

1 ALDERSON COURT REPORTING

2 KEVIN JAMES KISER

3 HJU324000

4 MARKUP OF H.R. 5038, THE "FARM WORKFORCE MODERNIZATION ACT OF
5 2019;"

6 H.R. 3884, THE "MARIJUANA OPPORTUNITY REINVESTMENT AND
7 EXPUNGEMENT ACT OF 2019" OR THE "MORE ACT OF 2019;"

8 H.R. 5140, THE "SATELLITE TELEVISION COMMUNITY PROTECTION AND
9 PROMOTION ACT OF 2019;"

10 H.R. 3991, THE "AFFORDABLE PRESCRIPTIONS FOR PATIENTS THROUGH
11 IMPROVEMENTS TO PATENT LITIGATION ACT OF 2019;" AND

12 H.R. 5133, THE "AFFORDABLE PRESCRIPTIONS FOR PATIENTS THROUGH
13 PROMOTING COMPETITION ACT OF 2019"

14 Wednesday, November 20, 2019

15 House of Representatives

16 Committee on the Judiciary

17 Washington, D.C.

18 The committee met, pursuant to call, at 10:14 a.m., in
19 Room 2141, Rayburn Office Building, Hon. Jerrold Nadler
20 [chairman of the committee] presiding.

21

22 Chairman Nadler. The Judiciary Committee will please
23 come to order, a quorum being present.

24 Without objection, the chair is authorized to declare a
25 recess at any time.

26 Pursuant to Committee Rule II and House Rule XI, Clause
27 2, the chair may postpone further proceedings today on the
28 question of approving any measure or matter or adopting an
29 amendment for which a recorded vote for the yeas and nays are
30 ordered.

31 We have a number of bills today. We will get through
32 all of them one way or the other.

33 Pursuant to notice, I now call up H.R. 3884, the
34 Marijuana Opportunity Reinvestment and Expungement Act of
35 2019, or the MORE Act of 2019, for purposes of markup, and
36 move that the committee report the bill favorably to the
37 House.

38 The clerk will report the bill.

39 Ms. Strasser. H.R. 3884, to decriminalize and de-
40 schedule cannabis to provide for reinvestment in certain
41 persons adversely impacted by the War on Drugs, to provide
42 for an expungement --

43 Chairman Nadler. Without objection, the bill is
44 considered as read and open for amendment at any point.

45 [The bill follows:]

46

47 Chairman Nadler. I will begin by recognizing myself for
48 an opening statement.

49 H.R. 3884, the Marijuana Opportunity Reinvestment and
50 Expungement Act of 2019, or the MORE Act of 2019, this bill
51 would make three important changes to Federal law. It would,
52 one, remove marijuana, or cannabis, from the list of
53 federally-controlled substances; two, authorize the provision
54 of resources, funded by an excise tax on marijuana products,
55 to address the needs of communities that have been most
56 seriously impacted by the War on Drugs, including increasing
57 the participation of minority communities in the burgeoning
58 cannabis market; and three, provide for the expungement of
59 Federal marijuana convictions and arrests.

60 These steps are long overdue. For far too long, we have
61 treated marijuana as a criminal justice problem instead of a
62 matter of personal choice and public health. Everyone views
63 the use of marijuana for recreational or medicinal purposes,
64 and arresting, prosecuting, and incarcerating users at the
65 Federal level is unwise and unjust. This issue is not new to
66 Congress. There have been many members who have introduced
67 bills upon which provisions in this bill are based.
68 Representative Barbara Lee, in particular, and I am told she
69 is here, has sponsored bills that are the foundation of key
70 provisions of the MORE Act, and I thank her for her
71 longstanding leadership on this issue.

72 Federal action on this issue would follow growing
73 recognition in the States that the status quo is
74 unacceptable. Despite the Federal Government's continuing
75 criminalization of marijuana, 33 States and the District of
76 Columbia have legalized medical cannabis. Eleven States and
77 the District of Columbia have legalized cannabis for adult
78 recreational use. I have long believed that the
79 criminalization of marijuana has been a mistake, and the
80 racially disparate enforcement of marijuana laws has only
81 compounded this mistake with serious consequences,
82 particularly for minority communities.

83 Marijuana is one of the oldest agricultural commodities
84 not grown for food, and it has been used medicinally all over
85 the world since at least 2,700 B.C., whereas criminalization
86 is a relatively recent phenomenon. The use of marijuana,
87 which most likely originated in Asia, later spread to Europe
88 and made its way to the Americas when the Jamestown settlers
89 brought it with them across the Atlantic. The cannabis plant
90 has been widely grown in the United States and was used as a
91 component in fabrics during the middle of the 19th century.
92 During that time period, cannabis was also listed in the
93 United States pharmacopeia as a treatment for a multitude of
94 ailments, including muscle spasms, headaches, cramps, asthma,
95 and diabetes. Today it would be a highly-priced drug.

96 It was only in the early part of the 20th century that

197 marijuana began to be criminalized in the United States,
198 mainly because of misinformation and hysteria, based at least
199 in part on racially-biased stereotypes connecting marijuana
100 use and minorities, particularly African-Americans and
101 Latinos. In 1970, when President Nixon announced the War on
102 Drugs and signed the Controlled Substances Act into law, the
103 Federal Government placed marijuana on Schedule I where
104 unfairly and unjustifiably it has remained ever since.

105 As a consequence, thousands of individuals,
106 overwhelmingly people of color, have been subjected by the
107 Federal Government to unjust prison sentences for marijuana
108 offenses. This needs to stop. That is why we are taking
109 action today. The MORE Act would remove marijuana from
110 Schedule I, and, as a result, would decriminalize it at the
111 Federal level, leaving it to States to regulate marijuana at
112 the State level as they may choose.

113 Removing marijuana from the Federal list of controlled
114 substances is especially just because the same racial animus
115 motivating the enactment of marijuana laws also led to
116 racially-disparate enforcement of such laws, which has had a
117 substantial negative on minority communities. In fact,
118 nationwide, the communities that have been most harmed by
119 marijuana enforcement benefit the least from the legal
120 marijuana marketplace.

121 The MORE Act would address some of these negative

122 impacts by establishing an opportunity trust fund within the
123 Department of the Treasury to fund programs within the
124 Department of Justice and the Small Business Administration
125 to empower communities of color and those most adversely
126 impacted by the War on Drugs. These programs would provide
127 services to individuals, including job training, reentry
128 services, and substance use treatment, and would provide
129 funds for loans to assist small businesses that are owned and
130 controlled by socially- and economically-disadvantaged
131 individuals. It would provide resources for programs that
132 minimize barriers to marijuana licensing and employment for
133 individuals most adversely impacted by the War on Drugs.

134 The collateral consequences of a conviction for
135 marijuana possession, and even sometimes for a mere arrest,
136 can be devastating. For those saddled with a criminal
137 conviction, it can be difficult to impossible to vote, to
138 obtain educational loans, to get a job, to maintain a
139 professional license, to secure housing, to receive
140 government assistance, or even to adopt a child. These
141 exclusions create an often permanent second-class status for
142 millions of Americans. This is unacceptable and
143 counterproductive, especially in light of the
144 disproportionate impact and enforcement marijuana laws have
145 had on communities of color.

146 The MORE Act recognizes this and addresses these harmful

147 effects by expunging and sealing Federal convictions and
148 arrests for marijuana offenses. It is not surprising that
149 over the past 2 decades, public support for legalizing
150 marijuana has surged. In the most recent Pew Research Center
151 poll, which was released just last week, 67 percent of
152 Americans now back marijuana legalization, up from 62 percent
153 in Pew's 2018 poll.

154 States have led the way and continue to lead the way,
155 but our Federal laws have not kept pace with the obvious need
156 for change. We need to catch up because of public support
157 and because it is the right thing to do. In my view,
158 applying criminal penalties with their attendant collateral
159 consequences for marijuana offenses is unjust and harmful to
160 our society. The MORE Act comprehensively addresses this
161 injustice, and I urge all of my colleagues to support this
162 bill today.

163 I now recognize the distinguished ranking member of the
164 Judiciary Committee, the gentleman from Georgia, Mr. Collins,
165 for his opening statement.

166 Mr. Collins. Thank you, Mr. Chairman, and I will
167 address the MORE Act and your introduction of the ANS, but I
168 do want to make a few introductions and some discussion today
169 on some observations of this morning's business.

170 First, I want to say thank you to the chairman for
171 moving the temporary FISA reauthorization via yesterday's

172 continuing resolution. I did not support the CR for several
173 reasons on a bigger level, but that part, I appreciate your
174 work because I do support a temporary FISA extension. It
175 would be completely unreasonable to expect our members to
176 vote for a long-term FISA reauthorization when we are
177 expecting in short order a report from the DOJ inspector
178 general on that very topic. So, again, thank you for moving
179 that. And I want to thank Jim Sensenbrenner, in particular,
180 for his partnership and leadership in that effort.

181 I am sort of perplexed a little bit today when we look
182 at legislation in the time frame today that we are not
183 marking up H.R. 5133 first. This is the one collaborative
184 piece of legislation we have worked on for months that
185 Congress can accomplish when we put our partisan politics
186 aside and craft solutions. And I want to thank my colleague,
187 Congresswoman Roby, for her work on the patent bill that we
188 will consider later today.

189 But the remainder of the bills on the markup schedule
190 are, frankly, mainly nonstarters for most of my Republican
191 colleagues. And also just the simple fact, as we always do
192 many times in this committee, we have members missing because
193 we have other committees going on. But it is particularly
194 telling that we do have members, and especially 4 missing
195 today, on an impeachment inquiry that is going on in the
196 other building in which we will be getting supposedly, from

197 everything that we can understand from the procedures that
198 have been passed, shortly. So instead of watching that,
199 being ready for that, getting something we are going to get
200 after December, we are now here dealing with, frankly, some
201 bills that, at best, have conversations starters in the
202 Senate, and at worst are simply political statements.

203 We are now at this weekend before Thanksgiving, and we
204 are looking at a continuation of things that we could have
205 been doing all year, but we have been sidetracked many times
206 on our committee management, so we are not doing the
207 legislation we should be doing. I do want to also point out
208 that I have not got a response to any of my recent letters on
209 the upcoming impeachment process and the upcoming Horowitz
210 report. We saw yesterday the Senate Judiciary Committee has
211 already scheduled a hearing for December 11th with the
212 inspector general, and I would expect and would like to have
213 the commitment from the chairman that we are inviting
214 Inspector General Horowitz here to testify about his report
215 in December after it is released. I realize that we may have
216 a full schedule, but we should not also bar our
217 responsibility to oversight, which we have in many ways. If
218 we don't schedule this report, it is telling in and of
219 itself.

220 Also it is my understanding, Mr. Chairman, that we are
221 having a, and this may have changed, so I willingly admit

222 that. We are looking at a hard stop of 3:00 p.m. this
223 afternoon because of some meetings and a debate tonight. If
224 that is case, then we have got a lot of work to do, and there
225 are probably a lot of amendments, especially on the H-2(a)
226 bill that we are going to be working on and others. And to
227 schedule all of this in this week when we are trying to just
228 to rush it all in because we know we are going to be
229 completely tied up in this committee, is really a detriment
230 to those members who have actually worked on pieces of
231 legislation on both sides of the aisle on things that we
232 could have been moving even last week when we had just one
233 bill on a markup schedule, and even prior to that when we
234 were just skipping schedules all together.

235 So, again, I will talk more about the actual underlying
236 bill that we are discussing here, but those needed to come
237 out. We do need to have some understanding of what is coming
238 up and what is about to hit this committee. But, again, I
239 don't have any idea. I am assuming you don't have any idea
240 because I have not received any response back on how the
241 inquiry will proceed from here. But I look forward to
242 working with you to figure that out because according to what
243 has been passed on the floor, whether we like that or not, it
244 is coming here and we got to deal with it. We ought to be
245 able to deal with it in a fair process that actually works
246 for all Americans. And at this point, that has been kept

247 from us, and, you know, again, needs to be addressed as we go
248 forward, you know, especially on the issue of are we stopping
249 at 3:00 today. That is a question that, I think, for member
250 management we need to know about as well. And then what are
251 we going to do if we are having a hard stop at 3:00 p.m.?

252 And also we would not expect anything to be shut short
253 in any debate, in any process on amendments simply because we
254 have an arbitrary deadline because we have set this up before
255 the week of Thanksgiving. So I would appreciate your
256 comments on that, but also appreciate, again, yesterday. We
257 did find common ground to get something moved, and we put it
258 on a CR. So we did that, and we will work on that later.
259 With that, I yield back.

260 Chairman Nadler. Let me simply comment that if
261 necessary, we will resume this markup tomorrow.

262 Mr. Collins. Okay.

263 Chairman Nadler. I now recognize myself for purposes of
264 offering an amendment. I hope that is not necessary. I now
265 recognize myself for purposes of offering an amendment in the
266 nature of a --

267 Mr. Collins. Just a quick question, Mr. Chairman, and I
268 apologize for interrupting. But 3:00, and especially with
269 one of these bills, and Representative Lofgren has got a long
270 bill on H-2A, I could see it easily just by itself passing,
271 3:00. So I am just curious, again, for our member

272 management, for everything else, just curious about what we
273 are looking at here.

274 Chairman Nadler. We are looking at a hard stop at 3:00.

275 Mr. Collins. Okay. Thank you.

276 Chairman Nadler. I now recognize myself for purposes of
277 offering an amendment in the nature of a substitute.

278 The clerk will report the amendment.

279 Ms. Strasser. Amendment in the nature of a substitute
280 to H.R. 3884, offered by Mr. Nadler of New York, strike all
281 that follows after the enacting clause and insert the
282 following.

283 Chairman Nadler. Without objection, the amendment in
284 the nature of a substitute will be considered as read, and
285 shall be considered as base text for purposes of amendment.

286 [The amendment in the nature of a substitute of Chairman
287 Nadler follows:]

288

289 Chairman Nadler. I will now recognize myself to explain
290 the amendment.

291 My amendment in the nature of a substitute does not
292 change the operative provision of the bill, but it adds a
293 number of findings that underscore the need to de-schedule
294 marijuana and provide various means of restorative justice
295 for the communities that have been particularly harmed by our
296 marijuana laws. These findings are based on the whereas
297 clauses in Representative Barbara's Lee RESPECT resolution,
298 H. Res. 163. Provisions from this resolution as well her
299 bill, the Marijuana Justice Act, contributed greatly to the
300 MORE Act, which we are considering today. For the reasons I
301 explained in my opening statement, it is time to change our
302 Federal marijuana laws, and I urge adoption of this amendment
303 and bill today.

304 I will now recognize the ranking member, the gentleman
305 from Georgia, Mr. Collins, for any comments he may have on
306 the amendment.

307 Mr. Collins. Thank you, Mr. Chairman, and I do want to
308 discuss this, and now I am taking the time on the other
309 questions as we need it. But, Mr. Chairman, as you recall in
310 a letter I sent to you in April and at the hearing in the
311 Crime Subcommittee held in July, I asked that you permit the
312 committee to fully examine the issue of marijuana and its
313 implications. Even Democratic presidential candidate, Joe

314 Biden, agreed, stating this past Saturday that, "Marijuana's
315 legalization is a debate, and before I legalize it
316 nationally, I want to make sure we know a lot more about the
317 science behind it." I don't necessarily agree with Joe Biden
318 in this, but it is interesting that he does ask for more
319 study to be done.

320 The implication of marijuana legalization includes
321 interstate commerce, States' rights, and the health and
322 safety of all Americans, particularly adolescents and young
323 adult. With all the marijuana-related bills pending in this
324 Congress, including the bipartisan STATES Act, which I
325 support, we have unfortunately chosen to mark up the MORE
326 Act. I understand, but I am disappointed. The bill is
327 nearly devoid of bipartisan support, and it fails to address
328 many critical issues surrounding the cultivation,
329 distribution, sales, and use of marijuana.

