

1 NATIONAL CAPITOL CONTRACTING
2 RPTS AVERETT
3 HJU319000

4 MARKUP OF H.R. 170
5 Wednesday, November 15, 2017
6 House of Representatives,
7 Committee on the Judiciary,
8 Washington, D.C.

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

12 Present: Representatives Goodlatte, Chabot, Issa, King,
13 Jordan, Marino, Collins, Ratcliffe, Roby, Gaetz, Johnson of
14 Louisiana, Rutherford, Handel, Conyers, Nadler, Lofgren,
15 Jackson Lee, Cohen, Johnson of Georgia, Swalwell, Lieu, and
16 Jayapal.

17 Staff Present: Shelley Husband, Staff Director; Branden
18 Ritchie, Deputy Staff Director; Zach Somers, Parliamentarian
19 and General Counsel; George Fishman, Chief Counsel,
20 Subcommittee on Immigration and Border Security; Alley

21 Adcock, Clerk; David Shahoulian, Minority Chief Counsel;
22 Danielle Brown, Minority Legislative Counsel; Matthew
23 Morgan, Minority Counsel; Rachel Calanni, Minority
24 Professional Staff Member; and Rosalind Jackson, Minority
25 Professional Staff.

26 Chairman Goodlatte. Good morning. The Judiciary
27 Committee will come to order, and, without objection, the
28 chair is authorized to declare a recess at any time.

29 Pursuant to notice, I now call up H.R. 170 for purposes
30 of markup and move that the committee report the bill
31 favorably to the House. The clerk will report the bill.

32 Ms. Adcock. H.R. 170, to amend the Immigration and
33 Nationality Act to modify the definition of exempt H-1B
34 nonimmigrant.

35 [The bill follows:]

36 ***** INSERT 1 *****

37 Chairman Goodlatte. Without objection, the bill is
38 considered as read and open for amendment at any time, and I
39 will begin by recognizing myself for an opening statement.

40 Some of you may have seen the 60 Minutes episode a few
41 months ago titled "You are Fired." It reported that
42 many businesses use the H-1B temporary visa program for
43 foreign professional workers as intended, but we discovered
44 more and more are taking advantage of loopholes in the law
45 to fire American workers and replace them with younger,
46 cheaper ones. But before the American workers walk out the
47 door they often face the humiliating prospect of having to
48 train the people taking their jobs.

49 Last October, a senior telecom engineer at the
50 University of California, San Francisco Medical Center was
51 called to a meeting at the university with about 80 of his
52 IT coworkers.

53 He says that he was told that "we are sorry to inform
54 you that you will no longer have a job. We are going to
55 outsource your position to a company in India." He was told
56 he could stay on the job and get paid for 4 more months if
57 he trained his replacement. He said that "it feels like not
58 only am I digging my grave, but I am getting ready to stab
59 myself in the gut and fall in the grave."

60 Oftentimes, unscrupulous employers intending to use the
61 H-1B program to facilitate laying off American workers do

62 not hire H-1B workers directly. Instead, they contract for
63 such workers from staffing companies that assist their
64 clients in replacing American workers and often even send
65 the work overseas. Reports of these kinds of abuses of the
66 H-1B program have a long history.

67 In fact, a quarter-century ago, 60 Minutes aired a very
68 similar story. Lesley Stahl reported that "when any
69 American company needs programmers, the body shops can often
70 deliver H-1B employees all the way from Bombay for rates
71 that are so cheap Americans just across town cannot
72 compete."

73 This committee came to similar conclusions two decades
74 ago and passed Lamar Smith's reform bill that led to the
75 current requirements that H-1B-dependent companies must,
76 one, promise to recruit for American workers before seeking
77 H-1Bs and offer jobs to qualified Americans who apply; and,
78 two, not lay off American workers and replace them with H-
79 1Bs.

80 However, the version of the bill that eventually became
81 law waived the recruitment and no-layoff requirements for H-
82 1B-dependent companies if they hired H-1B workers with
83 advanced degrees or paid them at least \$60,000. However,
84 the \$60,000 figure has never been adjusted for inflation.

85 In 1998, a \$60,000 salary exceeded the average salary
86 for information technology professionals. For example, the

87 average wage for computer engineers was \$59,850. However,
88 the average salary for computer and information research
89 scientists is now \$116,320, and 90 percent make more than
90 \$64,950.

91 Thus, the \$60,000 salary floor now represents little
92 more than half of the average wage in these occupations, and
93 the vast majority of American workers make far more.

94 Further, the majority of H-1B workers now have advanced
95 degrees, some of dubious quality, thus few H-1B-dependent
96 companies actually abide by the recruitment and no-layoff
97 attestations that Congress designed to curtail their abuse
98 of the program.

99 Furthermore, under current law, the layoff protection
100 only protects an American worker for a period ending 90 days
101 after their employer files an H-1B petition, but even that
102 protection has been rendered meaningless.

