers
6563 assumed that all employees who receive tentative
6564 nonconfirmation were unauthorized workers, and therefore
6565 required them to work longer hours and in poorer conditions.
6566 Now, that is a violation of the law, but there is nothing in
6567 this bill that relates to that discrimination.

6568 This amendment would protect work-authorized
6569 noncitizens who are far more likely to get erroneous
6570 nonconfirmations and to suffer abuse and exploitation. The
6571 natural error rate for naturalized citizens has improved
6572 over the years, but the error rate for noncitizens but legal
6573 residents has remained unchanged. And again, going back to

6574 the Westat report, lawful permanent residents are 250
6575 percent more likely to have an erroneous tentative
6576 nonconfirmation than U.S. citizens. That is .0 percent
6577 compared to .2 percent. Other noncitizens are 2,000 percent
6578 more likely to have an erroneous TNC than U.S. citizens.

6579 I am sure you recall, Mr. Chairman, when I chaired the
6580 Subcommittee on Immigration, I had an immigration counsel, a
6581 very skilled lawyer, who was a naturalized citizen of the
6582 United States. Because the House of Representatives does E-
6583 Verify, when she went down to get her E-verification, it
6584 came back that she was not authorized to work; but she was.
6585 It took her, I think, almost 2 months to get that
6586 straightened out.

6587 Now, we are the House of Representatives, we presumably
6588 know what the law is, and certainly you and I do. She was
6589 not terminated while that got straightened out. But there
6590 are employers who are small, do not have an H.R. department,
6591 who might just fire that person, and there is no
6592 ramification here in the bill.

6593 So this would remedy that. I think we should treat
6594 this violation as seriously as a violation of 274A of the
6595 Immigration and Nationality Act, and that is my pitch, and I
6596 yield back the balance of my time.

6597 Mr. Smith. Thank you, Ms. Lofgren. I recognize myself
6598 in opposition to the amendment. This amendment increases

6599 penalties for unfair immigration-related employment
6600 practices. It is a common complaint of employers that the
6601 Department of Justice, at least in the past, has been
6602 overzealous in their pursuit of claims against employers,
6603 even in cases in which the employer acted inadvertently, and
6604 without malice.

6605 For instance, employers have been held liable by the
6606 previous Justice Department when the software they purchased
6607 to help with their I-9 compliance contained a formatting
6608 error of which the employer had no knowledge. Under this
6609 amendment, the penalties for such perceived violations,
6610 since they are deemed strict liability, would be greatly
6611 increased. So I urge my colleagues to oppose the amendment.

6612 Are there any other members who wish to be heard?

6613 Ms. Jayapal. Mr. Chairman?

6614 Mr. Smith. The gentlewoman from Washington is
6615 recognized.

6616 Ms. Jayapal. Thank you, Mr. Chairman. Obviously, I am
6617 in support of this amendment that Congresswoman Lofgren and
6618 I have offered, and I think it is important to recognize why
6619 we are talking about this bill. I think the other side has
6620 said that if you are going to increase the number of
6621 agricultural workers, as we did with the last bill, and even
6622 though our side understands that it was structured in a way
6623 that would be hugely detrimental to those workers and to

6624 American workers, your side was making the argument, and I
6625 think there was an amendment to tie these two bills
6626 together, that you did not want to do that without having an
6627 effective E-Verify system that would then enforce who was
6628 actually taking these jobs, and making sure that they were
6629 documented.

6630 And the reality is, that the Cato Institute -- and I
6631 cannot believe that I am quoting Cato, I am quoting
6632 Breitbart -- but just to show that this is really a
6633 bipartisan issue here -- or not a partisan argument -- but
6634 the Cato Institute has put out a report on incredibly low
6635 compliance of E-Verify, including when it is made mandatory
6636 in States. And Ms. Lofgren mentioned this, but they say in
6637 the beginning that they say the main reason why E-Verify is
6638 ineffective is because employers ignore it. So they are
6639 stating very clearly that even though this is a mandate,
6640 employers simply do not comply.

6641 So if the goal of the other side is to make sure that
6642 there is an E-Verify program, and that people are actually
6643 complying, and that somehow this is a counter to the idea
6644 that it is, you know, that there is going to be no checks on
6645 the workers who are working, then you need to have a
6646 functioning E-Verify program. This is not a functioning E-
6647 Verify program unless you have compliance. And so, just to
6648 quote this study, "The States of Alabama, Arizona,

6649 Mississippi, and South Carolina have all mandated E-Verify
6650 for all new hires in their States." And they were at
6651 different dates, 2008 for Arizona, 2010 for South Carolina,
6652 2011 for Mississippi, and 2012 for Alabama. And in those
6653 four States, the law basically said that every employer had
6654 to run all new hires identity information through E-Verify.