330 While this bill contains several problematic provisions,
331 I am most concerned with what it fails to address. First and
332 foremost, the bill fails to protect America's greatest asset,
333 our youth, the adolescents and young adults who often fall
334 victim to advertisers and social medial influencers as we
335 have seen in the recent outbreak of the vaping industries.
336 This bill also fails to set any standards to prevent
337 marijuana, THC concentrates, vaping products, and edibles
338 from getting into the hands of those who should not have

339 them.

340 The U.S. Surgeon General, Jerome Adams, echoed these
341 views in an advisory on the health of marijuana in
342 adolescence and during pregnancy. He said recent increases
343 in access to marijuana and its potency, along with
344 misconceptions about the safety of marijuana, endanger our
345 most precious resource, our Nation's youth. Over the past 10
346 years, the DOJ has provided, amended, and withdrawn marijuana
347 enforcement guidance to U.S. attorneys in the form of Cole
348 memos.

349 I agree that these changes and adjustments in policy
350 have brought us to the difficult situation we are now in.
351 However, the bill before us today fails to address the
352 important issues contained in these memos, including the
353 prevention and the distribution of marijuana to minors,
354 preventing marijuana from moving across State lines where it
355 is legal, preventing violence and the use of other firearms,
356 the growing distributing of marijuana, preventing drunk
357 driving, and also preventing marijuana's revenue from funding
358 other enterprises. Instead, the bill removes marijuana from
359 the Federal criminal and regulatory jurisdiction and makes
360 the States fend for themselves. A responsible bipartisan
361 approach would be for the States and the Federal Government
362 to work in partnership respecting States' rights as well as
363 the Federal interest in health, safety, and enforcement. But

364 regrettably, we have chosen a partisan path.

365 The bill is flawed in many other ways, but I want to
366 reiterate the opinion of Attorney General Barr, who stated
367 earlier this year, "The current situation is untenable and
368 really needs to be addressed. If we want a Federal approach,
369 if we want the States to have their own laws, then let's get
370 there the right way." The MORE Act is not the right way to
371 do that, and there is effective legislation before this
372 committee that is more comprehensive, less bureaucratic, and
373 which would stand a chance of becoming law, which this one
374 does not.

375 And, again, just to say, I believe that we do need to
376 change our attitudes and our processes because the Federal
377 Government has completely failed in this area. I think there
378 is some bipartisan support. There is especially bipartisan
379 support for the STATES Act, which, again, allows States to
380 deal with this in a different way. But with that, this bill
381 does not, and I yield back.

382 Chairman Nadler. I thank the gentleman. We have
383 received a number of letters from organizations, such as the
384 Leadership Conference on Civil and Human Rights and the
385 Center for American Progress, supporting adoption of H.R.
386 3884 today. If there is no objection, these will be entered
387 into the record of the markup.

388 Without objection.

389 [The information follows:]

390

391 Chairman Nadler. Are there any amendments to the
392 amendment in the nature of a substitute? For what purpose
393 does the gentleman from Colorado seek recognition?

394 Mr. McClintock. California, although --

395 Chairman Nadler. Excuse me. For what purpose does the
396 gentleman from California seek recognition?

397 Mr. McClintock. -- Colorado than any other state in the
398 country, but I haven't left yet.

399 [Laughter.]

400 Chairman Nadler. For what purpose does the gentleman
401 from California seek recognition?

402 Mr. McClintock. I have an amendment.

403 Chairman Nadler. The clerk will report the amendment.

404 Ms. Strasser. Amendment to the amendment in the nature
405 of a substitute to H.R. 3884, offered by Mr. McClintock of
406 California. Page 8, strike line 5 and all that follows
407 through --

408 Mr. Cohen. Mr. Chairman?

409 [No response.]

410 Mr. Cohen. Mr. Chairman?

411 Chairman Nadler. For what purpose does the gentleman
412 seek recognition?

413 Mr. Cohen. To reserve a point of order.

414 Chairman Nadler. The gentleman reserves a point of
415 order. Without objection, the amendment is considered is

416 read.

417 [The amendment of Mr. McClintock follows:]

418

419 Chairman Nadler. The gentleman from California is
420 recognized.

421 Mr. McClintock. Well, that is another State I am
422 looking at, but --

423 Chairman Nadler. What?

424 Mr. McClintock. Nothing. Mr. Chairman, thank you. I
425 don't approve of marijuana, and I believe that above all it
426 needs to be kept out of the hands of children. There is
427 considerable evidence that it can cause permanent
428 neurological damage to developing brains. I also believe it
429 does no good for society, but that is true of a lot of things
430 I don't approve of, but that shouldn't be illegal. Stamp
431 collecting, for instance.

432 I support legalization not because I support marijuana
433 use, but because I believe our laws have done far more harm
434 than good. They have created a violent underground market
435 which has, in turn, become a breeding ground for spinoff
436 crimes. Criminal convictions of young adults for merely
437 satisfying their curiosity have ruined countless lives. And
438 far from keeping marijuana out of the hands of young people,
439 I believe it has done exactly the opposite.

440 A deputy sheriff once observed that if he picked two
441 high school students at random, gave them each \$20, told one
442 to go out and buy booze and the other one to go out and buy
443 pot, the first one back would always be the one he sent to

444 buy pot. They know where to get it, and the seller has no
445 compunction selling it to them. The one he sends to buy
446 booze would go to one liquor store after another, get carded,
447 and get kicked out.

448 So I don't sing the praises of marijuana. I simply
449 recognize the limitation of or laws, and also the limits on
450 my ability to try to run everybody's life for them. We have
451 a societal obligation to keep this stuff out of the hands of
452 young people, advise everyone of the risks associated with
453 it, and then to respect the right of grownups to make up
454 their own minds and lead their own lives as they see fit. So
455 I support most of the provisions of the bill.

456 What I don't support is building programs into a tax on
457 marijuana that the bill envisions. Once we have built
458 specific programs into the tax structure, we create powerful
459 self-interest groups that will quickly press to increase
460 those taxes. Once you create a money machine with an
461 adjustable knob, that knob is more likely to be turned up
462 than down. The more concentrated the interest group, the
463 greater the pressure. The danger lies in this: once a tax
464 reaches a certain level, it creates the very thing that
465 legalization seeks to eliminate. It creates a lawless
466 underground market.

467 Marijuana shouldn't be taxed anymore or any less than
468 comparable products like alcohol, so I recognize that a 5

469 percent tax is a reasonable compromise. But under the
470 provisions of the bill, it is not going to stay at 5 percent
471 very long. So I am offering an amendment as a supporter of
472 the bill's objectives that would divide the proceeds in two
473 ways. Half would go as a general revenue into the Federal
474 treasury to be used as Congress decides. This would remove
475 the incentive to ratchet up the tax for specific interests.
476 And the other half would go to local law enforcement on a per
477 capita basis. I do think we need to recognize that as
478 marijuana transitions from an illegal enterprise to a legal
479 one, local law enforcement will face additional burdens as
480 legal and law-abiding growers displace the criminal element.
481 It would be appropriate to use a portion of the tax to offset
482 these costs.

483 I think this is a rare opportunity for bipartisan
484 agreement on an important public policy matter, and I would
485 ask the majority to consider these concerns.

486 Mr. Collins. Would the gentleman yield?

487 Mr. McClintock. I would be happy to yield.

488 Mr. Collins. I appreciate the gentleman offering this
489 amendment. I agree. I have differences of opinion about the
490 underlying bill, but I agree this a good step forward making
491 it work better. And I do appreciate it and yield back.

492 Chairman Nadler. The gentleman yields back? Does the
493 gentleman insist on his point of order?

494 Mr. Cohen. Yes, I do insist. The basis is that it is
495 not germane. This is my Maxine Waters moment, and I do
496 insist. This amendment addresses provisions of the bill that
497 fall outside the committee's jurisdiction and exceed the
498 scope of the committee's referral, thereby violating Rules 10
499 and 12 of the House Rules.

500 Chairman Nadler. Does the gentleman wish to reply to
501 opine on the point of order?

502 Mr. McClintock. The bill itself creates a tax that
503 funds specific programs. This amendment simply removes those
504 programs and funds others.

505 Chairman Nadler. I will rule on the point of order.
506 This bill, although the primary referral is to this
507 committee, several other committees have pieces of it. This
508 piece of it, including what the tax revenues would be used
509 for, is in the jurisdiction of the Ways and Means Committee,
510 and, therefore, it is not germane to consideration by this
511 committee of this amendment as beyond the scope of the
512 jurisdiction of this committee. The amendment is not in
513 order.

514 Are there any other amendments? For what purpose does
515 the gentleman from Louisiana seek recognition?

516 Mr. Richmond. I have an amendment at the desk.

517 Chairman Nadler. The gentleman has an amendment at the
518 desk. The clerk will report the amendment.

519 Ms. Strasser. Amendment to the amendment in the nature
520 of a substitute to H.R. 3884, offered by Mr. Richmond of
521 Louisiana. Page 17, line 20, strike the "and." Page 17 --

522 Chairman Nadler. Without objection, the amendment will
523 be considered as read.

524 [The amendment of Mr. Richmond follows:]

525

526 Chairman Nadler. The gentleman from Louisiana is
527 recognized to explain his amendment.

528 Mr. Richmond. Mr. Chairman, what this amendment does is
529 strictly add in, and I commend you for making sure that we
530 have restorative justice as part of this bill. But what this
531 amendment does is allow the funds to address any collateral
532 consequences that individuals or communities face as a result
533 of the War on Drugs. For those of us that were in those
534 communities when the failed War on Drugs started, we know the
535 damage that was done, and we know the many collateral
536 consequences that people faced because of it. So the bill
537 allows you to address any consequences for individuals, and
538 we are just adding in individuals and communities that would
539 face challenges as a result of the War on Drugs, and that is
540 simply what it does.

541 Mr. Gaetz. Will the gentleman yield?

542 Mr. Richmond. Sure.

543 Mr. Gaetz. I thank the gentleman for yielding, and I
544 come as a friend with this question. I am going to vote for
545 this bill today, and I am likely more supportive of some of
546 the restorative justice provisions than many of my Republican
547 colleagues, if not all of them. But as I read your language,
548 I am having a hard time understanding what would be a
549 collateral consequence. And so if the gentleman could just
550 perhaps give some examples of the types of things that would

551 be eligible with the amendment, it would be helpful at giving
552 greater particularity. I yield to the gentleman.

553 Mr. Richmond. For example, mentorship programs because
554 one of the collateral consequences of the War on Drugs was
555 that so many African-American men were taken out of their
556 communities, and you had so many children that didn't have a
557 male father figure. So you could talk about male mentorship
558 programs. You could talk about recreation programs. You can
559 talk about a bunch of job training. You could talk about a
560 bunch of things that were the effect of the intrusive War on
561 Drugs and the effect specifically in urban communities around
562 the country.

563 So if they can show that it is a community program that
564 also touches on some of those collateral consequences, and
565 that is just one of many, by the way. A lot of them are
566 educational. I will yield to Karen Bass so that she can --

567 Ms. Bass. Thank you. A couple of other collateral
568 consequences would be the children that were removed from
569 their mothers because the mothers were incarcerated, the
570 people who went into jail and didn't receive drug treatment,
571 and when they get out they still need drug treatment. So the
572 collateral damage is really extensive.

573 Mr. Gaetz. Would the gentleman yield for a follow-up?

574 Mr. Richmond. Sure.

575 Mr. Gaetz. And is the gentleman's position that the

576 current provisions of the bill would not allow access to
577 those redevelopment programs? And then just another question
578 so we don't have to yield back and forth. Is there any
579 community redevelopment program that would ever be excluded
580 under this language? I am just trying to understand what the
581 four corners of it is. And if the answer is if you are a
582 community that has been impacted by the War on Drugs, any
583 endeavor that you seek for redevelopment would qualify under
584 this. I would just seek that clarification. I yield back.

585 Mr. Richmond. Well, no. What I didn't want is for
586 other people to interpret the bill, and because it says
587 "individuals," have a strict reading that all the programs
588 has to be geared towards individuals that were directly
589 affected by the War on Drugs when sometimes communities were
590 effected. So what this hopes to do is to make it a little
591 more broad so that programs that affect the whole community
592 would suffice.

593 So when you start talking about, like Representative
594 Bass said, kids that may be in the foster care system or
595 children that need mentorship, especially when you start
596 talking about the male father figure. So I don't want that
597 to be left out, and there are numerous readings on the
598 collateral consequences of the War on Drugs, but that is what
599 this does. It very specifically allows you to address
600 community needs as well as individual needs.

601 Ms. Jackson Lee. Will the gentleman yield?

602 Mr. Richmond. I will yield.

603 Ms. Jackson Lee. So I thank the gentleman for his
604 amendment, but I simply want to make one point. The massive
605 incarceration post the "Just Say No" is evident. And even
606 though we have been working very hard to diminish the impacts
607 of massive incarceration in this committee, I would say that
608 collateral damage is evident by the extensive numbers of
609 minorities that have been incarcerated on the basis of drug
610 possession in small amounts. I yield back to the gentleman,
611 thank him for his amendment.

612 Mr. Richmond. And I yield back.

613 Chairman Nadler. I thank the gentleman. I will
614 recognize myself to simply say that this is a very helpful
615 amendment. I thank the gentleman for offering it. I urge my
616 colleagues to support it. I yield back. Does anyone else
617 seek recognition on the amendment? The gentleman from
618 Georgia?

619 Mr. Collins. Thank you, Mr. Chairman. And, again, I
620 appreciate the gentleman's amendment. His heart in this area
621 is evident and well thought out, and I appreciate his concern
622 here. I think I have just a bigger issue in going back to
623 discussing this, is we are talking about, and I think the
624 gentleman from Florida raised a very valid question on this
625 bill. It is a broad-scoping bill. It changes a lot of

626 things.

627 And here is an interesting point just for those in the
628 audience. I am not opposed to looking at ways that we can
629 change this. The question I have here, though, is this bill
630 specifically has never had a hearing. This bill specifically
631 has never been discussed except in broad, sweeping strokes in
632 a hearing that we had earlier this year on marijuana policy,
633 and I understand that. But for many people going forward, if
634 we are to actually make real change and actually make change
635 in policy, actually look at it from its medical benefits,
636 from its recreational benefits, anything else we want to do,
637 is we have got to actually have a discussion because for 70-
638 plus, 80-plus years, the American public has been told one
639 thing about marijuana. Bad. It is hard to change opinions
640 and minds over a simple bill right now that is just not
641 simple. It has a lot of moving parts. It has a lot of
642 different areas.

643 And so for many of us here, the question is do we want
644 to accomplish something or do we want to simply make a
645 political statement? I agree that we need to work on this,
646 but this is not fair to be putting a bill together we have
647 never had a hearing on specifically. These questions, like
648 the gentleman from Florida raised, could have been asked. We
649 could have included it in the base text of this bill that the
650 gentleman from Louisiana brought, which I thought is fine.

651 This is the concern that I am having that we needed to
652 get this done this week because we are going to run out of
653 time, and we needed to push this forward, but yet we have
654 never actually talked about the bill itself. I appreciate
655 the chairman's work on this. He has done a lot of work. I
656 disagree with a lot of it, but that is fine. That is what we
657 do. That is what our priority is. We just disagree. But my
658 question is, do we want to accomplish something, or do we
659 simply want to make a political statement? A political
660 statement is a bill that can't become law. It is a political
661 statement, and we can take that to the next election and work
662 that and work that and work that.

663 But here is the issue that I am having is there are
664 things like the STATES Act. There are things that are
665 smaller steps that accomplish a lot that are not perfect by
666 any means. And before anybody in the audience thinks
667 anything different, I have spent this year doing things that
668 our State in Georgia does not do. We have a medical, a very
669 CBD issue. But I have went to Colorado. I have went to
670 California. I have talked with dispensaries. I have went to
671 the growers. I have actually talked to the associations. I
672 have had this conversation. I am training and learning
673 myself, okay?

674 This is coming from a State trooper's kid who, you know,
675 grew up with the fact that you don't get close to it. You

676 don't touch it. It was against the law. But I am trying to
677 at least train myself to say, okay, what is the other side
678 here because I have not heard the other side. I was not
679 raised in this and our State does not accept, as California
680 and others, a legalization process.