103 For a number of years now, the 85,000-annual allotment
104 of H-1B visas has been exhausted in the first few weeks
105 after they become available. Thus, since employers can file
106 petitions 6 months before the start of a fiscal year, they
107 all file in April of the previous year. No H-1B worker
108 subject to the cap actually starts work until long after the
109 layoff protection has expired.

110 I want to congratulate Mr. Issa on his commitment to
111 reinvigorate the Immigration and Nationality Act's

112 protections for American workers, and I also want to thank
113 Ms. Lofgren for working constructively with Mr. Issa and me
114 on the amendment in the nature of a substitute. We will
115 discuss the amendment further when Mr. Issa offers it.

116 But at this point, let me just say that it will
117 dramatically strengthen protections for American workers
118 against H-1B-enabled layoffs and will prevent H-1B-dependent
119 employers from undercutting the wages of American workers
120 and will give the administration the ability to vigorously
121 enforce these protections. I urge my colleagues to support
122 this bill.

123 And now, it is my pleasure to recognize the ranking
124 member of the committee, the gentleman from Michigan, Mr.
125 Conyers, for his opening statement.

126 [The prepared statement of Chairman Goodlatte follows:]

127 ***** COMMITTEE INSERT *****

128 Mr. Conyers. Thank you, Chairman Goodlatte. Members
129 of the committee, I want to take a moment at the outset of
130 today's markup to congratulate Chairman Bob Goodlatte on his
131 years of service in light of his recently announced
132 retirement. The Judiciary Committee has the privilege of
133 debating some of the most important and often controversial
134 issues facing our Nation.

135 As chairman, Representative Goodlatte has continued the
136 tradition of our committee being a place where there is
137 disagreement but without being disagreeable. While we have
138 debated many policy differences in this hearing room, we
139 have also found many areas of collaboration.

140 I am proud of the work we have accomplished together in
141 issues such as surveillance reform, particularly the passage
142 of USA Freedom, and the recent committee markup of USA
143 Liberty.

144 I also look forward to working with the chairman on
145 other critical issues, such as criminal justice, policy
146 accountability, copyright, and other areas of mutual
147 interest. Some of the work is already begun in these areas.
148 I am sure there will be other forums and opportunities to
149 recognize Chairman Goodlatte's years of public service in
150 the coming months, but I did not want to let our committee's
151 first markup following his announcement to pass without
152 doing so.

153 And so, I would now to like to comment on H.R. 170,
154 which would increase wage level of the H-1B-dependent
155 employees must pay to avoid jumping through hoops in the H-
156 1B immigrant visa program. There are employers who heavily
157 rely on foreign workers and have a 15 percent or more of
158 their workforce on H-1B visas.

159 I did not support a predecessor bill last Congress
160 because I did not believe it went far enough to prevent
161 abuses in the H-1B program that have led to the displacement
162 of American workers.

163 Academicians, labor unions, and the high-skilled
164 workers they represent have long argued that the H-1B
165 program is used by employers to replace U.S. workers with
166 lower-paid foreign H-1B workers, and the program is in need
167 of fundamental reforms.

168 Today we will be considering a substitute amendment
169 negotiated by Ms. Lofgren and Mr. Issa that will improve the
170 bill and serve as a first step in curbing abuse of the H-1B
171 program. Although this amendment does not fix the many
172 problems in the H-1B program, it will reign in some of the
173 most important, egregious abuses perpetuated by the H-1B-
174 dependent employers. The amendment increases the wages that
175 must be paid by dependent employers to H-1B workers who will
176 be placed with other employers.

177 By requiring that such workers receive at least the

178 average wage in the relevant occupation and area of
179 employment, the amendment prevents H-1B-dependent companies
180 from severely undercutting U.S. workers.

181 The amendment also provides the Department of Labor
182 with the authority to conduct random audits to ensure
183 compliance with these and other new requirements, and
184 establishes new norms in these temporary worker program. I
185 hope these reforms will be expanded to the entire H-1B
186 program and other temporary worker programs.

187 Going forward, I believe several additional matters can
188 be addressed. The current H-1B law fails to protect
189 workers' rights and labor standards. In fact, most H-1B
190 employers do not even need to attest that they first tried
191 to recruit an available, qualified U.S. worker or promise
192 that they will not displace existing U.S. workers.

193 In addition, current law also provides an economic
194 incentive for employers to misuse the H-1B program as a way
195 to cut labor costs, because they can pay H-1B employees as
196 low as the 17th percentile of an occupational wage in a
197 given area.

198 I look forward to working with my colleagues on broader
199 reforms to the H-1B program, and I thank the chairman and
200 yield back the balance of my time.

201 [The prepared statement of Mr. Conyers follows:]

202

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

203 Chairman Goodlatte. I thank the gentleman for his very
204 kind words, and I look forward to working with him and the
205 other members of the committee on both sides of the aisle
206 for the remainder of this year and through next year to find
207 as many opportunities as we can to move legislation that
208 will benefit our constituents and the country. So, thank
209 you very much.

210 It is now my pleasure to recognize the gentleman from
211 California, Mr. Issa, for purposes of offering an amendment
212 in the nature of a substitute, and the clerk will report the
213 amendment.