6655 And then, in response a Freedom of Information Act from
6656 the Cato Institute request filed by Cato, what they were
6657 able to show is that there were far fewer E-Verify cases or
6658 queries than new hires in the State. And so, that
6659 discrepancy said that employers were not running all of
6660 their new hires through the database. And so, the number of
6661 E-Verify cases -- basically the conclusion of this study was
6662 that only 57 percent of all new hires were run through E-
6663 Verify in States where 100 percent of all new hires were
6664 mandated to be verified. So, at the very minimum, E-Verify
6665 cannot be effective if employers do not use it.

6666 So, this amendment is saying that since you all felt so
6667 strongly that the other bill was not going to be effective
6668 unless you had E-Verify with it, all we are trying to say is
6669 then, if you are going to have penalties here around
6670 employees, then you should also have them around employers.
6671 Because unless employers are committing to use E-Verify, and
6672 we have a lot of problems -- Ms. Lofgren has stated them
6673 very well -- with trying to push an E-Verify bill when we

6674 have not passed comprehensive immigration reform.

6675 The reality is it is going to create chaos across our
6676 country. But if you are going to insist on penalizing the
6677 employees, then we think that you should have some penalties
6678 around employers.

6679 Mr. Smith. Would the gentlewoman yield?

6680 Ms. Jayapal. I would.

6681 Mr. Smith. I just want to point out that the Westad
6682 study that she mentioned, I believe, is about 10 years old
6683 and out of date. And I say that because it does not allow
6684 for the technological improvements we have had to E-Verify.
6685 So, I would like to at least reassure you that there have
6686 been improvements and E-Verify is much more efficient.

6687 In addition, I want to add that I like it much more
6688 when she quotes Breitbart than the other sources.

6689 Ms. Jayapal. Well, thank you, Mr. Chairman, but I want
6690 -- just reclaiming my time -- I wanted to say that what I am
6691 quoting from is different than what Ms. Lofgren is quoting
6692 from. And I am happy to give those to you. But this is
6693 actually a Cato Institute study that was done, and it
6694 actually looked at data from 2015.

6695 So, it is actually extremely recent data and it does
6696 show that this is, in 2015, the data that was analyzed was
6697 in 2015 in four States that had mandated the use of E-Verify
6698 for all new hires. So, we are speaking about two different

6699 studies. This one does include the technological
6700 improvement.

6701 Mr. Smith. And if the gentlewoman would yield? Those
6702 States did not implement the E-Verify system completely that
6703 is in this bill. So, they may have had uneven results. But
6704 I take what the woman says and look forward to seeing the
6705 study.

6706 Ms. Jayapal. I thank the chairman and just reclaim my
6707 time to say that I think that the reality is they mandated
6708 implementation of E-Verify. The bill is also saying that we
6709 are going to have an E-Verify system. But the underlying
6710 point is employers are not using the E-Verify system, even
6711 when mandated. Thank you, Mr. Chairman, and I yield back.

6712 Mr. Smith. Thank you, and the question is on the
6713 gentlewoman from California's amendment.

6714 All in favor, say aye.

6715 All opposed, nay.

6716 In the opinion of the chair, the nays have it, and the
6717 amendment is not agreed to.

6718 Are there any other amendments?

6719 Mr. Gutierrez. I do.

6720 Mr. Smith. The gentleman from Illinois is recognized
6721 for the purpose of offering an amendment.

6722 Mr. Gutierrez. Thank you.

6723 Mr. Smith. And the clerk will report the amendment.

6724 Ms. Adcock. Amendment to the amendment in the nature
6725 of a substitute offered by Mr. Gutierrez. Add at the end of
6726 the bill --

6727 [The amendment of Mr. Gutierrez follows:]

6728 ***** COMMITTEE INSERT *****

6729 Mr. Smith. Without objection, the amendment will be
6730 considered as read and the gentleman is recognized to
6731 explain the amendment.

6732 Mr. Gutierrez. Yes. I have an amendment, and my
6733 amendment acknowledges that E-Verify is a mandatory
6734 component of comprehensive immigration reform and it cannot
6735 be enacted as a standalone bill. The text of the amendment
6736 creates an effective date that makes the Legal Workforce Act
6737 contingent on achieving comprehensive immigration reform by
6738 requiring the Secretary of Homeland Security to certify that
6739 there are sufficient lawful methods for those who are
6740 undocumented on the enactment date of the Legal Workforce
6741 Act to adjust to lawful permanent residency. And just for
6742 the history, this is not new. This is not innovative. This
6743 is not your side of the aisle trying to make America safe
6744 and trying to make America secure.