681 So why come in here today with not a hearing on the bill
682 itself and try to change this many years of social injustice
683 and everything else, which I am not denying. But you are
684 also trying to move a mountain that is going to take a lot
685 more. If we want true change, then educate the public.
686 Educate the people on what this bill could actually do or not
687 do, and then have an honest give and take back and forth.
688 Instead we are taking a lot.

689 And I respect the chairman for wanting to go for it all
690 the week before Thanksgiving with no hearing. But I would
691 like to actually see something that could actually work and
692 be something that could then, if there is legitimate, which
693 we see the vast amount of Americans having a different
694 attitude about this. The first thing you got to do is
695 convince the vast amount of congressmen and senators that the
696 same is true. The way you do that is education. The way we
697 do this is the way we have done the First Step Act, the way
698 we did music modernization, the way we did the Cloud Act, the
699 way we actually worked together yesterday to get the FISA
700 extension redone.

701 You do it collaboratively and bipartisanly. We might
702 not always agree, and that is just who we are and different
703 places of where represent. But I would just encourage the
704 chairman, I understand we are going to pass this today, and
705 amendments like this will come. And I appreciate so much Mr.
706 Richmond from Louisiana. He is just a fighter on this, and I
707 respect his amendment. I am not going to fight his
708 amendment. That is irrelevant.

709 But I think for everybody who came here for this bill,
710 the question is do you want change or do you want some more
711 rhetoric? And if you want rhetoric, you are getting it. If
712 you want change, then we actually need to have a process in
713 which we actually put everything out, take this bill and
714 actually talk about it instead of having it come up in a
715 markup in which we are all frustrated with it may or may not
716 go the way we want it to do, and there is actually other
717 bipartisan stuff that we could pass that is not perfect by
718 any means, but at least it takes a step toward people
719 understanding it.

720 I appreciate the chairman giving me the time. I
721 appreciate the time that we can work on this. But at the end
722 of the day, let's hurry through this because it is going
723 nowhere. And I yield back.

724 Chairman Nadler. The gentlelady from Washington is
725 recognized.

726 Ms. Jayapal. Thank you, Mr. Chairman, and I want to
727 support this amendment from Mr. Richmond. I think it is an
728 important amendment, and I want to speak to the underlying
729 bill as well. This bill is really getting us to a whole new
730 level, and I want to thank -- I see Barbara Lee in the
731 audience -- Congressman Barbara Lee. Thank you for your
732 leadership as well for so many years.

733 I understand our ranking member's points, but I would
734 just say that there are a lot of people across this country
735 that have understood this issue for a very long time, from a
736 number of different perspectives, some because our states
737 have moved in that direction, some because our communities
738 have suffered from the consequences of the failed War on
739 Drugs. And so while I understand that not everybody is
740 there, I also think that our job in Congress is to make the
741 case as we bring these bills forward. Perhaps not everything
742 passes into law the first time. I think the ranking member
743 certainly knows that even from music modernization and how
744 many years it took to do that.

745 But I think the reality here is that we do have a crisis
746 that we are digging out of for many of our individuals in our
747 communities, and that is what the MORE Act is about. It is
748 our work to decriminalize cannabis and empower States to make
749 their own policies, and it is about taking that important
750 step forward to undo some of the devastating impacts of the

751 War on Drugs, particularly for young people of color. And so
752 I am grateful to the chairman for introducing and championing
753 this bill, which I think is historic.

754 I wanted to say a few words specifically being from the
755 State of Washington. I am very proud to represent the 7th
756 District and my home State of Washington. We were the first
757 State in the country to legalize cannabis in 2012. I was not
758 in the State senate at that time. I came into the State
759 senate in 2014, and that decision was actually made by the
760 people of Washington in a referendum, so talk about broad
761 participation. This was the people of Washington in a
762 referendum. It included at the time very broad support from
763 law enforcement, from child advocacy, communities.

764 And the legalization has been a huge success. Two years
765 later when I came into the State senate in 2014, we took up
766 the second piece. We split recreational and medical
767 marijuana. And while the first time around, you know, was
768 fairly partisan, mostly pushed by Democrats, the second time
769 around was very bipartisan. And I am grateful to my
770 colleague from Florida who has been really outspoken on this
771 issue, my Republican colleague who has been very outspoken on
772 this issue. We don't agree on a whole lot, but we agree on
773 this, and I appreciate that very much and the strong
774 leadership that he has shown on his side of the aisle.

775 Our legalization in Washington has been a huge success.

776 Let me tell you about it. Washington now has 505 retailers
777 creating new small business opportunities. Retailers have a
778 91 percent compliance rate, higher than that of alcohol
779 retailers. The licensed cannabis industry has generated over
780 \$1.1 billion in tax revenue for the State, and youth cannabis
781 use has remained steady. So the people of Washington made
782 this bold choice because we recognized that the War on Drugs
783 was a failure. Folks of color were bearing the brunt of that
784 failure. But across the board, we were criminalizing
785 something that should not be criminalized.

786 Despite the overwhelming success of Washington's
787 legalization efforts, the problem is that we still have a lot
788 of things that need to be fixed in order for us to be fully
789 successful in our efforts. And this is true across the
790 country with different States. We need this bill. We need
791 the MORE Act because despite our overwhelming success,
792 licensed cannabis retailers do not have access to the banking
793 industry, and are thus unable to accept credit cards, deposit
794 revenue into a bank account, or write checks. It creates a
795 burden, particularly for small businesses, and it means that
796 legitimate licensed businesses are essentially acting as
797 cash-only businesses. That is a major public safety risk,
798 and it creates a very weird perverse opportunity for money
799 laundering, tax evasion, and other white collar crimes. The
800 MORE Act fixes this problem, and it aligns Federal and State

801 cannabis law, and allows for safe banking for legitimate
802 cannabis businesses.

803 So the tides have turned in a very short period of time.
804 Now 47 States have legalized cannabis to some degree. This
805 is a remarkable education of the public since 2012, and
806 obviously we need to continue to do more. But this has been
807 a remarkable turning of the tide, but Congress has fallen
808 behind the national trend, and it is now time for us to take
809 action and address that gap between Federal and state laws.
810 And this important bill does just that by removing cannabis
811 from the Controlled Substances Act, thus decriminalizing the
812 substance at the Federal level, and allowing for States to
813 set their own policies.

814 So it is a crucial step forward to close a gap and begin
815 to reconcile the damage. And I thank the chairman, and I
816 yield back.

817 Chairman Nadler. The gentlelady yields back. For what
818 purpose does the gentleman from Texas seek recognition?

819 Mr. Gohmert. To strike the last word.

820 Chairman Nadler. The gentleman is recognized.

821 Mr. Gohmert. Thank you, Mr. Chairman. Just to go back
822 to the point we are rushing into this. This is a big deal.
823 And since I have been here, I recall apparently, it was in
824 the 80s, the Judiciary Committee went rushing into an effort
825 to be more severe on crack cocaine than powder cocaine. And

826 many important members of the Congressional Black Caucus, I
827 think somebody from the caucus said if you don't make these
828 penalties against crack cocaine much more severe, then you
829 obviously don't care about minority communities because this
830 poison is destroying our communities.

831 And so there wasn't as much need apparently to get real
832 good testimony from experts on what that would do, so we saw
833 decades where minority communities were really unfairly
834 treated by the overzealousness of punishment against crack
835 cocaine compared to powder cocaine and I am concerned we are
836 about to do the same thing. We are rushing in. It will be
837 very popular in the moment with people that are here and with
838 the base, and I realize, you know, the country is very
839 divided on the issue of impeachment. I am sure some are
840 thinking, well, maybe this will help them chill out when we
841 take action.

842 [Laughter.]

843 Mr. Gohmert. But regardless, this should not be rushed
844 into. There are just too many important aspects to this. We
845 ought to be having people here. Some here seem very
846 interested. We ought to hear from people how the current
847 laws have affected. But I just think it would be very
848 important before we start this war against the War on Drugs,
849 and really objectively look at the overall effect this bill
850 is going to have. So with that, I yield back.

851 Chairman Nadler. The gentleman yields --

852 Mr. Gohmert. No, I yield to my friend from Ohio.

853 Mr. Chabot. Thank you. I appreciate the gentleman
854 yielding, and I will be brief. I just wanted to follow up on
855 what the ranking member had said about the fact that we are
856 moving forward on this legislation, which I think, as the
857 gentleman from Texas mentioned, is pretty darn substantial
858 and really obviously would make a dramatic difference in the
859 country if it made its way all the way through this
860 committee, and the House floor, and then the Senate, and the
861 President would sign it. And I don't think, at least this
862 particular bill, that is going to happen at this time,
863 although I wouldn't be surprised at some point in time that
864 something like this does make it.

865 But the gentleman from Georgia talked about we haven't
866 had a hearing and we are moving forward on this because we
867 didn't have time for the hearing. Why haven't we had time to
868 do what we are really supposed to do and actually go into
869 these things in depth, bring experts in here and tell us
870 whether this is the right thing to do or not, or at least
871 advise us on that? It is because we spent so much time
872 chasing our tail on impeachment, you know, bringing John Dean
873 in here, and Corey Lewandowski, and then the Russian
874 collusion, and the Mueller report, and all. We have spent
875 inordinate numbers of our hours on that, and now it is in the

876 Intelligence Committee, and I think most people think it is
877 likely to be back here within the next few weeks. Mr.

878 Chairman, good luck, but so we are going to be back there.

879 So many things which really are important and that do
880 bring this country together, I think those are the types of
881 things that we ought to be focused on. I mean, opioids. You
882 know we are talking about legalizing this drug. Well, there
883 is another drug, opioids out there --

884 Chairman Nadler. Would the gentleman yield?

885 Mr. Chabot. It is not my time, but --

886 Mr. Gohmert. Sure.

887 Chairman Nadler. Thank you. I just want to make 2
888 points on this. Number one, this country has been debating
889 and considering marijuana for many, many years. As a member
890 of the New York State Assembly in 1977, I voted for a
891 successful bill to decriminalize marijuana. How many years
892 ago was that, 1977? We have been discussing it ever since.
893 And second of all, this is a basically conservative bill. It
894 is a States' rights bill. It says the Federal government
895 gets out of the business and leaves it up to the States.
896 States can regulate it as they see fit, and the Federal
897 Government will leave it to them. I thank the gentleman for
898 yielding. I yield back to him.

899 Mr. Gohmert. And I appreciate that, but still there is
900 a lot that has happened in 42 years, a lot more information,

901 and a lot more information about the effects of marijuana
902 that hadn't been previously known. I think it would be a
903 better idea to hear from experts instead of ourselves. And I
904 don't know if the Speaker didn't have enough faith in
905 Democrats on this committee or too much faith in Republicans,
906 but we need to get jurisdiction back to impeachment. I yield
907 back.

908 Chairman Nadler. The gentleman yields back. For what
909 purpose does the gentleman from Tennessee seek recognition/
910 Mr. Cohen. To strike the last word.

911 Chairman Nadler. The gentleman is recognized.

912 Mr. Cohen. Mr. Chairman, members of the committee, the
913 idea that this committee or the United States of America and
914 the Congress and the Senate are rushing reform on marijuana
915 is ludicrous. We are so far behind. We don't need a bunch
916 of experts to come tell us what we know what they are going
917 to tell us. If they are from the Drug Enforcement Agency,
918 law enforcement, they are going to say it is awful. If they
919 are normal citizens with an ounce of understanding of what
920 the effects of this drug have been, it is distinguished from
921 alcohol and tobacco, they will say make it like alcohol and
922 legalize it, leave it up to the States.

923 The idea that marijuana should be in Schedule I where it
924 can't be researched, where you can't research it and then
925 learn maybe something about it, which is part of our problem,

926 is ludicrous. It is in a class with heroin, psilocybin,
927 acid, meth, Quaaludes, ecstasy. That is what it is in a
928 class with. It doesn't belong. Which one doesn't fit?
929 Marijuana. Schedule I is supposed to be recognized medical
930 use. We know it helps people with glaucoma, with PTSD, with
931 appetite disorder, people with multiple sclerosis, PTSD
932 veterans, chemo, cancer. It relieves nausea. We know that,
933 so it doesn't fit that class.

934 And a high degree and likelihood of abuse. We don't see
935 a whole lot of people hung out on the streets trying to get a
936 joint to keep their habit going. It doesn't happen. So the
937 fact that we get it de-scheduled doesn't need any great
938 experts, and even if you were the son of a deputy sheriff,
939 you know that is horse manure. And the fact that we should
940 leave it to the States to get the Federal Government out of
941 it. Our Federal Drug Enforcement people need to be working
942 on meth and crack and heroin, serious drugs that do cause
943 people to get addicted, to lose their lives, and to steal to
944 get the money to buy their drugs, and not to be dealing with
945 marijuana, which the only thing they get out of that is they
946 get to claim some of the person who is selling its assets,
947 and then feed their own empire.

948 There is no need. This is the right thing. And if we
949 didn't have this bill scheduled and we didn't have a bill,
950 they would say, well, because of impeachment, the Democrats

951 are not working on bills. They are not doing anything. But
952 you have a hearing to work on a bill, they say, oh, you
953 shouldn't have this hearing, just like they said they
954 shouldn't have closed door hearings on impeachment. And then
955 once they opened them up, they said you shouldn't have open
956 hearings on impeachment.

957 The fact is this is a bill that needs to pass. It has
958 hurt minority communities, devastated them over the years,
959 and it started that way as the racist actions of Harry
960 Anslinger, and it continued through J. Edgar Hoover, and
961 Richard Nixon, and the Southern Strategy. These are long-
962 time efforts to use marijuana for political purposes to get
963 votes and to press people who did not necessarily conform to
964 the ways of the Southern Strategy.

965 I thank the chairman for bringing the bill. I think we
966 should pass it immediately and get it done. We need to move
967 forward and pass marijuana reform. I yield back the balance
968 of my time.

969 Chairman Nadler. Th gentleman yields back. Who seeks
970 recognition? The gentleman from Florida. For what purpose
971 does the gentleman from Florida seek recognition?

972 Mr. Gaetz. To strike the last word.

973 Chairman Nadler. The gentleman is recognized.

974 Mr. Gaetz. I thank the chairman for bringing this good
975 bill forward. I intend to vote for the MORE bill, but I fear

976 that to get something done, we may need a little less than
977 more. Nonetheless, I do appreciate the challenge that is
978 presented in legislating around this issue. I have to
979 remark, though, to my dear friend and mentor from Texas'
980 comment that he feels we may be rushing into marijuana
981 reform, I have never heard the marijuana reform movement
982 accused of rushing into anything.

983 I would also suggest that having 47 States innovate
984 around this policy space and improve the lives of people, we
985 are not rushing. We are being dragged forward by our
986 constituents and by the States that are filling a void as a
987 consequence of failure at the Federal level. And I think
988 that failure is demonstrated across a variety of spectrums.
989 First, the prohibition on research, and I am grateful that
990 the legislation that the chairman has brought forward will
991 democratize access to research by removing marijuana from the
992 list of Schedule I drugs.

993 Another area is the criminal justice restoration policy
994 space. And this is where I fear the legislation we have
995 before us may not achieve the high goals of the sponsors and
996 those of us who intend to vote for it. The pro-marijuana
997 reform coalition in our country is massive. A vast majority
998 of Americans support marijuana reform, but they do so for a
999 variety of different reasons. There are some who believe in
1000 use, and believe that medical use and adult use can be

1001 helpful or is allowed. There are others, like my good friend
1002 from California, Mr. McClintock, who are not pro-marijuana,
1003 but they have principled views regarding the rights of States
1004 and the rights of people to be free from excessive intrusion
1005 from the Federal Government. I remember our former
1006 colleague, Mark Sanford. He was similarly of that view,
1007 supported innovation at the State level, but was not someone
1008 that was going to go out and really advocate for people to
1009 take up marijuana as a habit or as a medical solution.