214 Ms. Adcock. Amendment in the nature of a substitute to
215 H.R. 170, offered by Mr. Issa of California. Strike all
216 after the enactment --

217 [The amendment of Mr. Issa follows:]

218 ***** INSERT 2 *****

219 Chairman Goodlatte. Without objection, the amendment
220 is considered as read, and I will recognize Mr. Issa to
221 explain the amendment.

222 Mr. Issa. Well, thank you, Mr. Chairman, and I want to
223 thank you and the ranking member for bringing this here
224 today and for your staff being so helpful in the process.

225 Additionally, I want to thank Ms. Lofgren, for whom
226 this bill really could well be named. Ultimately, the
227 balancing act of reforming H-1 is a matter of finding a way
228 to take a limited resource and allocate it to the most
229 appropriate people that can help our economy.

230 Both my district in Southern California and Ms.
231 Lofgren's district in San Jose enjoy a great many high-tech
232 companies who use H-1Bs and who see that number, the total
233 of 85,000, evaporate on day one.

234 As a result, without raising that amount the only way
235 to allocate is to eliminate the gaming that has gone on that
236 has often caused workers to receive as little as \$60,000,
237 while, in fact, jobs are unfilled paying double or more than
238 that.

239 For that reason, we have worked together, with our
240 staffs, to come up with a balance, which is not all it could
241 be, not all we would like it to be, but we believe a good
242 down payment on reforming this system. We have the support
243 on a bipartisan basis, and we feel we have strong support

244 within the tech community, who is very public.

245 Let there be no doubt that, in fact, there will be
246 those who have been taking advantage of this system who will
247 ask for a way to continue taking advantage. Our goal is not
248 to eliminate anyone, only to make people live up the
249 standards that we believe are reasonable and that are in
250 some cases in the amendment, other cases the base bill.

251 Certainly, moving the \$60,000 -- which adjusted for
252 inflation would be more than \$90,000 -- to the \$90,000 level
253 is the least we can do. As both the chairman and ranking
254 member alluded to, the term "master's degree" has become
255 relatively undistinctive in the years following that.

256 Additionally, as we looked at the enforcement
257 capability and discovered that many violators were never
258 held accountable and, as Ms. Lofgren has made very clear,
259 the specific examples of Southern California Edison,
260 University of California-San Francisco, Abbott Labs, and
261 Disney tell us exactly where we have to test this product.

262 This product, in my opinion, would have prevented all
263 four of those events from going the way they did, and it
264 would have allowed the Department of Labor to ensure that.

265 As was alluded to by the ranking member, we are no
266 longer relying on the lowest salary for an H-1 worker, but
267 in fact, by going to the mean, we get actually substantially
268 above that. So, in most cases, the actual salary in high-

269 paid areas like California will in fact by significantly
270 higher than the \$90,000.

271 Additionally, eliminating or extending the so-called 90
272 days prior filing and replacing with something that actually
273 will hold people accountable to not lay off employees and
274 replace them is critical. There was a good intent at the
275 time of this law being last modified in the 1990s, but when
276 an intent is not recognized, it is extremely important that
277 we fix it. Again, we target nobody in this, but we do want
278 to allocate the scarce resources that can be made available
279 under this act.

280 Let me be clear: there were things we did not do that I
281 would like to have done. One of them, which is a constant
282 problem, is that H-1 dependency grows over time, that, in
283 fact, if somebody comes here, is validly applied for a green
284 card, but because of per-country caps finds themselves
285 waiting for as long as decades, that is not a fair system.
286 And although it is not easily applied to this bill, it is my
287 intent to reintroduce the Skills Visa Act in the weeks to
288 come. And as we convert to a broader, merit-based system,
289 we intend to eliminate the per-country cap, which we believe
290 is only fair.

291 Lastly, there are some employers who have told us that
292 they regularly hire individuals fresh out of college and
293 that those people are in starting positions. Fair warning:

294 although this legislation does not specifically deal with
295 it, if in fact we see in the audits coming back after the
296 passage of this act that individuals find themselves
297 starting at a starting salary and staying at a starting
298 salary, that that is an additional area that will be
299 addressed.

300 There is no question that we do not want to have a race
301 to the bottom in salaries, and we certainly do not want to
302 have the limited 85,000 slots into a country of 320 million
303 be used for low-paid jobs when, in fact, the tech companies
304 around the country will tell you that they cannot find
305 enough people who are making over \$135,000 a year to fill
306 those slots.

307 That is where we should be using the H-1 program. It
308 is where the intent of Ms. Lofgren and myself was from day
309 one. And again, I want to thank the gentlelady from San
310 Jose, because without her and her staff's efforts we would
311 not have the bill and the amendments that we have here
312 today. And I yield back.

313 Chairman Goodlatte. The chair thanks the gentleman,
314 and I am now pleased to recognize the ranking member of the
315 Subcommittee on Immigration and Border Security, the
316 gentlewoman from California, Ms. Lofgren, for her opening
317 statement.