6745 I would ask to enter into record H.R. 4321 -- only part
6746 of it, Mr. Chairman. The employment verification, E-Verify,
6747 introduced on December 15, 2009 with 100 Democrats, with an
6748 E-Verify component stronger and more useful and more
6749 effective than the one presented here today. Wait a minute.
6750 See what it says here.

6751 Oh, when the Senate, on June 27, 2013, put S. 744 --
6752 which almost every Democrats cosponsored, once it passed the

6753 Senate -- says, "Enforcement interior employment
6754 verification system." So, when I introduced a comprehensive
6755 immigration with Congressman Flake and Senator McCain and
6756 Senator Kennedy, we introduced a bicameral, bipartisan bill
6757 in 2005, guess what it had? Employment verification.

6758 We have always understood that employment verification
6759 is an essential part. Mr. Conyers knew because he
6760 introduced the bill with us in 2007 as an original sponsor
6761 of the bill. As the does the gentlelady from California,
6762 Ms. Jackson Lee. And I am sure, if the rest of us had been
6763 here, you would have been original sponsors, too.

6764 So, Democrats understand. This side of the aisle
6765 understand, but we understand that it only works in the
6766 context of comprehensive immigration reform. Otherwise what
6767 you do is you take people from being on the books, paying
6768 Federal taxes, State taxes, FICA taxes and you put them
6769 underground. And you all ow them to be exploited because we
6770 know that a quarter of the undocumented are what? Been here
6771 20 years. Have family, businesses. Do you really want to
6772 run them out of the country? Well, do not answer that
6773 question because I know you do.

6774 But that is not the correct way to do things. The
6775 correct way to do things is to say, "Let's make sure that
6776 every employer out there, we jail them. We send them to
6777 jail. We fine them. We bankrupt them. If they hire people

6778 outside of the verification system." Because I -- and this
6779 side, I know -- only wants one workforce in America. One
6780 under the same rules and protections and workforce
6781 protections and obligations and responsibilities. But the
6782 only way you are going to be able to do that is if you do
6783 comprehensive immigration reform.

6784 So, please note, that if you want E-Verify, then do not
6785 have a Republican proposal. Have an American proposal, one
6786 that this side of the aisle can embrace. And then we can
6787 have the verification system that is so necessary.

6788 But if you insist on a Republican proposal, then it
6789 will never come to fruition, as we will never have a
6790 verification system until both sides of the aisle come
6791 together in both the Senate and the House. Otherwise all we
6792 are doing is rehashing old legislation. But I just wanted
6793 to take a moment to say, "Do not feel too proud of
6794 yourselves on the other side of the aisle. This is not an
6795 original idea. 2005 -- wait, in 2007 -- I reintroduced it
6796 because with Congressman Flake, again, with E-Verify.

6797 You see the Senate version. You see the version that
6798 Mr. Conyers, I, and Ms. Jackson Lee and other members of
6799 this committee -- I am sorry, Mr. Johnson, you are an
6800 original sponsor of that bill also. So, there are many
6801 people that are here on this committee that introduced the
6802 bill with e-verification. But every time anybody seriously

6803 has wanted a verification system, they have done it within
6804 the context of comprehensive immigration reform because that
6805 is a reflection of the values of all America.

6806 As a matter of fact, most members on the other side,
6807 your voters, want a way to take the undocumented out of the
6808 shadows, bring them in to the light of day, register them
6809 with the government, make sure they are paying taxes. Not a
6810 verification system that if it were ever to come today would
6811 simply push them further underground. But not eliminate
6812 them.

6813 So, let's do the right thing and have an American
6814 proposal that your side and our side can go. And that is
6815 what my amendment does. It says, "Let's legalize and give
6816 them green cards and bring them out of the shadows." Thank
6817 you, Mr. Chairman.