1010 And so here is my concern. When we have legislation
1011 like that is before us, we divide the coalition rather than
1012 uniting it because rather than have legislation like the
1013 STATES Act that could invite people from all corners of the
1014 marijuana reform movement for support and assistance, we now
1015 cleave off the libertarian leaning, conservative leaning,
1016 pro-States' rights elements of our movement. And that is
1017 going to doom us in the United States Senate.

1018 But I also am going to vote for this bill because I
1019 recognize that the War on Drugs has been devastating to
1020 particular communities. I do not believe that this was a
1021 virtuous or right thing for us to do to crack down on drugs
1022 in precisely the way that we have done over the course of the
1023 last generation, and there does need to be a restoration for
1024 people. And I was persuaded by the comments from the
1025 gentleman from Louisiana, Mr. Richmond, that there are

1026 communities that have been hollowed out by the War on Drugs.

1027 And so while I am not certain that the chairman has
1028 found the precise balance between the libertarian-leaning
1029 elements of our coalition and those who favor more robust
1030 social justice reforms, I think it at least gets the
1031 conversation going. But here would be my plea. After we
1032 pass this bill out today with bipartisan support, can we
1033 please also consider the STATES Act? Can we at a subsequent
1034 hearing bring up the STATES Act so that we have more than one
1035 round in the chamber, so that we have a way to invite people
1036 to the marijuana reform movement that are uncomfortable with
1037 some of the elements of the bill that lean into the
1038 legislation that Representative Lee has crafted?

1039 So if we don't, Mr. Chairman, if all we do is pass this
1040 bill and say that the MORE Act is the only marijuana
1041 legislation that the House is willing to advance off the
1042 floor, then I fear that the constituents that I fight so hard
1043 for, the medical patients I fight hard for, the research
1044 programs that I want to see funded, they will all die on the
1045 vine. And we will have our great speeches, and we will have
1046 all these great moments where we praise each other's
1047 leadership and thank each other. But at the end of the day,
1048 nothing will be better for anyone, and I think that is kind
1049 of why folks hate Washington is that we talk all around these
1050 issues, but we fail to meet the needs of our constituents,

1051 and then the States have to step up and fill those voids. I
1052 will yield to the gentleman --

1053 Mr. Gohmert. Will the gentleman yield?

1054 Mr. Cohen. Thank you for yielding. I just want to
1055 inform you, if you didn't know this, you have been assigned
1056 the Dana Rohrabacher seat, and you have the job of educating
1057 your colleagues. So the vote of the Republican caucus will
1058 reflect on you.

1059 Mr. Gohmert. Will the gentleman yield?

1060 Mr. Gaetz. I hope I fare a bit better than Mr.
1061 Rohrabacher did in the last election. I yield to the
1062 gentleman from Texas.

1063 [Laughter.]

1064 Mr. Gohmert. In response to your response to me, let me
1065 just tell you, my experience here in this body is never more
1066 dangerous than we think we know it, we don't need to hear
1067 from any experts. Thank you for yielding.

1068 Mr. Gaetz. I yield back.

1069 Chairman Nadler. The gentleman yields back. For what
1070 purpose does the gentleman from California seek recognition?

1071 Mr. Correa. I move to strike the last word.

1072 Chairman Nadler. The gentleman is recognized.

1073 Mr. Correa. First of all, let me thank the chairman for
1074 this work on the MORE Act. I just wanted to quickly, the
1075 issue of rushing into this issue. California was the first

1076 State in the Union to legalize medical marijuana back in
1077 1998, and we know medical marijuana is good for seizures,
1078 glaucoma, and other sorts of things. Our veterans in my home
1079 State, home to the greatest number of veterans in the Union,
1080 are telling me we want cannabis. We prefer cannabis to
1081 opioids. So I have approached the VA. I have asked the VA
1082 please do research into what cannabis is good for and what
1083 cannabis is not good for. And the only thing I get from the
1084 VA is we are not going to do it, Federal law.

1085 Federal law essentially has barred additional research
1086 into cannabis. It is time we change that situation. Back
1087 when I was in the state senate in California, I worked with
1088 public safety -- let me repeat that -- I worked with public
1089 safety hand in hand, along with the cannabis industry, to
1090 move forward a sensible regulatory framework to address
1091 cannabis to make sure that cannabis was kept away from our
1092 kids, to make sure that folks do not medicate and drive, and
1093 to make sure that each time a patient was going to medicate
1094 with cannabis, that that medication was properly labeled.

1095 There are currently many agencies across the Federal
1096 Government who are very familiar with recognizing products
1097 like cannabis, such as alcohol and prescription drugs. We
1098 may, Mr. Chairman, be able to work with those agencies to
1099 come up with a robust regulatory framework for cannabis as we
1100 move forward. And let me share also my views that our member

1101 from Florida had to say about the STATES Act. I do hope we
1102 move on that legislation. The sooner the better.

1103 Again, I want to thank the chairman for introducing this
1104 legislative bill, and I am going to be very supportive. And
1105 I yield back the rest of my time.

1106 Chairman Nadler. The gentleman yields back. For what
1107 purpose does the gentlewoman from Pennsylvania seek
1108 recognition?

1109 Mrs. McBath. Thank you, Mr. Chairman. I move to strike
1110 the last word.

1111 Chairman Nadler. The gentlelady is recognized.

1112 Mrs. McBath. Thank you. And thank you, Mr. Chairman,
1113 for bringing up such timely legislation. And I am going to
1114 speak to you from the heart of a mother. I am not a --

1115 Chairman Nadler. Excuse me [off audio].

1116 Mrs. McBath. I am not a lawyer. I am simply a mother.
1117 I will always be a mother. And so I am going to speak to you
1118 from a mother's heart today with my remarks. I know that we
1119 are still really learning about the health and safety and
1120 therapeutic questions that surround the use of marijuana.
1121 And I am proud to represent many scientists and researchers,
1122 medical professionals, all that are in my district, the
1123 Centers for Disease Control, the CDC, and experts that we
1124 need to answer some of these questions to know how best to
1125 regulate marijuana going forward.

1126 Federal regulations of marijuana have severely limited
1127 researchers who could otherwise find the answers to these
1128 important questions that we are asking today, and I have to
1129 say simply I am voting in support of the MORE Act so that we
1130 can answer these questions. I mean, how can we best keep our
1131 kids safe in light of some State's decision to legalize
1132 marijuana? Can marijuana help our veterans? What are the
1133 best therapeutic uses of marijuana? With the passage of the
1134 bipartisan MORE Act, I hope that we can begin to answer these
1135 really, really critical questions, and in doing so, we
1136 provide better information for every State to decide for
1137 themselves how they want to regulate marijuana. But as a
1138 mom, the safety for our kids is always the most important
1139 consideration we as parents make, and I know that there are
1140 moms out there who worry about their kids using marijuana.

1141 That is a legitimate concern. I worried about the very
1142 same thing with my son, Jordan. Unfortunately, though, for
1143 decades now, we have lived in a world where those
1144 consequences our young people face for marijuana use can
1145 depend far too much on the color of their skin. We live in a
1146 system where some are given the opportunity to move on from
1147 their mistakes, maybe a single day of suspension from school,
1148 no driving privileges or no allowance. But for other
1149 families, families that look like mine, those mistakes can
1150 become something that labels their teen as a criminal or a

1151 convict, and the mistake becomes something that takes that
1152 teen away from school for months or even sometimes years.
1153 Suddenly the scholarships are all gone, and college is
1154 completely out of reach for those teens. Coming home for
1155 Thanksgiving is a hope, but not a guarantee.

1156 For our youth, especially black and brown children,
1157 marijuana use can profoundly change the course of their young
1158 adult life and the lives of their loved ones, all for a
1159 nonviolent act. The MORE Act restores some justice to our
1160 criminal justice system. By removing marijuana from the
1161 Controlled Substances Act and creating opportunities for
1162 expungement and resentencing. We help people get the
1163 opportunity to move on with their lives and to become
1164 productive collaborative members of our communities once
1165 again.

1166 I am pleased to support this bill and I yield back the
1167 balance of my time.

1168 Chairman Nadler. Gentlelady yields back.

1169 Who else needs recognition?

1170 The gentlelady from Pennsylvania?

1171 For what purpose does she seek recognition?

1172 Ms. Dean. Move to strike the last word.

1173 Chairman Nadler. The gentlelady is recognized.

1174 Ms. Dean. Thank you, Mr. Chairman.

1175 I thank you for bringing this bill forward and I want to

1176 speak in support of the amendment of the bill and also the
1177 underlying bill.

1178 I am a little puzzled by the majority -- the minority
1179 party's arguments against moving forward today with this.
1180 After all, last session when they were in the majority did
1181 they hold those hearings on this urgent issue?

1182 Did they try to move legislation to reform our marijuana
1183 laws? I wasn't here, but I have a feeling the answer is no.

1184 So there is no rush. In fact, we are decades late. The
1185 studies, the research, the damage is known. Communities of
1186 color have disproportionately been damaged, destroyed,
1187 delayed in what they can do economically, educationally, and
1188 in every other way.

1189 Since the War on Drugs began, the nation's prison
1190 population increased from 300,000 people to a staggering 2.2
1191 million people behind bars.

1192 In the decade between 2001 and 2010, 8.2 million people
1193 were arrested on marijuana charges. Nearly 90 percent of
1194 those arrests were for possession. Possession only.

1195 Most troubling is the fact that despite equal usage
1196 rates, black Americans are now four times more likely than
1197 white Americans to be arrested for marijuana.

1198 People of color have disproportionately borne the
1199 burdens of these draconian policies, facing longer prison
1200 sentences and a lifetime of economic consequences of having a

1201 criminal record.

1202 As my colleague from Georgia so eloquently stated, think
1203 of the difference and the injustice between what might happen
1204 to one of my three sons and what would happen to her own.

1205 We can right that injustice. We can correct past
1206 wrongs. The MORE Act is more than just a marijuana bill. It
1207 is a sweeping effort to bring equity to our criminal justice
1208 system.

1209 By removing marijuana from the Controlled Substances Act
1210 and requiring federal courts to expunge prior convictions,
1211 this bill will go a long way to reduce the racial disparities
1212 that plague our criminal justice system.

1213 Additionally, I am eager to see the creation of the
1214 Opportunity Trust Fund, which will be paid for by a 5 percent
1215 sales tax on marijuana product.

1216 What will that fund do? It will be used to pay for
1217 important programs, programs that would provide job training,
1218 legal aid, youth programs, and critically important substance
1219 abuse treatment for communities that have suffered the most
1220 from the crisis of mass incarceration.

1221 As Martin Luther King said, the time is always right to
1222 do what is right. Today, as we discuss this issue and many
1223 others, the time is right to do what is right.

1224 So I am pleased to join Mr. Richmond on his amendment
1225 and I am pleased to join the chairman on this underlying

1226 bill, and I look forward to its swift bipartisan passage.

1227 Thank you. I yield the remainder of my time, Mr.

1228 Chairman.

1229 Mr. Johnson of Georgia. Mr. Chairman?

1230 Chairman Nadler. For what purposes -- for what purposes

1231 does the gentleman from Georgia seek recognition?

1232 Mr. Johnson of Georgia. Move to strike the last word.

1233 Chairman Nadler. The gentleman is recognized.

1234 Mr. Johnson of Georgia. Thank you, Mr. Chairman.

1235 I rise in support of the amendment and I must tell you

1236 that -- something that you already know and that is the war

1237 on drugs as been a complete and resounding failure both

1238 inside of America's borders and also in South America and in

1239 Central America.

1240 What is happening now is you have got the president --

1241 you have got the president of Honduras, Juan Orlando

1242 Hernandez, having a brother whose name is Juan Antonio

1243 Hernandez, found guilty in New York federal court just last

1244 month of drug trafficking.

1245 And while the president, his brother, is supposed to be

1246 fighting drug trafficking in his country, taking American

1247 money to fight the war on drugs in his nation, his brother is

1248 running drugs with El Chapo. That is what he got convicted

1249 of.

1250 Now, how can that be that right under the president of

1251 Honduras's nose his brother is running drugs, he is taking
1252 drug money for his election and he is also taking American
1253 money for drug suppression, and meanwhile, everyone is
1254 fleeing Honduras.

1255 Why are they fleeing Honduras and coming to America's
1256 borders seeking safety and security? Because things are so
1257 unsafe and secure for the people in Honduras because drugs
1258 are the only game in town, and we are supporting it with our
1259 taxpayer dollars.

1260 And so it has been a failure beyond our borders and it
1261 is a failure here in America where 600,000 arrests are made
1262 every year, not for all drugs but just for marijuana. Six
1263 hundred thousand arrests, and those arrests affect people of
1264 color primarily, mostly African American.

1265 And so when folks get caught up in this criminal justice
1266 system, which is actually the prison industrial complex in
1267 this country, which is thriving under President Trump, it is
1268 these marijuana laws that are feeding people into that
1269 system.

1270 And so this must come to an end. We cannot continue
1271 this way, and so I am happy to support the MORE Act, which is
1272 going to decriminalize or, excuse me, take marijuana off of
1273 Schedule One where it resides with drugs like heroin and
1274 cocaine.

1275 This is ridiculous. It needs to stop. Too many lives

1276 have been lost to unfair jail times, decades of probation,
1277 all for selling or possessing marijuana.

1278 And with that, I will yield the balance of my time to
1279 the gentleman from Louisiana, Mr. Richmond.

1280 Mr. Richmond. Thank you, Congressman Johnson.

1281 Hopefully, I can be very quick.

1282 I just didn't want to miss this opportunity, Mr.
1283 Chairman, for a sense of bipartisanship. I thought I heard
1284 my colleague, Mr. Gohmert, mention that we should learn from
1285 the failed policy of the 100 to 1 discrepancy between --
1286 disparity between crack offenses and powder cocaine offenses.

1287 So I was wondering if my colleague would like to join
1288 with me and bring crack cocaine and powder cocaine both to
1289 one to one in terms of sentencing, because I think on a
1290 bipartisan basis we may be -- actually be able to get that
1291 done, and I --

1292 Mr. Gohmert. Will the gentleman yield?

1293 Mr. Richmond. Absolutely.

1294 Mr. Gohmert. Yeah, if there is not a lot of other
1295 whistles and bells in there that affect other things, just on
1296 that I would join the gentleman.

1297 Thank you. Yield back.

1298 Mr. Richmond. Thank you.

1299 And I would just ask the chairman if we could get that
1300 done whether we could bring that and mark that up. Thank

1301 you, Mr. Chairman, and thank you to my colleague, Mr.

1302 Gohmert, and thank you to Mr. Johnson.

1303 Chairman Nadler. The gentleman yields back.

1304 Mr. Johnson of Georgia. I yield back.

1305 Chairman Nadler. The gentleman yields back.

1306 Mr. Raskin. Mr. Chairman?

1307 Chairman Nadler. For what purpose does the gentleman
1308 from Maryland seek recognition?

1309 Mr. Raskin. Move to strike the last word.

1310 Chairman Nadler. The gentleman is recognized.

1311 Mr. Raskin. I want to speak in favor, Mr. Chairman, of
1312 the Marijuana Opportunity and Reinvestment and Expungement
1313 Act of 2019 and in favor of the excellent Richmond amendment.

1314 Several of our colleagues have said that we shouldn't be
1315 rushing in. I think from the standpoint of the vast majority
1316 of people in America, we are hardly rushing in. We are
1317 really decades late at this point.

1318 There are 600,000 marijuana arrests every year.
1319 Millions of people's lives have been affected by marijuana
1320 prohibition, which has proven to be a disaster at every
1321 level.

1322 And this is why, when you look all over the country, the
1323 states are way ahead of us and the states are always where
1324 great changes begin.

1325 But the majority of the states have passed medical

1326 marijuana reform laws or decriminalized marijuana or straight
1327 out legalized marijuana, and Congress is way, way in the rear
1328 here.

1329 So far from rushing in, we are catching up with the rest
1330 of the country, as represented by state and local legislation
1331 from all over America.

1332 Forty-six percent of all drug prosecutions are for
1333 marijuana possession. So we know that hundreds of thousands
1334 of people's lives continue to be affected by these retrograde
1335 laws.