318 Ms. Lofgren. Thank you, Mr. Chairman. The amendment

319 before us today is the product of bipartisan discussions.
320 It is not a major reform bill. It is a small bill, but it
321 will do some good. I support it, and I hope the whole
322 committee will join me.

323 The H-1B program was originally created to help U.S.
324 companies fill critical needs with the best and brightest
325 workers from around the world, and many employers use the
326 program in this way. They actively recruit from U.S.
327 universities and seek to hire the best person for the
328 position irrespective of immigration status.

329 They pay their U.S. and foreign workers the same
330 salaries, commensurate with their education and experience,
331 and they file green card applications for their H-1B workers
332 so they can obtain all the freedoms that come with lawful
333 permanent residence, including the ability to become
334 citizens and a permanent part of the American fabric.

335 We know, however, that some other employers use the
336 program in a very different way. Every year, tens of
337 thousands of H-1B visas are taken by outsourcing companies
338 whose business models rely on paying foreign workers less.
339 In the IT sector, for example, these companies bring in H-1B
340 workers at reduced wages to compete against American IT
341 workers in companies and organizations across the country.
342 When the work is outsourced, the American workers are laid
343 off. In some cases, the American workers are even asked to

344 train their replacements.

345 Some of these cases make headline news. We have all
346 read the stories about the Disney Corporation, Southern
347 California Edison, the University of California in my home
348 State. In each case, American IT workers were laid off
349 after essentially being replaced by outsourcing companies
350 using lower-paid H-1B workers. Many more such stories exist
351 but go unreported. These outsourcing companies can do this
352 because of deep and long-standing flaws in the H-1B program.

353 Current wage requirements allow employers to bring in
354 workers at wages far below what most people make in the
355 relevant occupation and area of employment. Visas are
356 largely handed out through a random lottery rather than
357 based on level of need or willingness to pay.

358 Minimal recruitment and nondisplacement protections can
359 easily be avoided by paying workers \$60,000, a standard that
360 has not sufficiently protected workers in high-skilled
361 industries for many years. And even when these protections
362 apply, they are difficult to enforce and thus rarely
363 enforced.

364 As I have mentioned, the bill before us today is
365 modest. It does not reform the H-1B program to address all
366 of its current shortcomings, but I am prepared to support
367 today's bill based on the changes Mr. Issa, Mr. Goodlatte,
368 and I have agreed to over the last two weeks. Although it

369 does not fix everything, the amendment will improve the
370 current situation.

371 The bill significantly prevents outsourcing companies
372 from using the program to displace U.S. workers all across
373 the Nation. The amendment creates a new wage standard for
374 H-1B-dependent employers that seek to place H-1B workers
375 with other employers. In such cases, the H-1B-dependent
376 employer would now be required to pay at least the mean wage
377 paid to workers in the relevant occupation and area of
378 employment. This change alone would significantly prevent
379 outsourcing companies from undercutting U.S. workers with
380 lower-paid H-1B workers.

381 The amendment would also overhaul the attestation
382 requirement intended to prevent the displacement of U.S.
383 workers. The attestation is made mandatory and no longer
384 waivable for H-1B-dependent employers.

385 To make it meaningful, the attestation would now cover
386 the entire period of H-1B employment, including any
387 placement with another employer, and to give it real teeth
388 in outsourcing cases, the attestation would require an H-1B-
389 dependent employer to break its business relationship with a
390 client that displaces a U.S. worker despite its assurance
391 that it would not do so.

392 To better ensure compliance among H-1B-dependent
393 employers, the amendment would also authorize the Department

394 of Labor to conduct random audits of such employers and to
395 conduct such audits for at least 5 percent of such employers
396 annually. Violations can result in banishment from the H-1B
397 program.

398 These changes, along with others in the amendment,
399 would go a long way to prevent the egregious outsourcing
400 cases I mentioned earlier, and for these reasons I support
401 the bill, but I must note that more needs to be done.

402 I am afraid by fixing one aspect of the program and not
403 the whole program, we could begin to see creative efforts to
404 evade the provisions. We are going to have to carefully
405 monitor implementation, and we need to more fully reform the
406 H-1B program.

407 We must also fix issues that keep H-1B workers stuck in
408 untenable situations. The combination of low green card
409 numbers and per-country limits keeps many H-1B workers in
410 decades-long backlogs with severely limited options for
411 advancing their careers, switching employers, opening
412 businesses, and making a host of life choices that the rest
413 of us take for granted.

414 Without reform, many of these workers will continue to
415 stay in the same, often entry-level positions for years to
416 maintain their visa status and place in the green card
417 queue. This has deeply negative consequences for them and
418 their families; it also keeps wages artificially low, thus

419 impacting surrounding American workers.

420 I had asked that this bill include a provision to
421 eliminate the per-country caps that create so many of these
422 problems, but we did not find bipartisan acceptance of my
423 request despite the fact that a bill to accomplish this same
424 goal has 300 cosponsors. That is a major disappointment,
425 and I think a lost opportunity.

426 As I noted previously, I support the amended bill
427 because it will prevent abuses in certain areas. That is
428 important. But I also look forward to bigger reform in the
429 future, and that is important, too. I yield back, Mr.
430 Chairman.