6818 Mr. Smith. Thank you, Mr. Gutierrez.

6819 And I will recognize myself in opposition to the
6820 amendment. The amendment prevents the implementation of
6821 H.R. 1147 until a time in which the Secretary of Homeland
6822 Security certifies that there are "sufficient lawful methods
6823 for illegal aliens to get lawful permanent resident status."
6824 Whether there are sufficient lawful methods for adjustment
6825 of status is left up to the Secretary, and thus,
6826 implementation of E-Verify would be subject to the whim of
6827 whomever happens to be Secretary of the Department of

6828 Homeland Security at the time.

6829 If that individual happens to be opposed to the use of
6830 E-Verify in general, there is an incentive never to certify
6831 that sufficient lawful methods are in place. This provision
6832 also abrogates Congress's role in determining immigration
6833 policy which is found in the Constitution. So, I urge my
6834 colleagues to oppose it, and the question is on the
6835 Gutierrez amendment.

6836 All in favor, say aye.

6837 Opposed, nay.

6838 In the opinion of the chair, the nays have it, and the
6839 amendment is not agreed to.

6840 Mr. Gutierrez. I ask for a recorded vote.

6841 Mr. Smith. A recorded vote has been requested, and the
6842 clerk will call the roll.

6843 Ms. Adcock. Mr. Goodlatte?

6844 [No response.]

6845 Mr. Sensenbrenner?

6846 [No response.]

6847 Mr. Smith?

6848 Mr. Smith. No.

6849 Ms. Adcock. Mr. Smith votes no.

6850 Mr. Chabot?

6851 Mr. Chabot. No.

6852 Ms. Adcock. Mr. Chabot votes no.

6853 Mr. Issa?
6854 [No response.]
6855 Mr. King?
6856 [No response.]
6857 Mr. Franks?
6858 [No response.]
6859 Mr. Gohmert?
6860 Mr. Gohmert. No.
6861 Ms. Adcock. Mr. Gohmert votes no.
6862 Mr. Jordan?
6863 Mr. Jordan. No.
6864 Ms. Adcock. Mr. Jordan votes no.
6865 Mr. Poe?
6866 [No response.]
6867 Mr. Marino?
6868 Mr. Marino. No.
6869 Ms. Adcock. Mr. Marino votes no.
6870 Mr. Gowdy?
6871 [No response.]
6872 Mr. Labrador?
6873 [No response.]
6874 Mr. Farenthold?
6875 Mr. Farenthold. No.
6876 Ms. Adcock. Mr. Farenthold votes no.
6877 Mr. Collins?

6878 Mr. Collins. No.

6879 Ms. Adcock. Mr. Collins votes no.

6880 Mr. DeSantis?

6881 [No response.]

6882 Mr. Buck?

6883 Mr. Buck. No.

6884 Ms. Adcock. Mr. Buck votes no.

6885 Mr. Ratcliffe?

6886 Mr. Ratcliffe. No.

6887 Ms. Adcock. Mr. Ratcliffe votes no.

6888 Mrs. Roby?

6889 Mrs. Roby. No.

6890 Ms. Adcock. Mrs. Roby votes no.

6891 Mr. Gaetz?

6892 Mr. Gaetz. No.

6893 Ms. Adcock. Mr. Gaetz votes no.

6894 Mr. Johnson of Louisiana?

6895 Mr. Johnson of Louisiana. No.

6896 Ms. Adcock. Mr. Johnson votes no.

6897 Mr. Biggs?

6898 Mr. Biggs. No.

6899 Ms. Adcock. Mr. Biggs votes no.

6900 Mr. Rutherford?

6901 Mr. Rutherford. No.

6902 Ms. Adcock. Mr. Rutherford votes no.

6903 Mrs. Handel?

6904 Mrs. Handel. No.

6905 Ms. Adcock. Mrs. Handel votes no.

6906 Mr. Conyers?

6907 Mr. Conyers. Aye.

6908 Ms. Adcock. Mr. Conyers votes aye.

6909 Mr. Nadler?

6910 Mr. Nadler. Aye.

6911 Ms. Adcock. Mr. Nadler votes aye.

6912 Ms. Lofgren?

6913 Ms. Lofgren. Aye.

6914 Ms. Adcock. Ms. Lofgren votes aye.

6915 Ms. Jackson Lee?

6916 [No response.]

6917 Mr. Cohen?

6918 [No response.]

6919 Mr. Johnson of Georgia?

6920 Mr. Johnson of Georgia. Aye.

6921 Ms. Adcock. Mr. Johnson of Georgia votes aye.

6922 Mr. Deutch?

6923 Mr. Deutch. Aye.

6924 Ms. Adcock. Mr. Deutch votes aye.

6925 Mr. Gutierrez?

6926 Mr. Gutierrez. Yes.

6927 Ms. Adcock. Mr. Gutierrez votes yes.

6928 Ms. Bass?

6929 [No response.]