1336 Our colleague from Wisconsin invites us to engage in
1337 legislation that will bring the country together. That is
1338 precisely what this will do.

1339 More than two-thirds of Americans -- 68 percent of
1340 Americans favor the legalization of cannabis and an end to
1341 the war on marijuana.

1342 And here, the people have been following very carefully
1343 our own constitutional history because, you know, we had
1344 alcohol prohibition with the 18th Amendment to the
1345 Constitution.

1346 That proved to be a complete disaster for our country,
1347 as it corrupted the police forces. It corrupted the
1348 judiciary. It just drove the price of liquor sky high.

1349 It, essentially, built organized crime in America and it
1350 has been the same with marijuana. It has ruined a lot of

1351 people's lives. It has corrupted a lot of law enforcement in
1352 different parts of the country and it has essentially put the
1353 government at war with the people.

1354 We repealed marijuana -- we repealed liquor prohibition
1355 in the 21st Amendment and we should repeal marijuana
1356 prohibition today.

1357 We should end this disastrous experiment.

1358 Now, alcohol has both costs and benefits to it, and we
1359 didn't repeal the prohibition of liquor because liquor is
1360 always great. It is not.

1361 But it has got to be dealt with in a serious public
1362 policy manner and is a public health issue rather than is a
1363 question of criminal law enforcement and Big Brother.

1364 Marijuana prohibition is costing Americans billions of
1365 dollars a year in failed and futile and counterproductive
1366 enforcement efforts.

1367 If we legalize it, if we regulate it, if we develop
1368 sound public health and public welfare policies towards
1369 marijuana, we can actually make millions of dollars in the
1370 taxation.

1371 We can make billions of dollars in the taxation of
1372 marijuana and we can improve public health and public safety
1373 at the same time.

1374 The vast majority of the states are already there. We
1375 should catch up with them. We should, indeed, remove

1376 marijuana from Schedule One drugs in the Controlled
1377 Substances Act, as this legislation would do, and Congress
1378 should join with the states in developing far more rational
1379 and precise and scientific efforts.

1380 And I do have to say it is surprising to hear some of
1381 our colleagues say that we should be having a set of more
1382 hearings about this.

1383 When the GOP was in control of this committee in the
1384 last session of Congress, there were no hearings about it and
1385 I remember working very hard with our colleague, Mr. Gaetz
1386 from Florida, to demand hearings about it and no hearings
1387 were forthcoming.

1388 The time for inaction is over. The time for excuses is
1389 over.

1390 Mr. Chairman, I am glad that you are proving that we are
1391 able to ferret out high crimes and misdemeanors and
1392 criminality at the highest levels of government at the same
1393 moment that we make progress on the important public policy
1394 problems of the day.

1395 And on the other side, we simply get nay saying --
1396 nothing can happen, nothing can work, obstructionism at every
1397 turn.

1398 So, Mr. Chairman, I will yield back, just saying I am
1399 glad that we are moving forward and I hope that we will move
1400 quickly to bring this to the floor.

1401 Chairman Nadler. The gentleman yields back.

1402 For what purpose does the gentleman from Colorado seek
1403 recognition?

1404 Mr. Buck. Move to strike the last word.

1405 Chairman Nadler. The gentleman is recognized.

1406 Mr. Buck. Mr. Chairman, first of all, I want to thank
1407 you for raising this issue and I want to acknowledge what my
1408 colleague from Maryland just said.

1409 The Republican Party failed. We have failed for years
1410 to raise this issue in a responsible way, to hold hearings to
1411 examine different aspects of this.

1412 As a member from Colorado, the first state to legalize
1413 recreational marijuana, we have learned a lot in Colorado and
1414 we should share that with our friends.

1415 And I have talked to leadership of the Judiciary
1416 Committee and the Republican Party in the House about holding
1417 hearings when we were in control of the House or in the
1418 majority of the House because I think it is so important that
1419 we do that.

1420 I disagree with this bill and I do think that hearings
1421 would be beneficial. In Colorado, we see increased emergency
1422 room visits as a result of marijuana.

1423 We see increased traffic accidents. We see more
1424 juveniles in drug rehab programs. We see things that concern
1425 me.

1426 I don't know that there is a simple answer for it but it
1427 is worth a debate. This is one issue that I think we have
1428 overwhelming bipartisan support and the right bill would pass
1429 the House in a way that would demand Senate action.

1430 The nice thing about the Senate is they will do nothing,
1431 very efficiently, but they will do nothing, and when it comes
1432 to a bill like this they will not address it.

1433 I would love to work with the chair. I would love to
1434 have my staff work with the Judiciary Committee staff on at
1435 least moving some parts of this marijuana issue.

1436 And I yield to my friend.

1437 Chairman Nadler. I thank the gentleman for yielding and
1438 I thank the gentleman for expressing his appreciation that we
1439 have had hearings and we are bringing up a bill.

1440 I think -- I agree with the gentleman. There are
1441 obvious problems with marijuana use, with other drug uses. I
1442 had a meeting a number of months ago with the Canadian
1443 minister, who helped to legalize this and he said we have to
1444 be careful and take various measures.

1445 And I think what we have done -- what we have done in
1446 this bill is, essentially, say the states are the
1447 laboratories. Each state can regulate it as it sees fit, can
1448 put in more safeguards.

1449 We will get experience with different states once they
1450 will choose this safeguard and others, that safeguard to

1451 another, maybe no safeguards, and we will learn from it.

1452 But the states can do this. We are not prohibiting --
1453 we are not saying with this bill that there is free use of
1454 marijuana and no one can regulate it.

1455 We are saying that the federal government is going to
1456 get out of the way and let the states regulate it, and I
1457 think that is a very useful approach at this point.

1458 And I thank the gentleman. I yield back to him.

1459 Mr. Buck. And I want to thank my friend from Florida,
1460 Mr. Gaetz, for his leadership in the Republican Caucus on
1461 this issue.

1462 Mr. Chairman, the states have taken the lead on this and
1463 the states have learned a lot of lesson, and I think that
1464 delisting marijuana in some way makes a lot of sense.

1465 I have visited many facilities in Colorado that grown
1466 marijuana, that retail marijuana, and I have learned from
1467 those folks some important lessons that I would love to see
1468 Congress recognize.

1469 The production of marijuana in Colorado is very
1470 expensive for those folks who are regulated and comply with
1471 regulations.

1472 There are no pesticides used. There are no herbicides
1473 used. There are -- every plant has a bar code on it and it
1474 is weighed when the plant is harvested. There are a number
1475 of very thoughtful regulations that have been put in place

1476 for the production of marijuana.

1477 The problem is that the marijuana that comes through the
1478 cartels across our southern border don't have those
1479 safeguards and so -- and as a result, the legal marijuana is
1480 being undercut by the marijuana that comes across our border.
1481 So it is much cheaper to buy marijuana on the black market
1482 than it is through a dispensary.

1483 That is an issue we have to address because you can't
1484 tell when you are at a party and someone offers you marijuana
1485 what -- where that marijuana is coming from and how safe it
1486 is.

1487 And so I think there are a lot of issues that we are
1488 learning as a result of the states being the laboratories of
1489 democracy and I think it is really important that we take
1490 those into account.

1491 So I and a number of other Republicans join our Democrat
1492 colleagues in advocating for delisting marijuana in some way
1493 with common sense safeguards, and it is a first step.

1494 In 10 years we may have solved some of those problems
1495 and moved on to the next step. But this bill, I believe,
1496 goes too far for a number of reasons.

1497 And it is not educating Republicans. It is joining
1498 together to make the best bill possible.

1499 And I yield back.

1500 Chairman Nadler. The gentleman yields back.

1501 For what purpose does the gentleman from New York seek
1502 recognition?

1503 Mr. Jeffries. I move to strike the last word.

1504 Chairman Nadler. The gentleman is recognized.

1505 Mr. Jeffries. I want to thank the chairman for his
1506 leadership in moving this important legislation forward and,
1507 certainly, I rise in support of the amendment by my
1508 colleague, the gentleman from Louisiana, as it relates to
1509 attempting to deal with some of the collateral consequences
1510 of over criminalization in America, particularly in the
1511 marijuana context.

1512 The failed War on Drugs here in America has its origins,
1513 of course, in 1971 when Richard Nixon publicly declared drug
1514 abuse public enemy number one. Historical records now
1515 indicate that, in part, that War on Drugs was directed
1516 intentionally at communities of color.

1517 We also know that the origins of marijuana prohibition
1518 policy that date back to the 1930s also have its origins in
1519 targeting unnecessarily and viciously communities of color.

1520 We know when the failed War on Drugs was first launched
1521 there were less than 350,000 people incarcerated in America.

1522 Today, there are 2.2 million, disproportionately black
1523 and Latino, disproportionately from low-income communities of
1524 every race across the country -- urban America and rural
1525 America.

1526 It is a stain on American society that we incarcerate
1527 more people per capita than any other country in the world,
1528 including China and Russia combined.

1529 In the last Congress, thanks to leadership from this
1530 committee led by Doug Collins, we were able to take an
1531 important step forward in addressing our mass incarceration
1532 problem, our over criminalization problem that exists here in
1533 America.

1534 This is another step forward. Particularly when you
1535 consider that the out of control policy that relates to
1536 marijuana is really not limited to any one particular
1537 jurisdiction.

1538 We were troubled that in the last decade New York City
1539 became the marijuana arrest capital of the world --
1540 progressive left-leaning New York City.

1541 And we know, based on statistics, that while marijuana
1542 use is equally divided amongst people of every race and every
1543 socioeconomic status, and, in fact, there have been some
1544 studies to suggest that whites use marijuana at equal or
1545 greater numbers in many instances than do communities of
1546 color -- black and Latino communities -- in New York City, 80
1547 percent of the arrests for possession of low-level quantities
1548 of marijuana were in black and Latino communities.

1549 And it leads us to ask the question either marijuana use
1550 is socially acceptable behavior or it is worthy of criminal

1551 prosecution.

1552 But it can't be socially acceptable behavior in some
1553 communities that tend to be more affluent regardless of race
1554 and criminal in other communities that tend to be
1555 predominantly black and Latino all across the country and in
1556 New York City.

1557 And so it is very important for the federal government
1558 to send a different message as it relates to marijuana and
1559 that is exactly what is being done in this particular
1560 instance by descheduling it, because it never belonged in
1561 Schedule One and is the fruit of a poisonous tree, but also
1562 making sure that we take steps to repair the damage that was
1563 done in every community as a result of the failed War on
1564 Drugs in urban America, suburban America, ex-urban America,
1565 and in rural America as well.

1566 So thank you, Mr. Chair, for your leadership and urge
1567 all of my colleagues to support this legislation as another
1568 step forward in striking a blow against over criminalization
1569 in America.

1570 Chairman Nadler. The gentleman yields back.

1571 For what purpose does the gentlelady from Florida seek
1572 recognition?

1573 Ms. Mucarsel-Powell. Mr. Chairman, I ask to strike the
1574 last word.

1575 Chairman Nadler. The gentlelady is recognized.

1576 Ms. Mucarsel-Powell. Thank you.

1577 And I actually wanted to respond also to my colleague,
1578 Mr. Buck, because I do agree with much of his statement that
1579 he made earlier today and I would love to have the
1580 opportunity to actually work with him on some of the issues
1581 that he brought up.

1582 As a mother of a 14-year-old and an 11-year-old, as I
1583 read the bill I also thought about what we need to do at a
1584 federal level to make sure that we provide funding for
1585 education, for prevention, because we are seeing a rise in
1586 marijuana use by our children all over the country.

1587 So, Mr. Buck, I am willing to work with you on
1588 legislation to make sure that we regulate the substance in a
1589 manner that really invests in education, preventive measures,
1590 especially for our children. I am in full agreement with you
1591 on that. So I just -- I wanted to make that comment.

1592 But we do have a crisis on our hands. I do think that
1593 men and women of color are being disproportionately affected
1594 in our criminal justice system and this bill addresses a
1595 portion of that.

1596 I remember being here just a few weeks ago when we had a
1597 hearing on the incarceration of women and the rise of
1598 incarceration of women, specifically women of color, for
1599 minor offenses.

1600 So I think it is important that we support this bill by

1601 beginning to deschedule marijuana, working on these
1602 initiatives to make sure that the bill will add equity to
1603 minority communities and ensuring that they have a voice in
1604 the growing industry as well because what I have also seen is
1605 that we have a tale of two Americas.

1606 On the one hand, we have a wealthy white business
1607 America that dominates the medical cannabis, especially in
1608 Florida we have found that to be true.

1609 But on the other hand, black and brown citizens of my
1610 community are suffering the consequences of these one-sided
1611 laws.

1612 So I just wanted to make those comments, respond to Mr.
1613 Buck, and support the legislation --

1614 Mr. Gaetz. Will the gentlelady yield?

1615 Ms. Mucarsel-Powell. Yes, I yield.

1616 Mr. Gaetz. I would -- as the author of the Florida
1617 legislation on medical marijuana I take some exception to
1618 such focus on the identity of the owners.

1619 Is the gentlelady aware that the first granted
1620 application in Florida was to Costa Farms, a minority-owned
1621 business?

1622 Ms. Mucarsel-Powell. I am aware of that.

1623 Mr. Gaetz. What is the gentlelady's basis then for the
1624 view that it is rich white people who benefit in the Florida
1625 medical marijuana industry?

1626 Ms. Mucarsel-Powell. You have to look at the
1627 statistics, Representative Gaetz.

1628 Mr. Gaetz. And what statistics does the gentlelady cite
1629 so that I can --

1630 Ms. Mucarsel-Powell. I will look into it and I will
1631 respond. I don't have them in front of me but --

1632 Mr. Gaetz. Does the gentlelady find that a rather
1633 incendiary charge with no evidence to back it up?

1634 Ms. Mucarsel-Powell. That is funny coming from someone
1635 that loves to make incendiary charges.

1636 Mr. Gaetz. Not on -- not based on identity. I mean,
1637 you know, you sit here and say -- like, the first license
1638 given was to a minority-owned business. You acknowledge
1639 that, and then you say it is only rich white people that
1640 benefit.

1641 We are trying to work together on a bill that will help
1642 all people and to focus on identity is -- and then to just
1643 sort of offer an ad hominem in response for not having
1644 evidence.

1645 Ms. Mucarsel-Powell. Thank you -- thank you, Mr. Gaetz.
1646 I am reclaiming my time now and let me just, since you are
1647 bringing up ethnicity, today is Latina Equal Pay Day and I
1648 just want to yield back my time to the chairman.

1649 Thank you.

1650 Chairman Nadler. The gentlelady yields back.

1651 The question occurs on the amendment.

1652 All those in favor say aye.

1653 Oppose, no.

1654 The ayes have it. The amendment is adopted.

1655 Is there any further -- are there any further amendments
1656 to the amendment in the nature of a substitute?

1657 For what purpose does -- what purpose does the gentleman
1658 from Colorado seek recognition?

1659 Mr. Buck. I have an amendment at the desk.

1660 Chairman Nadler. The clerk will report the amendment.

1661 Ms. Strasser. Amendment to the amendment in the nature
1662 of a substitute to H.R. 3884, offered by Mr. Buck. Page 3,
1663 strike line 22 and all that follows, through Page 8 line 4
1664 and insert the following.

1665 [The amendment of Mr. Buck follows:]

1666

1667 Chairman Nadler. Without objection, the amendment will
1668 be considered as read.

1669 The gentleman from Colorado is recognized for the
1670 purpose of explaining his amendment.

1671 Mr. Buck. Thank you, Mr. Chairman. I want to be very
1672 brief on this. I am offering the States Act as an amendment
1673 to this for purposes of discussion.

1674 I will not ask for a recorded vote on this. I do not
1675 expect much debate on this. But I do think, since the chair
1676 has, in a very responsible way, begun the discussion that we
1677 should have begun a long time ago on marijuana, I want to
1678 make sure that the committee is aware that many of us have
1679 co-sponsored the States Act.