431 Ms. Jackson Lee. Mr. Chairman?

432 Chairman Goodlatte. I would now like to recognize
433 myself to speak on the amendment.

434 Ms. Jackson Lee. Mr. Chairman, can I strike the last
435 word?

436 Chairman Goodlatte. I am going to do it, and then I
437 will recognize you.

438 So, I want to congratulate Mr. Issa and Ms. Lofgren.
439 The provisions in this amendment will bring us much closer
440 to our goal of ending abuse of the H-1B program. Under the
441 amendment, H-1B-dependent employers who physically place H-
442 1B workers at client companies must pay the H-1B workers no
443 less than the average wage for the occupation in that area

444 of the country.

445 We will no longer allow such employers to pay H-1Bs
446 rock-bottom wages by claiming that they are all entry-level.
447 Under the amendment, all dependent employers must comply
448 with the no-layoff attestation, without exception. Length
449 of the protection will last for as long as an H-1B worker is
450 employed by the employer.

451 In instances where a dependent employer physically
452 places an H-1B worker at a client company where there is an
453 employment relationship between the H-1B worker and the
454 client, the protection will last for as long as the H-1B
455 worker remains there.

456 Additionally, dependent employers must receive
457 assurance from their clients that they, one, have not and do
458 not intend to lay off equivalent American workers, and, two,
459 will let the dependent employers know if they do in fact lay
460 off American workers.

461 If dependent employers learn that a client has laid off
462 workers, they must, one, inform the Department of Labor;
463 two, remove the H-1B workers and others employed in similar
464 jobs at the client's worksite; and three, cease having H-1B
465 workers in these jobs perform work for the benefit of the
466 client.

467 Finally, dependent employers must receive assurance
468 from their clients that they will provide the Department of

469 Labor with necessary information for any consequent
470 investigations of the dependent employers.

471 As to the recruitment attestation, the salary that
472 dependent employers must pay H-1B workers in order to
473 procure waivers will be dramatically higher than under
474 current law. That salary will have to be at least the lower
475 of \$135,000 or the average wage for the occupation in the
476 area of employment, but in no case lower than \$90,000.
477 Those dependent employers subject to the attestation will
478 have to provide the Department of Labor with information
479 detailing the steps they have taken to recruit American
480 workers.

481 The amendment also strengthens the Department of
482 Labor's ability to enforce these provisions. It gives DOL
483 the authority to conduct random compliance investigations of
484 dependent employers and requires it to investigate at least
485 5 percent of such employers each year. In instances where
486 dependent employers place H-1B workers at client worksites,
487 the Department of Labor must investigate all complaints
488 filed without having to first establish reasonable cause.

489 Finally, H-1B-dependent employers will pay a fee to
490 fund these investigations. This is quite a package of
491 reforms, and I urge my colleagues to support the amendment
492 offered by Mr. Issa and Ms. Lofgren.

493 Are there any amendments to H.R. 170?

494 Ms. Jackson Lee. Mr. Chairman?

495 Mr. Nadler. Mr. Chairman?

496 Chairman Goodlatte. For what purpose does the
497 gentleman from New York seek recognition?

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

499 Chairman Goodlatte. The gentleman is recognized for 5
500 minutes.

501 Mr. Nadler. Thank you. Mr. Chairman, this bill
502 improves the H-1B situation, without question, and we should
503 adopt it, but we should also recognize that it really is
504 inadequate to the challenge that we face. I just want to
505 quote two sentences from a letter from the AFL-CIO.

506 It says, "While we welcome the provisions in H.R. 170
507 that would raise wage requirements, protect against
508 displacement, and increase the scope and funds available for
509 enforcement of the program's rules, we are disappointed that
510 they would apply only to H-1B-dependent employers.

511 As a result, most H-1B employers will continue to be
512 able to pay H-1B workers at levels well below those of
513 equivalent U.S. workers, and they will still not be required
514 to look first for a qualified U.S. worker or to commit that
515 they will not displace existing U.S. workers."

516 The letter points out other shortcomings of this bill
517 in improving the H-1B program. I am glad that this bill
518 does make improvements in the program. It does not go

519 nearly far enough, but I will support it as the best we have
520 at the moment.

521 But I hope that the committee will soon consider
522 improvements that go beyond this so that the H-1B program
523 cannot be used to displace American workers. This bill will
524 decrease its use for displacement of American workers, but
525 still leaves a large problem.

526 So, I will support the bill, but I wish it were a much
527 stronger bill, and maybe we can get to that. And I also ask
528 unanimous consent to insert this letter into the record.