6930 Mr. Richmond?

6931 [No response.]

6932 Mr. Jeffries?

6933 [No response.]

6934 Mr. Cicilline?

6935 Mr. Cicilline. Aye.

6936 Ms. Adcock. Mr. Cicilline votes aye.

6937 Mr. Swalwell?

6938 [No response.]

6939 Mr. Lieu?

6940 Mr. Lieu. Yes.

6941 Ms. Adcock. Mr. Lieu votes yes.

6942 Mr. Raskin?

6943 [No response.]

6944 Ms. Jayapal?

6945 Ms. Jayapal. Aye.

6946 Ms. Adcock. Ms. Jayapal votes aye.

6947 Mr. Schneider?

6948 Mr. Schneider. Aye.

6949 Ms. Adcock. Mr. Schneider votes aye.

6950 Mr. Smith. Are there any other members who wish to be

6951 recorded? The gentleman from Virginia, the Chairman?

6952 Chairman Goodlatte. No.

6953 Ms. Adcock. Mr. Goodlatte votes no.

6954 Mr. Smith. The gentleman from Idaho?

6955 Mr. Labrador. No.

6956 Ms. Adcock. Mr. Labrador votes no.

6957 Mr. Smith. The gentleman from Texas?

6958 Mr. Poe. No.

6959 Ms. Adcock. Mr. Poe votes no.

6960 Mr. Smith. The gentleman from Arizona?

6961 Mr. Franks. No.

6962 Ms. Adcock. Mr. Franks votes no.

6963 Mr. Smith. The gentleman from Iowa?

6964 Mr. King. No.

6965 Ms. Adcock. Mr. King votes no.

6966 Mr. Smith. The clerk will report.

6967 Ms. Adcock. Mr. Chairman, 10 members voted aye, 20

6968 members voted no.

6969 Mr. Smith. The nays have it, and the amendment is not

6970 agreed to. If there are no further amendments, the question

6971 is on the amendment in the nature of a substitute to H.R.

6972 3711.

6973 Those in favor, say aye.

6974 Those opposed, no.

6975 In the opinion of the chair, the ayes have it, and the

6976 amendment is agreed to.

6977 Reporting quorum being present, the question is on the

6978 motion to report the bill H.R. 3711 as amended favorably to
6979 the House.

6980 Those in favor, say aye.

6981 Those opposed, no.

6982 The ayes clearly have it, and the bill is ordered
6983 recorded favorably.

6984 Mr. Conyers. Request recorded vote --

6985 Mr. Smith. Recorded vote has been requested and the
6986 clerk will call the roll.

6987 Ms. Adcock. Mr. Goodlatte?

6988 Chairman Goodlatte. Aye.

6989 Ms. Adcock. Mr. Goodlatte votes aye.

6990 Mr. Sensenbrenner?

6991 [No response.]

6992 Mr. Smith?

6993 Mr. Smith. Aye.

6994 Ms. Adcock. Mr. Smith votes aye.

6995 Mr. Chabot?

6996 Mr. Chabot. Aye.

6997 Ms. Adcock. Mr. Chabot votes aye.

6998 Mr. Issa?

6999 [No response.]

7000 Mr. King?

7001 Mr. King. Aye.

7002 Ms. Adcock. Mr. King votes aye.

7003 Mr. Franks?

7004 Mr. Franks. Aye.

7005 Ms. Adcock. Mr. Franks votes aye.

7006 Mr. Gohmert?

7007 Mr. Gohmert. Aye.

7008 Ms. Adcock. Mr. Gohmert votes aye.

7009 Mr. Jordan?

7010 Mr. Jordan. Yes.

7011 Ms. Adcock. Mr. Jordan votes yes.

7012 Mr. Poe?

7013 Mr. Poe. Yes.

7014 Ms. Adcock. Mr. Poe votes yes.

7015 Mr. Marino?

7016 Mr. Marino. Yes.

7017 Ms. Adcock. Mr. Marino votes yes.

7018 Mr. Gowdy?

7019 [No response.]