1680 Many of us are advocating for the States Act and I
1681 offered as an amendment to this bill in a very limited way.
1682 I know that my friend and colleague from Colorado, Senator
1683 Gardner, is the prime sponsor of the States Act in the United
1684 States Senate.

1685 I think it would have a decent chance of moving if it
1686 passed the House with a bipartisan -- with a bipartisan vote
1687 and bipartisan support.

1688 And I also join my friend, Mr. Gaetz, in asking the
1689 chair to consider other legislation, legislation that would
1690 rally treat this bill in a piecemeal fashion, going forward.

1691 And so I thank the chair for his allowing this amendment

1692 to be considered and I yield time to my friend from Florida,
1693 Mr. Gaetz.

1694 Mr. Gaetz. I thank the gentleman for yielding. I
1695 intend to support the amendment and I do so because I think
1696 history is some guide here.

1697 As we look at the effectiveness of cannabis reform in
1698 the several states, we see it as incremental in nature. We
1699 have not seen states go from zero to full decriminalization
1700 or legalization. There have been steps along the way and
1701 lessons learned.

1702 And so, perhaps, we could follow the lead of our states
1703 and do precisely what Mr. Buck has suggested.

1704 That incrementalism, I think, is particularly evident in
1705 my home state of Georgia. We initially passed a low THC
1706 medical cannabis bill.

1707 We learned a little bit about how the structure, the
1708 grow operations, would have to work, how the businesses would
1709 have to be designed. After that, we felt comfortable
1710 extending care to people who were terminally ill.

1711 We saw our patient list grow. We were able to build out
1712 a provider network to meet those needs, and then as more and
1713 more patients are added as we have learned more and more
1714 about additional ailments, we have actually been able to deal
1715 with restorative justice, which is a virtuous goal in this
1716 bill. But we didn't do it first, which is why I think the

1717 Buck approach is the preferable approach.

1718 But in Florida, since the gentlelady mentioned it, we
1719 actually thought we were so concerned that communities of
1720 color may have been locked out of access to large-scale
1721 agricultural operations to be able to meet the need that we
1722 required in the state of Florida that licenses at some point
1723 had to go to black farmers who were members of the Pigford
1724 class in a class action lawsuit brought by sharecroppers.

1725 And so, again, the charge that the state of Florida has
1726 only helped rich white people in the marijuana industry is
1727 unsupported by the evidence.

1728 It is -- it is belied by the fact that the very first
1729 license in Florida went to Costa Farms, a minority-owned
1730 business, and it is further disproven by the fact that by
1731 taking an approach that has been signified by Representative
1732 Buck to go one step at a time you actually can get to the
1733 restorative justice and minority access precisely as we have
1734 done in the state of Georgia.

1735 I yield back to the gentleman from Colorado.

1736 Mr. Buck. I thank my friend for his comments and I
1737 yield back.

1738 Chairman Nadler. The gentleman yields back.

1739 I recognize myself in opposition to the amendment.

1740 The argument in support of the amendment is that states
1741 should be the ones to determine how and when to legalize

1742 marijuana.

1743 The MORE Act, as is, without the amendment, accomplishes
1744 that goal. It would deschedule marijuana but still keep in
1745 place current and prospective state regulatory and control
1746 schemes, allowing states to determine how to regulate
1747 marijuana in their respective jurisdictions.

1748 This amendment, by maintaining all federal criminal
1749 penalties in states that have not legalized marijuana under
1750 state law, would continue to limit research and commerce.

1751 It would leave in place federal criminal penalties and
1752 enforcement in states that have not legalized marijuana,
1753 including draconian mandatory minimums.

1754 But not descheduling the amendment would forego various
1755 benefits of the underlying bill. For example, nothing in the
1756 amendment gives any clarity to the community of veterans as
1757 it fails to address the continued confusion surrounding the
1758 ability of veterans to discuss their health care regimen with
1759 their VA doctors and the ability of VA doctors to comply with
1760 state legal medical cannabis programs.

1761 Nothing in the amendment provides any clarity to either
1762 active or would-be service members and so their ability to
1763 serve our nation based on their past use of cannabis,
1764 medicinal use of cannabis, or consumption while off duty or
1765 on leave.

1766 By removing marijuana from Schedule One, the underlying

1767 bill is both of these things.

1768 Nothing in the amendment protects from federal
1769 prosecution and scrutiny those banks which facilitate cash
1770 transfers across state lines between states where marijuana
1771 is legal and those where it is not.

1772 Nothing in the amendment protects cannabis entrepreneurs
1773 from having to comply with Section 280(e) of the Internal
1774 Revenue Code, which requires that they pay taxes on all of
1775 their revenue without the benefit of being able to take tax
1776 deductions or credit -- of credits for their business
1777 expenses.

1778 By removing marijuana from Schedule One, the underlying
1779 bill does both of these things.

1780 Let me make one other comment. I have made this in
1781 connection with other legislation. I don't believe in
1782 negotiating against ourselves.

1783 The comment was made on this bill as on several others
1784 that have been considered by this committee that the Senate
1785 won't take the bill as is.

1786 That may be. But the Senate is another house and we can
1787 negotiate with the Senate. If we pass the bill that we want,
1788 Senate passes a different bill, we can negotiate. That is
1789 what conference committees are for.

1790 I don't think it is a good idea in most circumstances --
1791 it may be in some -- but in most circumstances I don't think

1792 it is a good idea to say the Senate won't take this bill,
1793 therefore, we shouldn't pass this bill -- we should pass only
1794 what the Senate will take, as if we know what the Senate will
1795 take after a process of negotiations.

1796 When the House passes a bill, it is part of a continuing
1797 process. It is not the end of the process. It is not a take
1798 it or leave it with the other house -- with the other body, I
1799 am supposed to call it, I suppose -- and there should be
1800 conference committees or informal negotiations.

1801 To do otherwise is to say that the Senate rules the
1802 roost and the House doesn't matter. The House does matter.
1803 The Senate does matter, and we do not have a unicameral
1804 Congress.

1805 Maybe we should. That is a different question. But if
1806 we think a bill is the best bill we should pass that bill and
1807 then negotiate with the Senate.

1808 That is a general comment not just on this but on other
1809 bills because we have heard that argument before.

1810 Does the gentleman --

1811 Mr. Buck. Would the gentleman yield?

1812 Chairman Nadler. I will yield to the gentleman.

1813 Mr. Buck. Thank you.

1814 Mr. Chairman, as someone who has had bills pass the
1815 House by over 400 votes and not be considered in the Senate,
1816 I don't know how you wake the Senate up to do its job.

1817 But when bills are more partisan and, certainly, in this
1818 case it is bipartisan but I don't believe a majority of
1819 Republicans will support this bill, it is even more -- it is
1820 even less likely that the Senate would take it up.

1821 And so, therefore, I would just suggest that we deal
1822 with other bills that we can get a much larger bipartisan
1823 support for.

1824 Chairman Nadler. Reclaiming my time.

1825 I understand the gentleman's point. I, obviously,
1826 disagree with it, especially in light of the fact the facts
1827 that I pointed out, that the amendment, which is to say the
1828 States Act, wouldn't do a lot of things that are very
1829 desirable that this bill would do and I think we should try
1830 to do them and, hopefully, we can get a negotiating process
1831 and maybe we will get somewhere in between or whatever.

1832 I yield back.

1833 Who else seeks recognition on --

1834 Mr. Collins. Mr. Chairman?

1835 Chairman Nadler. For what purpose does the gentleman
1836 from Georgia seek recognition?

1837 Mr. Collins. Thank you, Mr. Chairman, and I move to
1838 strike the last word.

1839 Chairman Nadler. The gentleman is recognized.

1840 Mr. Collins. Thank you.

1841 Again, you just brought up a great situation. I

1842 actually think this is a good conversation here. I agree
1843 that you should not find what the Senate wants or asks and if
1844 they would, you know, occasionally wake up and do legislation
1845 we could find some of that out.

1846 But we don't. We have had this problem under our last
1847 Congress. We have it this Congress. But I think one of the
1848 things that I want to point out here, though, is something
1849 very basic.

1850 I don't disagree with the chairman's premise of putting
1851 out a marker, so to speak, to negotiate. But I want to go
1852 back to what my dad taught me years ago.

1853 If I was to walk onto a car lot and buy a new car, and
1854 the car prices is \$25,000 and I come in and say, well, I want
1855 to start a negotiation so I say I am going to give you
1856 \$10,000, the car dealer is saying I am not serious about this
1857 and walks away.

1858 But putting a bill out that we know up front is not a
1859 starter for conversation, then we are walking away from it.
1860 So the States Act, which is what we have here, has bipartisan
1861 support so we are already partially the way there. We have
1862 Cory Gardner in the Senate, many others in the Senate, who
1863 have --

1864 I mean, if Doug Collins and Elizabeth Warren can be on
1865 the same bill, something might be moving. Okay. This is
1866 something we need to think about here.

1867 So that is what I am saying about negotiating.

1868 Negotiating is perfect. We need to do that. I am very
1869 familiar with that.

1870 In fact, Hakeem Jeffries, who is an amazing member on
1871 your side who we have worked with on many large, large, large
1872 pieces of legislation, have started with that premise, saying
1873 what can we move through the House that the Senate would
1874 actually talk to us about that we can then work on, and that
1875 is why -- how bicameral negotiations actually work.

1876 By doing this, I appreciate the chairman looking for the
1877 perfect. But by looking for the perfect you are going to
1878 ruin the good and we are going to get nothing.

1879 And I think this is the discussion that is going on.
1880 That is why this States Act amendment is so important for us
1881 to at least move the ball forward.

1882 Even for those of us who are kicking and screaming maybe
1883 to the table, we are willing to take this step because we see
1884 what is happening in our country and we realize that the
1885 federal government has failed miserably in this area.

1886 So let us find a solution, and this is giving us an
1887 opportunity on both sides to actually vote for this. Put it
1888 before us and let us see it as we go.

1889 If the gentleman from Colorado would like the time, I
1890 yield back. I yield to him.

1891 Mr. Buck. Thank you. I appreciate the gentleman from

1892 Georgia.

1893 And, Mr. Chairman, I just want to suggest in terms of
1894 the strategy for moving something positive on marijuana
1895 forward, the gentleman may want to read "The Art of the
1896 Deal." I understand it is a very helpful book in this
1897 regard.

1898 [Laughter.]

1899 Mr. Collins. Reclaiming my time. The issue here,
1900 though, as we go forward, again, I want it out there for the
1901 folks who have been advocating. I see, you know, a lot of
1902 folks up here advocating for changing marijuana laws.

1903 I get that. Okay. I am there to begin this
1904 conversation, and I am not there to say we have not done --
1905 we actually passed a bill last Congress, which I know it was
1906 said earlier we didn't do anything.

1907 There was a smaller bill that was passed that Mr. Gaetz
1908 and Goodlatte actually worked on. So we did do something.
1909 It wasn't what everybody wanted, not even me.

1910 But when we get to this point, if you can take -- all I
1911 am saying is if you can take a member from Georgia who this
1912 is not a keynote -- in fact, it is a very interesting and
1913 very difficult issue -- pass CBD oil for kids.

1914 Okay. It is growing because there has been education.
1915 When Allen Peake, who is a dear friend of mine -- he and I
1916 came into the Georgia House at the same time -- started this

1917 process of CBD oil and marijuana in the discussion in
1918 Georgia, he got very little support and very little votes.
1919 It took constant effort, general assembly session after
1920 general assembly session, to bring forward.

1921 This is fine. As I stated in my opening, we can come at
1922 it at a nonnegotiable point. We can make that \$10,000 offer
1923 on a \$25,000 car. And we can say to the Senate and we can
1924 beat and moan and beat our chest and say, Senate is not
1925 taking our bill up.

1926 Why don't we start with one that already has bipartisan
1927 support in both and make it better? And then we can come
1928 back to the social justice issues. Then we can come back to
1929 this, because we have a win under our belt.

1930 Momentum is built by wins, not statements. Momentum is
1931 built by having something that you can do and actually win
1932 and have the ball down the hill.

1933 Momentum is not simply yelling at the rock, saying move.
1934 Move. It doesn't move. A win will start that in motion.
1935 That is why I support this amendment.

1936 And I yield back.

1937 Chairman Nadler. For what purpose does the gentleman
1938 from Georgia seek recognition?

1939 Mr. Johnson of Georgia. Move to strike the last word.

1940 Chairman Nadler. The gentleman is recognized.

1941 Mr. Johnson of Georgia. In response to the comments

1942 about minorities being excluded from the marijuana business,
1943 it is a fact that fewer than one-fifth of cannabis business
1944 owners identify as minorities and only 4 percent identify as
1945 being black.

1946 Applicants for cannabis licenses also are limited by
1947 numerous laws, regulations, and exorbitant permit
1948 application, licensing fees, and costs that can require an
1949 up-front investment of \$700,000 to get into the business.

1950 And on top of that, state laws prohibit folks who have
1951 been convicted of marijuana charges from being in the
1952 marijuana business. And so because racism has been in the
1953 soil of America ever since 1619, 400 years ago when the first
1954 enslaved Africans were brought to this country, we have been
1955 considered less than human, three-fifths human, and then
1956 finally, when we did get rights, we went through a hundred
1957 years of American apartheid of discrimination, separate but
1958 equal.

1959 And these -- the legacy of racism exists today when it
1960 comes to access to capital, to get the \$700,000 required. We
1961 are shut out, and my Latino brothers and sisters have been
1962 treated similarly throughout their history in this country.

1963 And so that is just a fact. No need to come -- to find
1964 any statistics. I mean, that is just -- I mean, it is
1965 obvious that we are shut out of this business.

1966 And with that I will yield back.

1967 Chairman Nadler. The gentleman yields back.

1968 Does anyone else seek recognition on this amendment?

1969 In that case, the question occurs on the amendment.

1970 All those in favor say aye.

1971 Opposed, no.

1972 The noes have it. The amendment is not adopted.

1973 Are there any further amendments to the amendment in the

1974 nature of a substitute?

1975 Ms. Jackson Lee. Mr. Chairman?

1976 I have an amendment at the desk.

1977 Chairman Nadler. For what purpose does the gentlelady

1978 from Texas seek recognition?

1979 Ms. Jackson Lee. I have an amendment at the desk, Mr.

1980 Chairman.

1981 Chairman Nadler. Clerk will report the amendment.

1982 Ms. Strasser. Amendment to the amendment in the nature

1983 of a substitute for H.R. 3884, offered by Ms. Jackson Lee of

1984 Texas. Page 35, insert after line 10 --

1985 [The amendment of Ms. Jackson Lee follows:]

1986

1987 Chairman Nadler. Without objection, the amendment is
1988 considered as read. The gentlelady from Texas is recognized
1989 for the purpose of explaining her amendment.

1990 Ms. Jackson Lee. Mr. Chairman, first of all, let me
1991 thank you and, certainly, the ranking member, who is present
1992 here today, for, I think, a vital and lifesaving step in
1993 America's journey with the failed War on Drugs.

1994 Let me thank you for the work. I am pleased to have
1995 been one of the original co-sponsors of this legislation, and
1996 let me tell you the wrong premises that have been, as I have
1997 listened this morning to the very vigorous debate.

1998 It is not whether you like marijuana or whether you use
1999 marijuana that should be the context in which the United
2000 States Congress addresses the question of the --

2001 Chairman Nadler. Will the gentlelady suspend for a
2002 moment, please?

2003 I am told that the clerk handed out the wrong text of
2004 the amendment -- the wrong amendment.

2005 The gentlelady can continue explaining her amendment but
2006 the clerk will -- some may have the right text. Some may
2007 have the wrong text. The clerk will distribute the right
2008 amendment.

2009 And I just want to -- in case there is any confusion.

2010 The gentlelady may --

2011 Ms. Jackson Lee. Right. They may have the right --

2012 Chairman Nadler. Okay. The -- I have the wrong one?

2013 Ms. Jackson Lee. It is one of the individuals -- this

2014 is just the term here in --

2015 Chairman Nadler. Oh. The gentlelady -- the gentlelady

2016 may continue now.