529 Chairman Goodlatte. Without objection, the letter will
530 be made a part of the record.

531 [The information follows:]

532 ***** COMMITTEE INSERT *****

533 Ms. Jackson Lee. Mr. Chairman?

534 Chairman Goodlatte. For what purpose does the
535 gentlewoman from Texas seek recognition?

536 Mr. Nadler. Thank you.

537 Ms. Jackson Lee. I thank the chairman. I move to
538 strike the last word.

539 Chairman Goodlatte. The gentlewoman is recognized for
540 5 minutes.

541 Ms. Jackson Lee. Let me acknowledge the very detailed
542 work that Mr. Issa and Ranking Lofgren Ms. Lofgren of the
543 immigration subcommittee -- we have worked together for
544 many, many years -- and let me also associate myself with
545 the comments of the letter from the AFL-CIO.

546 But I have another striking concern regarding this. We
547 have been working on this issue for a time in the history
548 books when I served for a period of time as a ranking member
549 on the immigration subcommittee on this committee, and had
550 the privilege of doing so, and continue to work with our
551 ranking member's subcommittee, Ms. Lofgren, and of course,
552 our ranking member, Mr. Conyers, and chairman, Mr.
553 Goodlatte.

554 But a striking and glaring absence in the industry that
555 utilizes H-1B is the outreach to African American students
556 and workers, and it is devastating. Members of the
557 Congressional Black Caucus have a task force; we have been

558 working, and we have great respect for the industry. There
559 are members of our caucus that represent the industry. I
560 visited with the industry just yesterday evening. So, there
561 is no quarrel with the industry that heavily relies upon H-
562 1Bs.

563 But we cannot have an equal America where the
564 percentage is so dastardly, and I am going to look for an
565 amendment to or language to be included in a manager's
566 amendment that I hope will be created before this bill goes
567 to the floor.

568 And I am going to be very unhappy if the bill goes to
569 the floor and it does not have a reflection language that
570 can speak to this particular problem. It is devastating.
571 The numbers are miniscule. No progress really has been
572 made. This is at least a decade-old problem, as the
573 industry has emerged to be one of the largest economic
574 engines of the United States.

575 I think the wage fix is very important; I think the
576 outsourcing fix is very important, though I would join with
577 Mr. Nadler that we can always do better, but I know this is
578 a compromise. I want to yield to Mr. Issa and ask him,
579 would he work with me on language dealing with the outreach
580 issues, recruiting issues, from HBCUs, and otherwise, for
581 this industry? I yield to Mr. Issa.

582 Mr. Issa. I thank the gentlelady. As I said in my

583 opening remarks, we are working on a broader skills visa
584 act, and I think that there really is an opportunity to look
585 at the outreach and specific opportunities to expand that
586 universe of workers and immigrants coming to this country.
587 So, I would be delighted to work with the gentlelady from
588 Houston.

589 Ms. Jackson Lee. Well, reclaiming my time, Mr. Issa,
590 you know, this is a moving vehicle now, this bill, and I
591 would much prefer having language in this bill that could be
592 agreed upon that would make at least a comment that this is
593 an important issue, and outreach is an important in
594 particular. So, I am talking about this bill.

595 Mr. Issa. You know, although there are some questions
596 about a lot of the germaneness in the core bill, I would be
597 happy to work with the gentlelady and the chairman to
598 include in both report language and the goals of this to be
599 non-discriminatory and to have that outreach.

600 So, in any way that the gentlelady might want to help
601 draft in that language, if the chairman is willing, I would
602 be very supportive of putting in the report language.

603 Ms. Jackson Lee. I guess I am still on my time. I
604 will work with committee staff, Ms. Lofgren, but I am still
605 pushing for an addition at the end of the bill, sense of
606 Congress in the bill, that indicates a broad outreach. If
607 language can be such that at least it indicates our

608 commitment in this compromise to, as well, focus on
609 populations in the United States that heretofore are still
610 not being represented well in the industry, as much respect
611 as I have for the industry.

612 And I really think one more stepping-back on this is
613 just not going to be helpful, so I would prefer having
614 language. I would like to work with Mr. Conyers and Mr.
615 Goodlatte and staff for language. And I yield to the
616 chairman of the committee, Mr. Goodlatte.

617 Mr. Conyers. Would the gentlelady yield?

618 Ms. Jackson Lee. I yield to the ranking member.

619 Mr. Conyers. I want her to know that I would be
620 perfectly willing and happy to work with her on the
621 improvement that she has suggested so well. Thank you.

622 Chairman Goodlatte. And I will join in that agreement
623 to work with you.

624 Ms. Jackson Lee. Thank you very much. With that --

625 Ms. Lofgren. Would the gentlelady yield?

626 Ms. Jackson Lee. Yes, I would be happy to yield.

627 Ms. Lofgren. I thank the gentlelady for raising this
628 issue. There are new recruitment requirements in this bill,
629 and I think her suggestion fits very well with those
630 provisions, and hopefully we can come to an agreement on
631 these issues. And I thank the lady for yielding.

632 Ms. Jackson Lee. I thank my colleagues, and we will

633 begin work right after, because I do not know how soon this
634 bill is headed to the floor. But thank you all so very
635 much. With that, Mr. Chairman, I yield back.

636 Ms. Jayapal. Mr. Chairman?

637 Chairman Goodlatte. The chair recognizes himself for
638 purposes of offering an amendment, and the clerk will report
639 the amendment.