7020 Mr. Labrador?

7021 Mr. Labrador. Yes.

7022 Ms. Adcock. Mr. Labrador votes yes.

7023 Mr. Farenthold?

7024 Mr. Farenthold. Yes.

7025 Ms. Adcock. Mr. Farenthold votes yes.

7026 Mr. Collins?

7027 Mr. Collins. Yes.

7028 Ms. Adcock. Mr. Collins votes yes.
7029 Mr. DeSantis?
7030 [No response.]
7031 Mr. Buck?
7032 Mr. Buck. Yes.
7033 Ms. Adcock. Mr. Buck votes yes.
7034 Mr. Ratcliffe?
7035 Mr. Ratcliffe. Yes.
7036 Ms. Adcock. Mr. Ratcliffe votes yes.
7037 Mrs. Roby?
7038 Mrs. Roby. Aye.
7039 Ms. Adcock. Mrs. Roby votes aye.
7040 Mr. Gaetz?
7041 Mr. Gaetz. Yes.
7042 Ms. Adcock. Mr. Gaetz votes yes.
7043 Mr. Johnson of Louisiana?
7044 Mr. Johnson of Louisiana. Yes.
7045 Ms. Adcock. Mr. Johnson votes yes.
7046 Mr. Biggs?
7047 Mr. Biggs. Yes.
7048 Ms. Adcock. Mr. Biggs votes yes.
7049 Mr. Rutherford?
7050 Mr. Rutherford. Yes.
7051 Ms. Adcock. Mr. Rutherford votes yes.
7052 Mrs. Handel?

7053 Mrs. Handel. Yes.

7054 Ms. Adcock. Mrs. Handel votes yes.

7055 Mr. Conyers?

7056 Mr. Smith. Mr. Conyers?

7057 Mr. Conyers. No.

7058 Ms. Adcock. Mr. Conyers votes no.

7059 Mr. Nadler?

7060 Mr. Nadler. No.

7061 Ms. Adcock. Mr. Nadler votes no.

7062 Ms. Lofgren?

7063 Ms. Lofgren. No.

7064 Ms. Adcock. Ms. Lofgren votes no.

7065 Ms. Jackson Lee?

7066 [No response.]

7067 Mr. Cohen?

7068 [No response.]

7069 Mr. Johnson of Georgia?

7070 Mr. Johnson of Georgia. No.

7071 Ms. Adcock. Mr. Johnson of Georgia votes no.

7072 Mr. Deutch?

7073 Mr. Deutch. No.

7074 Ms. Adcock. Mr. Deutch votes no.

7075 Mr. Gutierrez?

7076 Mr. Gutierrez. No.

7077 Ms. Adcock. Mr. Gutierrez votes no.

7078 Ms. Bass?

7079 [No response.]

7080 Mr. Richmond?

7081 [No response.]

7082 Mr. Jeffries?

7083 [No response.]

7084 Mr. Cicilline?

7085 Mr. Cicilline. No.

7086 Ms. Adcock. Mr. Cicilline votes no.

7087 Mr. Swalwell?

7088 [No response.]

7089 Mr. Lieu?

7090 Mr. Lieu. No.

7091 Ms. Adcock. Mr. Lieu votes no.

7092 Mr. Raskin?

7093 [No response.]

7094 Ms. Jayapal?

7095 Ms. Jayapal. No.

7096 Ms. Adcock. Ms. Jayapal votes no.

7097 Mr. Schneider?

7098 Mr. Schneider. No.

7099 Ms. Adcock. Mr. Schneider votes no.

7100 Mr. Smith. Are there any other members who wish to be

7101 recorded in the room? If not, the clerk will report.

7102 Ms. Adcock. Mr. Chairman, 20 members voted aye; 10

7103 members voted no.

7104 Mr. Smith. Would you repeat that, please?

7105 Ms. Adcock. Mr. Chairman, 20 members voted aye; 10

7106 members voted no.

7107 Mr. Smith. The ayes have it, and the bill is approved.

7108 Without objection, I ask unanimous consent that the

7109 letters of support for H.R. 3711 for the following groups be

7110 entered into the record: Chamber of Commerce, Numbers USA,

7111 National Association of Homebuilders, Essential Worker

7112 Immigration Coalition, International Franchise Association,

7113 Associated General Contractors of America, National

7114 Restaurant Association, and the National Roofing Contractors

7115 Association.

7116 [The information follows:]

7117 ***** COMMITTEE INSERT *****

7118 Mr. Smith. As I mentioned, the ayes have it, and the
7119 bill is ordered reported favorably to the House. Members
7120 will have 2 days to submit views.

7121 Without objection, the bill be reported as a single
7122 amendment in the nature of a substitute incorporating all
7123 adopted amendments and the staff is authorized to make
7124 technical and conforming changes.

7125 I want to thank all the members for being here tonight
7126 on such an important piece of legislation, and we stand
7127 adjourned.

7128 [Whereupon, at 8:07 p.m., the committee adjourned.]