2017 Ms. Jackson Lee. There is one word change and that is

2018 individuals, and I hope we can find the right one.

2019 Is the clerk coming forward? Is the time paused on the

2020 clock?

2021 [Pause.]

2022 Chairman Nadler. The gentlelady may continue. The

2023 clock will resume.

2024 Ms. Jackson Lee. I thank the gentleman.

2025 So the real idea of what we are doing here today is to

2026 ensure that we do the right thing, and there is no doubt that

2027 there have been enormous disparate impact on minority

2028 communities and other communities.

2029 Mr. Correa mentioned veterans and the inability to get

2030 research done as to whether this would be a better medical

2031 treatment or better use by the veterans medical system.

2032 So I would hope that my amendment could be a parallel

2033 fact finder.

2034 First of all, I think it is important that we remove

2035 marijuana, or cannabis, from the list of substances

2036 controlled in the Controlled Substances Act.

2037 That has generated a increased population in the
2038 nation's federal prisons and others in the states and it has
2039 created a disparate impact as indicated through the long
2040 discussion we have heard on African Americans as well as
2041 Hispanics and others.

2042 The Opportunity Trust Fund to be funded with excise tax
2043 only evidences that this is a multi-billion-dollar business
2044 because individual American 47 states recognize that this is
2045 a personal right of Americans and that medical science has
2046 indicated the limited impact.

2047 So, again, this is not whether you like marijuana or use
2048 marijuana. It is whether or not the Congress should do the
2049 right thing.

2050 As it relates to small businesses, I think it is also
2051 important that the Small Business Administration provide
2052 funds to eligible states and localities to develop their
2053 licensing program -- everything above board and to minimize
2054 the barriers to cannabis and to ensure that the SBA
2055 employment for individuals most adversely affected by the War
2056 on Drugs.

2057 My amendment, again, is a fact finding amendment. The
2058 Comptroller General of the United States, in consultation
2059 with the National Institute on Drug Abuse, shall conduct a
2060 democratic study of individuals convicted of federal cannabis
2061 offenses.

2062 Such study shall include information about the age,
2063 race, ethnicity, and gender of those individuals, the type of
2064 communities such users dwell in, and such other demographic
2065 information as the Comptroller General determines should be
2066 included.

2067 This, I believe, will help determine whether or not
2068 individuals were veterans, what their race was, what their
2069 age, where there are pockets in the United States where it
2070 was more often than not, to be able to implement the use of
2071 this bill.

2072 And might I say, one of the most important elements that
2073 my faith community asks about is how we can get engaged in
2074 reentry. We already know that mass incarceration has had a
2075 devastating economic personal social impact in particular on
2076 African Americans and impoverished communities.

2077 We would like to see the opportunities for reentry be
2078 part of the -- of the Opportunity Trust Fund and it is. And
2079 so let us be reminded that facts are important.

2080 My amendment will generate the facts, that we can help
2081 improve the bill as we go forward in terms of the needs that
2082 may be created.

2083 It will help us know where the hardship areas are that
2084 have already been impacted by decades of federalizing the
2085 effects of cannabis, or marijuana.

2086 It will deal with those individuals who will now be

2087 coming out and be released under previous legislation that we
2088 passed and it will provide funding for the reentry of those
2089 trying to turn their lives around after incarceration, and
2090 then it will be a opportunity for communities that have been
2091 severely impacted by the business, the jobs, and otherwise
2092 created.

2093 I ask my colleagues to do the right thing and support
2094 the Jackson Lee amendment and the underlying bill, and I will
2095 yield back my time.

2096 Chairman Nadler. For what purpose does the gentleman
2097 from Florida seek recognition?

2098 Mr. Gaetz. Strike the last word.

2099 Chairman Nadler. The gentleman is recognized.

2100 Mr. Gaetz. Thank you, Mr. Chairman.

2101 And I am trying to understand the gentlelady's
2102 amendment. She seeks demographic information regarding the
2103 age, race, ethnicity and gender of individuals.

2104 Is there a reason the gentlelady left off sex? Is that
2105 -- was that an omission the gentlelady intended or did not
2106 intend? I would yield to the gentlelady just to understand.

2107 Ms. Jackson Lee. My belief is that, if the gentleman
2108 will yield, that gender covers everyone.

2109 Mr. Gaetz. Reclaiming my time.

2110 I thought I understood that people could have one sex
2111 and then a different gender or one sex and then a different

2112 gender identity. Is that not the gentlelady's understanding

2113 --

2114 Ms. Jackson Lee. No.

2115 Mr. Gaetz. -- of how the data would be collected?

2116 Ms. Jackson Lee. No. I thank the gentleman for his
2117 inquiry.

2118 Mr. Gaetz. Okay. I am just trying to understand.

2119 Is there someone who can help me understand? Is gender
2120 and sex the same thing or are those different? Is there
2121 someone -- I know we had a number of people who were involved
2122 in the drafting of the Equality Act where these definitions
2123 were difficult for me.

2124 I would be willing to yield to any of my Democrat
2125 colleagues if they had a different view on whether or not sex
2126 and gender were different or whether they were the same. I
2127 believe the author of the amendment has said that they are
2128 the same thing but --

2129 Ms. Jackson Lee. Will the gentleman yield?

2130 Mr. Gaetz. Oh, yes. Yes.

2131 Ms. Jackson Lee. If the gentleman will read the
2132 amendment it says, shall conduct a demographic study of
2133 individuals.

2134 It seeks to list a number of these aspects. And then it
2135 concludes by saying, and such other demographic information
2136 as the Comptroller General determines should be included.

2137 So if you have any doubt that the Comptroller General,
2138 if they view the necessity to separate gender and to view the
2139 word sex, they have every opportunity to likewise utilize
2140 that terminology as well, though we maintain that gender
2141 covers all.

2142 Mr. Gaetz. Reclaiming my time, and I appreciate that
2143 explanation.

2144 But I worry that the Comptroller General may be just as
2145 confused as I am because, again, I don't -- I don't think
2146 gender covers everything.

2147 I think that someone can have sex of male but gender
2148 identity of female, and then I am learning more about this
2149 gender fluidity where people can sort of change by the day on
2150 that, and so I am just wondering how the data would be
2151 collected.

2152 And I am confused so would the gentlelady be willing to
2153 accept a friendly amendment so that the data could be
2154 collected on age, race, ethnicity, sex, and gender identity?

2155 Ms. Scanlon. Would the gentleman yield for a
2156 suggestion?

2157 Mr. Gaetz. Yes, I would.

2158 Ms. Scanlon. I am sorry if you are having confusion
2159 about gender identity, but I believe that the text of the
2160 Equality Act does have those definitions in it.

2161 And I yield back.

2162 Mr. Gaetz. No, I appreciate that. But that is not the
2163 law now. So this -- if we were to presume that this
2164 amendment were to become law, we would have to unwind some
2165 pretty complicated questions because, again, the gentlelady
2166 from Texas -- the author -- said that gender covers
2167 everything, and I -- again, I am still learning. So I truly
2168 intend this to be a clarifying moment for us.

2169 Chairman Nadler. The gentleman -- the --

2170 Ms. Jackson Lee. Let me respond to the gentleman, if I
2171 might.

2172 Chairman Nadler. Do you yield to the gentlelady?

2173 Mr. Gaetz. Yes. Yes, certainly.

2174 Ms. Jackson Lee. Mr. Chairman, thank you.

2175 I -- we are grateful, Mr. Gaetz, that you are one of the
2176 co-sponsors and, certainly, as a Republican. I am a little
2177 bit taken aback by the minutiae that we are being engaged in.

2178 But I welcome your friendly amendment that I believe is
2179 already clarified by the language that says, and such other
2180 demographic information the Comptroller General determines
2181 should be.

2182 But in the list I think it would be quite appropriate to
2183 insert about the age, race, ethnicity, sex -- if you would
2184 put it there -- and gender of those individuals.

2185 Chairman Nadler. Gender identity.

2186 Mr. Gaetz. Would the -- yeah, sex and gender identity

2187 are the two I seek.

2188 So, Mr. Chairman --

2189 Ms. Jackson Lee. What is the term that he seeks?

2190 Mr. Gaetz. Sex and gender identity, I believe. But I
2191 would -- again, I know that there are folks on the other side
2192 of the aisle who have a far keener understanding of these
2193 terms and I am still learning.

2194 So if -- Mr. Chairman, would it be okay if maybe
2195 potentially withdrew this --

2196 Ms. Jackson Lee. Can I hear your language again,
2197 please? If you would yield.

2198 Mr. Gaetz. Yes, ma'am. Certainly.

2199 I would suggest maybe age, race, ethnicity, sex, and
2200 gender identity.

2201 Ms. Jackson Lee. For your openness and your acceptance
2202 of the Equality Act and its definitions, and I am happy to
2203 accept those amendments to the Jackson Lee amendment.

2204 Chairman Nadler. Without objection --

2205 Mr. Gaetz. I want to -- I want to --

2206 Chairman Nadler. Without objection, the amendment is
2207 amended.

2208 Mr. Gaetz. Thank you. But I --

2209 Mr. Cicilline. Will the gentleman yield for a question?

2210 Did you just say you support the Equality Act?

2211 Mr. Gaetz. No, I didn't, and that is why I am --

2212 Mr. Cicilline. I was like, wow, that is breaking news.

2213 Mr. Gaetz. That is why I am having to be clear.

2214 No, it is not, in fact.

2215 Mr. Cicilline. Good breaking news, but breaking news.

2216 Mr. Gaetz. Well, I think -- I think --

2217 Chairman Nadler. General order here.

2218 Mr. Gaetz. Mr. Chairman, just to reclaim my final few

2219 seconds, I wanted to clarify I do not support the Equality

2220 Act because it is so confusing. But that doesn't mean we

2221 shouldn't try to make this less confusing.

2222 And I would just take some exception with the gentlelady

2223 suggesting that my questions are about minutiae. These are

2224 -- these are questions that the majority has raised. I

2225 simply want to acknowledge, and I appreciate the acceptance

2226 of my amendment.

2227 I yield back.

2228 Chairman Nadler. The gentleman -- the amendment is

2229 accepted. The gentleman yields back.

2230 Are there any further discussion -- any further

2231 discussion of this amendment?

2232 Ms. Jackson Lee. On my amendment.

2233 Chairman Nadler. The question occurs on the amendment.

2234 All in favor say aye.

2235 Oppose, no.

2236 The amendment is adopted.

2237 Are there any further amendments to the amendment in the
2238 nature of a substitute?

2239 For what purpose does the gentleman from Colorado seek
2240 recognition?

2241 Mr. Buck. I have an amendment at the desk, Mr.
2242 Chairman.

2243 Chairman Nadler. The gentleman has an amendment at the
2244 desk. The clerk will report the amendment.

2245 [Pause.]

2246 Chairman Nadler. The gentleman has an amendment on the
2247 way to the desk. The clerk will report the amendment when it
2248 gets there.

2249 [Pause.]

2250 Ms. Strasser. Amendment to the amendment in the nature
2251 of a substitute to H.R. 3884, offered by Mr. Buck of
2252 Colorado. After Page 37 line 4, insert the following:
2253 Section 15, societal impact of marijuana legalization study.
2254 The Comptroller General of the United States shall not later
2255 than two years after the date enacted provide to Congress a
2256 study that addresses the societal impact of the legalization
2257 of recreational --

2258 [The amendment of Mr. Buck follows:]

2259

2260 Chairman Nadler. Without objection, the bill will be
2261 considered as read.

2262 Before I recognize the gentleman, shouldn't that read
2263 after -- within two years after the date of enactment, not
2264 after enacted?

2265 Mr. Buck. Yes, Mr. Chairman. It should read that.

2266 Chairman Nadler. Within two years after the date of
2267 enactment. Within two years after the date of enactment.

2268 Would the clerk just reread that first half of the
2269 sentence to make sure we have it right?

2270 Ms. Strasser. The Comptroller General of the United
2271 States shall not later than two years after the date of
2272 enactment provide to Congress a study --

2273 Chairman Nadler. Very good. Thank you very much.

2274 The bill will be considered as -- the amendment will be
2275 considered as read.

2276 The gentleman from Colorado is recognized for the
2277 purpose of explaining his amendment.

2278 Mr. Buck. I appreciate that, Mr. Chairman.

2279 Mr. Chairman, a few weeks ago I circulated a letter to
2280 members asking the Attorney General and other federal
2281 agencies to study the impact of marijuana in states that
2282 legalized marijuana for recreational purposes.

2283 I think it is absolutely important. I recognize and
2284 acknowledge my colleagues that have discussed the fact that

2285 Congress is far behind the states in this effort and I
2286 recognize that we should act quickly. But I also want to
2287 make sure that we act prudently.

2288 I think that more information is always better and
2289 especially in this situation where it could impact juveniles.
2290 It can impact public safety and the lives of so many.

2291 And so I would ask that many of the same issues I raised
2292 in my letter be addressed in this bill and ask for the
2293 support of the chairman and others to study the effects of
2294 marijuana and make sure that we are acting in -- if the
2295 Senate takes up this bill that they are acting with as much
2296 information as possible.

2297 And I yield back, Mr. Chairman.

2298 Chairman Nadler. The gentleman yields back.

2299 Thank you. I yield -- the gentleman yields back. I
2300 yield myself -- I yield myself time to comment on the
2301 amendment.

2302 The underlying bill seeks to get the federal government
2303 out of the business of regulating marijuana and leave it to
2304 the states.

2305 There is, of course, a large body of mythology about the
2306 effects of marijuana and a large body of questions, and we
2307 should not be prohibiting its use and jailing people and all
2308 sorts of things without adequate information, which we
2309 certainly don't have.

2310 We should never have done that. But it is certainly
2311 useful, I think, to gather more information, and in that
2312 spirit I would support the amendment offered by the gentleman
2313 from Colorado. I think it is a reasonable amendment and I
2314 urge -- I support the amendment.

2315 I yield back. Any further --

2316 Ms. Jackson Lee. Mr. Chairman?

2317 Chairman Nadler. -- discussion on this amendment? For
2318 what purpose does the gentlelady from Texas seek recognition?

2319 Ms. Jackson Lee. Mr. Chairman, I move to strike the
2320 last word.

2321 Chairman Nadler. The gentlelady is recognized.

2322 Ms. Jackson Lee. I, too, join the chairman in
2323 supporting Mr. Buck.

2324 I heard Mr. Buck's discussion on the State Act. I know
2325 the state that he comes from and realize that he has had a
2326 long -- the state has had a long history in addressing these
2327 questions.

2328 If I might, I would offer to say that it tracks some
2329 aspects of the Jackson Lee amendment that the focus should be
2330 on the important information that we get to handle the new
2331 legalization of marijuana, going forward.

2332 This is going to change the thinking and the structure
2333 of dealing with those who use marijuana and those who may
2334 ultimately need to have additional services, which is -- was

2335 the intent of the Jackson Lee amendment and my point was to
2336 ensure that we stayed focused on the main substance of the
2337 Jackson Lee amendment and I think we should stay focused on
2338 the main substance of the Buck amendment, which, again, has a
2339 number of issues in it.

2340 I would say that I am not sure what the implications of
2341 welfare systems and violent crimes and all these things have
2342 been, at least the violent crimes have been somewhat negated,
2343 and I will say that they may be worthy in order to dispel the
2344 myths that people use marijuana are dangerous and create
2345 dangerous situations, and I would also say that we should
2346 certainly focus on minors, but we need to increase resources
2347 and support the schools.

2348 I don't think this legislation necessarily is promoting
2349 use by minors and there is a lot of stuff, a lot of issues in
2350 here, arrests of minors, high school dropout rates, et
2351 cetera. Some of the presumptions in here I would take issue
2352 with, but I am going to err on the side as I think was
2353 appropriate for the Jackson Lee Amendment to look at the
2354 greater aspect of it, which is to get the information.

2355 Mr. Buck was attempting to get information and I hope
2356 that it will be a constructive way of us going forward and so
2357 I join this amendment with the previously-passed Jackson Lee
2358 Amendment, and I support Mr. Buck's amendment, and I yield
2359 back.