640 Ms. Adcock. Amendment to the amendment in the nature
641 of a substitute to H.R. 170, offered by Mr. Goodlatte. On
642 page 10 --

643 [The amendment of Chairman Goodlatte follows:]

644 ***** INSERT 3 *****

645 Chairman Goodlatte. Without objection, the amendment
646 is considered as read and I recognize myself for 5 minutes
647 to explain the amendment.

648 My amendment makes a small technical fix to the
649 substitute amendment in order to avoid a potential violation
650 of clause 4 of rule XXI of the House. Clause 4 prohibits a
651 committee other than the Appropriations Committee from
652 reporting a legislative bill that contains an appropriation.
653 A legislative bill that contains an appropriation is subject
654 to a point of order on the floor of the House.

655 After consulting with the House parliamentarian, we
656 have determined that the language regarding use of fees that
657 appears on the top of page 10 of the substitute amendment
658 likely violates clause 4, because that provision allows
659 money to be spent from the Treasury without appropriation.

660 Accordingly, my amendment makes the use of fees
661 provision in the substitute subject to appropriation so that
662 it is in conformity with clause 4. In addition, this
663 amendment makes a technical clarification regarding the
664 recruitment attestation, making clear that dependent
665 employees would pay their H-1B workers \$135,000 or the mean
666 wage in the occupation, with a floor of \$90,000, can receive
667 a waiver.

668 I urge my colleagues to support these small technical
669 fixes and yield back the balance of my time.

670 Ms. Lofgren. Will the gentleman yield?

671 Chairman Goodlatte. I would be happy to yield to the
672 gentlewoman.

673 Ms. Lofgren. I agree with the amendment. These are
674 technical corrections that should be supported. And I yield
675 back.

676 Ms. Jayapal. Mr. Chairman?

677 Chairman Goodlatte. For what purpose does the
678 gentlewoman from Washington seek recognition?

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

680 Chairman Goodlatte. The gentlewoman is recognized for
681 5 minutes.

682 Ms. Jayapal. Thank you, Mr. Chairman. I want to thank
683 you and Mr. Issa and our ranking member of the immigration
684 subcommittee, Ms. Lofgren, for very hard work to bring this
685 bill forward.

686 I think I might be the only member of this committee
687 that was actually on an H-1B visa. I am an immigrant from
688 India, and when I came to the United States at 16 years old
689 by myself, I was on a student visa. For those who thinks it
690 is easy, even for those who come here legally, to get
691 status, it took me 17 years to get my citizenship, and I was
692 on an H-1B in that process. So, I do know this program
693 well. I believe I was not one of the people who was hired
694 with an abuse of the program, and it is a real honor to be

695 here now on this committee.

696 And so, I do believe that this H-1B program is critical
697 to ensure that our country is able to bring in the talent
698 that we need to ensure a strong workforce and economy. But
699 it is true that it has not been reformed in decades and is
700 in dire need of repair.

701 And I think that this bill, in a small way -- it is not
702 the big reform that I think many of us believe is necessary
703 -- but in a small way, I think it puts forward very
704 important reforms that would stop outrageous and unfair
705 abuses of the program so that we can protect American
706 workers, and that we can make sure that foreign workers who
707 are brought to this country under H-1Bs are also not taken
708 advantage of with too-low salaries and abusive conditions.

709 And I agree with Ms. Lofgren that much work has to be
710 done to truly fix the full scope of the H-1B program, and
711 more broadly, to address our education system to make sure
712 that Americans have the access to the training necessary to
713 fill these jobs.

714 Because the reality is, Mr. Chairman, that no one wins
715 when American companies cannot hire people with the skills
716 needed for our businesses to innovate and grow, and research
717 shows the tech companies do hire five new workers for every
718 one H-1B that they apply for. So, when we fail to meet the
719 needs of American businesses, U.S. workers are losing job

720 opportunities, too.

721 But there is no question that we do not have enough H-
722 1B visas right now to meet the demand, and we know that
723 because, as you said, we have reached the cap within 5 days
724 for the last 5 years. And conservative estimates are that
725 increasing the cap to 195,000 visas would increase revenues
726 by nearly \$69 billion over 8 years.

727 Other research indicates that increasing H-1B visas
728 could create an estimated 1.3 million new jobs and add about
729 \$158 billion in GDP by 2045. We have much to gain from
730 reforming the H-1B system in a way that ensures that
731 American workers are able to access the skills they need,
732 access the jobs that are available. And it is important to
733 make sure that the wage formula is crafted to work for
734 lower-wage markets outside of Silicon Valley, so that
735 companies across the country have access to the program.

736 I do want to caution that we do not broad-brush the
737 existing abuses of the H-1B system in a way that is
738 xenophobic or contributes to a particular stereotype of
739 workers from a certain region. I am aware that 74 percent
740 of the workers that get H-1B visas are from India.

741 It is a country where my parents still live, because
742 under our broken immigration system, I was never able to
743 bring my parents here. It would have taken for 20 years for
744 me to bring my parents to live in the same country as me and

745 grow up to see their grandchildren next door.

746 And so, let's be clear that while there are abuses that
747 we have to crack down on, we must crack down on, we must
748 protect U.S. workers, the reality is that there are many
749 Indian companies and Indian workers who are contributing a
750 great deal to our economy.

751 And I would just say that there are statistics that the
752 IT sector employs more than 100,000 workers in America and
753 that India's IT sector has invested and generated payments
754 of more than \$20 billion to U.S. Federal, State, and local
755 taxes.

756 And so, there is a great deal of good that happens when
757 we have fair access to markets across the world. And the
758 question really to me is not about whose jobs, as sometimes
759 this debate around jobs is created. It is not about whose
760 jobs; it is about more jobs and better jobs, and that, I
761 think, needs to be our focus.

762 I do need to say that I am disappointed that we are now
763 addressing bigger issues and problems within the immigration
764 system. A comprehensive immigration reform bill, for
765 example, that garnered 68 bipartisan votes in the U.S.
766 Senate in 2013, the DREAM Act, which would pass the House of
767 Representatives if brought to the floor. Or even that I
768 hope that this committee would consider the ASPIRE Act, a
769 bipartisan bill that Ileana Ros-Lehtinen, Yvette Clark, and

770 I introduced around TPS and temporary protected status.

771 And so, I hope this is just a first step to a much
772 broader fix of our broken immigration system, and I again
773 thank the tremendous work of Ms. Lofgren; I thank Mr. Issa
774 and the chairman for bringing this forward. I yield back.

775 Chairman Goodlatte. The chair thanks the gentlewoman.
776 The question occurs on the amendment offered by the chairman
777 to the amendment in the nature of a substitute offered by
778 Mr. Issa.

779 All those in favor, respond by saying aye.

780 All those opposed, no.

781 The ayes have it and the amendment is agreed to.

782 Are there further amendments to H.R. 170? A reporting
783 quorum being present --

784 Mr. King. Mr. Chairman?

785 Chairman Goodlatte. Oh, I am sorry. For what purpose
786 does the gentleman from Iowa seek recognition?

787 Mr. King. I move to strike the last word.

788 Chairman Goodlatte. The gentleman is recognized for 5
789 minutes.

790 Mr. King. Thank you, Mr. Chairman. I just wanted to
791 weigh in a little bit on this. This is a rare circumstance
792 for me to be sitting here, listening to the bipartisan
793 effort that is coming from both sides of the political
794 spectrum here and feeling actually fairly comfortable in the

795 middle of all this. And so, I thought it was important for
796 me to put it into the record, as rare as that happens, and
797 express a few things about this bill.

798 First, I congratulate my colleague on my left wing, Mr.
799 Issa, for the relentless work he has done on H-1Bs, and he
800 has dug into this deeply and he has found a way to reach an
801 agreement today, and I want to take note of that. I would
802 also take note that as good as we will feel when this is
803 done today, we also have a lot of serious immigration
804 enforcement that we need to move yet from this committee and
805 off of the floor.

806 And I thank the chairman for moving some of that
807 legislation, including Sarah's Law, Kate's Law, and
808 Sanctuary Cities, off the floor, over to Mitch McConnell's
809 desk, where I hope to stack a lot of bills before this
810 session is over. And hopefully we will get there with Davis
811 Oliver and a number of other pieces of legislation, and
812 perhaps add 10,000 ICE agents.

813 So, I think we should have started on the enforcement
814 side of this agenda. But we are where we are today, and I
815 wanted to take great note of that and congratulate the
816 authors and all those who worked together to bring this bill
817 to this point.

818 Chairman Goodlatte. Would the gentleman yield?

819 Mr. King. I am happy to yield.

820 Chairman Goodlatte. I just want to point out to the
821 gentleman that this is a reform measure, but it also is an
822 enforcement measure, because it is going to crack down on
823 some abuses of the H-1B system. I agree with those who say
824 other work needs to be done on H-1Bs, but for the time
825 being, I am glad I am able to go down the middle of a road
826 with you.

827 Mr. King. Well, you know, I thank you for the
828 opportunity and congratulate the folks that did all this
829 work. I will support the bill, and yield back the balance
830 of my time.

831 Chairman Goodlatte. The chair thanks the gentleman.
832 The question is on the amendment in the nature of a
833 substitute, as amended, to H.R. 170.

834 Those in favor will respond by saying aye.

835 Those opposed, no.

836 The ayes have it and the amendment is agreed to.

837 A reporting quorum being present, the question is on
838 the motion to report the bill H.R. 170 as amended favorably
839 to the House.

840 Those in favor will say aye.

841 Those opposed, no.

842 The ayes have it and the bill is ordered reported
843 favorably. Members will have 2 days to submit views.
844 Without objection, the bill will be reported as a single

845 amendment in the nature of a substitute, incorporating all
846 adopted amendments, and staff is authorized to make
847 technical and conforming changes.

848 I want to thank all of the members for their
849 participation today. This concludes our business, and the
850 markup is adjourned.

851 [Whereupon, at 11:13 a.m., the committee was
852 adjourned.]