2360 Chairman Nadler. The gentlelady yields back.

2361 Is there any further discussion of this amendment?

2362 [No response.]

2363 Chairman Nadler. The question occurs on the amendment.

2364 All those in favor, say aye.

2365 Opposed, no.

2366 The amendment is adopted.

2367 Are there any further amendments to the amendment in the

2368 nature of a substitute?

2369 [No response.]

2370 Chairman Nadler. No? The question then occurs on the

2371 amendment in the nature of a substitute as amended. This

2372 will be followed immediately by a vote and final passage of

2373 the bill.

2374 All those in favor of the nature of the substitute,

2375 respond by saying aye.

2376 Opposed, no.

2377 In the opinion of the Chair, the ayes have it. The

2378 amendment in the nature of a substitute is agreed to.

2379 The reporting court being present, the question is on

2380 the motion to report the bill, H.R. 3884, as amended,

2381 favorably to the House.

2382 Those in favor, respond by saying aye.

2383 Those opposed, no.

2384 The ayes have it. The bill is accordingly reported

2385 favorably.

2386 Mr. Buck. Mr. Chairman, recorded vote.

2387 Chairman Nadler. Recorded vote has been requested.

2388 The Clerk will call the roll.

2389 Ms. Strasser. Mr. Nadler?

2390 Chairman Nadler. Aye.

2391 Ms. Strasser. Mr. Nadler votes aye.

2392 Ms. Lofgren?

2393 Ms. Lofgren. Yes.

2394 Ms. Strasser. Ms. Lofgren votes yes.

2395 Ms. Jackson Lee?

2396 Ms. Jackson Lee. Aye.

2397 Ms. Strasser. Ms. Jackson Lee votes aye.

2398 Mr. Cohen?

2399 Mr. Johnson of Georgia?

2400 Mr. Deutch?

2401 Ms. Bass?

2402 Mr. Richmond?

2403 Mr. Richmond. Aye.

2404 Ms. Strasser. Mr. Richmond votes aye.

2405 Mr. Jeffries?

2406 Mr. Jeffries. Aye.

2407 Ms. Strasser. Mr. Jeffries votes aye.

2408 Mr. Cicilline?

2409 Mr. Cicilline. Aye.

2410 Ms. Strasser. Mr. Cicilline votes aye.

2411 Mr. Swalwell?

2412 Mr. Lee?

2413 Mr. Lee: Aye.

2414 Ms. Strasser. Mr. Lee votes aye.

2415 Mr. Raskin?

2416 Mr. Raskin. Aye.

2417 Ms. Strasser. Mr. Raskin votes aye.

2418 Ms. Jayapal?

2419 Ms. Jayapal. Aye.

2420 Ms. Strasser. Ms. Jayapal votes aye.

2421 Mrs. Demings?

2422 Mr. Correa?

2423 Mr. Correa. Aye.

2424 Ms. Strasser. Mr. Correa votes aye.

2425 Ms. Scanlon?

2426 Ms. Scanlon. Aye.

2427 Ms. Strasser. Ms. Scanlon votes aye.

2428 Ms. Garcia?

2429 Ms. Garcia. Aye.

2430 Ms. Strasser. Ms. Garcia votes aye.

2431 Mr. Neguse?

2432 Mr. Neguse. Aye.

2433 Ms. Strasser. Mr. Neguse votes aye.

2434 Mrs. McBath?

2435 Mrs. McBath. Aye.

2436 Ms. Strasser. Mrs. McBath votes aye.

2437 Mr. Stanton?

2438 Ms. Dean?

2439 Ms. Dean. Aye.

2440 Ms. Strasser. Ms. Dean votes aye.

2441 Ms. Mucarsel-Powell?

2442 Ms. Escobar?

2443 Ms. Escobar. Aye.

2444 Ms. Strasser. Ms. Escobar votes aye.

2445 Mr. Collins?

2446 Mr. Collins. No.

2447 Ms. Strasser. Mr. Collins votes no.

2448 Mr. Sensenbrenner?

2449 Mr. Chabot?

2450 Mr. Chabot. No.

2451 Ms. Strasser. Mr. Chabot votes no.

2452 Mr. Gohmert?

2453 Mr. Gohmert. No.

2454 Ms. Strasser. Mr. Gohmert votes no.

2455 Mr. Jordan?

2456 Mr. Buck?

2457 Mr. Buck. No.

2458 Ms. Strasser. Mr. Buck votes no.

2459 Mr. Ratcliffe?

2460 Mrs. Roby?

2461 Mrs. Roby. No.

2462 Ms. Strasser. Mrs. Roby votes no.

2463 Mr. Gaetz?

2464 Mr. Gaetz. Aye.

2465 Ms. Strasser. Mr. Gaetz votes aye.

2466 Mr. Johnson of Louisiana?

2467 Mr. Biggs?

2468 Mr. McClintock?

2469 Mr. McClintock. Aye.

2470 Ms. Strasser. Mr. McClintock votes aye.

2471 Mrs. Lesko?

2472 Mrs. Lesko. No.

2473 Ms. Strasser. Mrs. Lesko votes no.

2474 Mr. Reschenthaler?

2475 Mr. Reschenthaler. No.

2476 Ms. Strasser. Mr. Reschenthaler votes no.

2477 Mr. Cline?

2478 Mr. Cline. No.

2479 Ms. Strasser. Mr. Cline votes no.

2480 Mr. Armstrong?

2481 Mr. Armstrong. No.

2482 Ms. Strasser. Mr. Armstrong votes no.

2483 Mr. Steube?

2484 Mr. Steube. No.

2485 Ms. Strasser. Mr. Steube votes no.

2486 Mr. Deutch. Aye.

2487 Ms. Strasser. Mr. Deutch votes aye.

2488 Chairman Nadler. All right. We have a member on the

2489 way from another committee. We will wait for her for the

2490 moment.

2491 Is there anyone else in the room who wishes to vote who

2492 hasn't voted?

2493 [No response.]

2494 Chairman Nadler. Okay. The gentle lady from Florida?

2495 Ms. Mucarsel-Powell. Aye.

2496 Ms. Strasser. Ms. Mucarsel-Powell votes aye.

2497 Chairman Nadler. The gentleman from Arizona?

2498 Mr. Stanton. Aye.

2499 Ms. Strasser. Mr. Stanton votes aye.

2500 Chairman Nadler. The gentleman from Georgia?

2501 Mr. Johnson of Georgia. Aye.

2502 Ms. Strasser. Mr. Johnson of Georgia votes aye.

2503 Chairman Nadler. The gentleman from Tennessee?

2504 Mr. Cohen. Aye.

2505 Ms. Strasser. Mr. Cohen votes aye.

2506 Chairman Nadler. The gentle lady from Florida?

2507 Ms. Strasser. Mrs. Demings, you are not recorded.

2508 Mrs. Demings. Yea.

2509 Ms. Strasser. Mrs. Demings votes yea.

2510 Chairman Nadler. The gentle lady from Florida votes
2511 aye.

2512 Has everyone who wishes to vote voted?

2513 The Clerk will report.

2514 Ms. Strasser. Mr. Chairman, there are 24 ayes and 10
2515 noes.

2516 Chairman Nadler. 24 ayes and 10 noes.

2517 Members will have two days to submit views. The bill
2518 will be reported as a single amendment in the nature of a
2519 substitute incorporating all adopted amendments.

2520 Without objection, the staff is authorized to make
2521 technical and conforming changes.

2522 Pursuant to notice, I now call up H.R. 5038, the Farm
2523 Workforce Modernization Act of 2019, for purposes of markup
2524 and move that the committee report the bill favorably to the
2525 House.

2526 The Clerk will report the bill.

2527 Ms. Strasser. H.R. 5038, to amend the Immigration and
2528 Nationality Act to provide for terms and conditions for non-
2529 immigrant workers performing agricultural, labor, or
2530 services, and for other purposes.

2531 Chairman Nadler. Without objection, the bill is
2532 considered as read and open for amendment at any point.

2533 [The bill follows:]

2534

2535 Chairman Nadler. I will begin by recognizing myself for
2536 an opening statement.

2537 In today's markup, the House Judiciary Committee is
2538 taking an important step towards finally addressing an issue
2539 of critical national importance: the growing labor
2540 challenges on America's farms.

2541 Solving this issue is paramount for the sustainability
2542 of American farmers. It is also a matter of national
2543 security, a less safe and robust domestic food supply, the
2544 more dependent we are on foreign nations, and the more
2545 vulnerable we become to food contamination. Decreased
2546 production also results in wildly fluctuating market prices
2547 and increased national debt.

2548 The Farm Workforce Modernization Act offers stability
2549 for American farmers by providing a temporary status to
2550 current farm workers with an absolute path to a green card.

2551 The bill also addresses the nation's future labor needs
2552 by modernizing an outdated system for temporary workers while
2553 ensuring fair wages and workplace conditions.

2554 Today, food imports account for approximately 32 percent
2555 of the fresh vegetables and 55 percent of the fresh fruit
2556 Americans consume. Although the increase in imported food
2557 can be attributed in part to changing consumer demands,
2558 systemic labor challenges are a significant contributor.

2559 The number of self-employed and family farm workers has

2560 declined significantly over the past several decades and
2561 fewer American workers are turning to agricultural work as
2562 their chosen pursuit. Because of this, most of today's hired
2563 farm laborers are foreign-born.

2564 Unfortunately, our immigration laws have not been
2565 updated to reflect the needs of our 21st Century economy.
2566 For example, our immigration laws provide only 10,000 green
2567 cards per year to people without Bachelor's degrees. That is
2568 10,000 green cards not just for those working in agriculture
2569 but also for those working in hospitality, food processing,
2570 and many other areas where immigrants fill workforce gaps.

2571 Due in part to these outdated laws, undocumented workers
2572 now comprise about half of the farm workforce.

2573 Replacement workers, however, are dwindling due to
2574 increases in immigration enforcement and the improving
2575 economy in Mexico. As labor shortages have grown, employers
2576 have increasingly shifted to the H2A Temporary Agricultural
2577 Worker Program.

2578 In Fiscal Year 2018, nearly 200,000 H2A visas were
2579 issued where a triple amount were issued in 2012. But the
2580 H2A Program has been sharply criticized from all sides.
2581 Farmers with year-round needs are not eligible to participate
2582 and nearly all agree that the program is too burdensome and
2583 expensive.

2584 The program also fails to sufficiently prevent the abuse

2585 and exploitation of foreign workers which indirectly harms
2586 the wages and working conditions of U.S. workers. Clearly,
2587 the H2A Program needs our attention.

2588 But even with much-needed reforms, the H2A Program alone
2589 cannot meet farm labor needs. Current farm workers remain a
2590 critical component of the agricultural labor force. On
2591 average, they have been in the United States for 18 years and
2592 have developed knowledge and skills that cannot simply be
2593 replaced.

2594 American farmers are still in business because of these
2595 workers, but they are living and working in a state of
2596 uncertainty and fear which contributes to the destabilization
2597 of farms across our nation. No acceptable solution can fail
2598 to deal with this reality.

2599 We must find the courage to do what is right, to provide
2600 a seat at the American table for those who have long grown
2601 the food we serve and eat. H.R. 5038 is the right solution.

2602 This legislation will provide security to current farm
2603 workers and their employers while ensuring a future stable
2604 workforce under fair and safe conditions.

2605 I want to thank my colleague and friend, Ms. Lofgren of
2606 California, for her leadership and steadfast commitment to
2607 the bipartisan process that led to the introduction of the
2608 Farm Workforce Modernization Act.

2609 I am pleased that we are now marking up this legislation

2610 today and I urge all of my colleagues on this committee to
2611 support the Far Workforce Modernization Act.

2612 I now recognize the distinguished Ranking Member of the
2613 Judiciary Committee, the gentleman from Georgia, Mr. Collins,
2614 for his opening statement.

2615 Mr. Collins. Thank you, Mr. Chairman.

2616 I appreciate the opportunity and again this is something
2617 very close to my heart in Georgia. Georgia is home to a vast
2618 agricultural industry with hard-working farmers, ranchers,
2619 growers, and processors who contribute to the economy every
2620 day.

2621 In the northeast corner where my district is located,
2622 more than 10,000 farm operators grow everything from peaches
2623 to cattle to chickens to strawberries.

2624 There is no doubt that not enough American workers want
2625 to work in agriculture to fulfill the needs of the industry.
2626 Most farmers offer competitive wages or higher to attract
2627 workers while at the same time being conscious of the reality
2628 that when production costs get too high, they can no longer
2629 sell their crops at a competitive rate and they would be out
2630 of business.

2631 Growers are increasingly turning to the H2A Visa Program
2632 to get temporary labor that they need but the program needs
2633 reformed. The agricultural industry wants and deserves a
2634 streamlined program that provides more certainty as to the

2635 temporary labor needed to sustain their businesses.

2636 H2A users have asked Congress for many reforms through
2637 the H2A Program. Unfortunately, despite those proposed by
2638 H.R. 5038 doesn't fix many of the issues with the program and
2639 in some cases the bill actually makes the problems worse.

2640 Growers have requested permanent long-term wage rate
2641 relief instead of the unpredictable adverse wage rate that
2642 H2A users are currently required to pay. This change would
2643 help farmers plan for the next growing season without facing
2644 increases of 6.2 percent like they did for Fiscal Year 2019.

2645 H.R. 5038 fails to provide long-term stability on wage
2646 determinations. This is something that has also been very --
2647 something that we will discuss more, is wage rate, because
2648 what is deceptive of a cap and a freeze and then a promotion
2649 after that is actually not taking into account other issues
2650 that affect wage rate.

2651 We just choose not to talk about that, but it does
2652 affect other wage rate earners. This is something that needs
2653 to be out there.

2654 H2A users have asked for litigation reform that protects
2655 against frivolous lawsuits but provides an official way for
2656 workers to resolve legitimate issues. H.R. 5038 does exactly
2657 the opposite. It subjects H2A users to a private right of
2658 action in federal court. Those who use the H2A Program have
2659 requested the control of the program be placed with a Cabinet

2660 agency that understands growers, their needs and their
2661 processes. H.R. 5038 doesn't do that.

2662 The agricultural industry has asked the Congress to
2663 provide access to the H2A Program for all sectors of
2664 agriculture. H.R. 5038, however, covers the dairy industry
2665 but leaves out other important sectors, like meat and poultry
2666 processing, forestry, aquaculture. Of course, as someone who
2667 represents a district where the poultry industry employs over
2668 16,000 people and is vital to our economy, the fact that meat
2669 and poultry processors are left out represents an enormous
2670 problem. Just as a reminder, they were in the bill last
2671 year.

2672 These bills that we discussed last year, processors have
2673 been a part of this under Chairman Goodlatte and they are out
2674 of this because of the objections from certain groups.

2675 H2A users have asked for no cap on the program. Where
2676 H.R. 5038 does provide some visas for year-round work, it
2677 caps the number initially at a low rate of 20,000 per year
2678 and then reserves half of those for dairy. If you are here
2679 from dairy and you have lobbied for the help of dairy,
2680 congratulations, you all have done a great job. You need a
2681 raise because you succeeded wildly in this.

2682 So a measly 10,000 visas per year are provided for all
2683 the other year-round agricultural needs. After that, the
2684 bill caps any increase at 12 and a half percent, yet still

2685 reserves half for dairy.

2686 Before anybody gets upset at me about dairy, my
2687 grandfather was a dairy farmer. I love dairy, but let's look
2688 at a fairness issue in this bill, and is this what we really
2689 need?

2690 While the 224 pages of H.R. 5038 make many more changes
2691 to the H2A Program, some good, some bad, we need to look no
2692 further than the very first two pages to figure out what the
2693 real point of this bill is: a path to citizenship for an
2694 unknown number of illegal immigrants who do some work in
2695 agriculture along with their families.

2696 Of course, we have no idea how many people will take
2697 advantage of this amnesty, except estimates of groups like
2698 Farm Worker Justice put the number of farm workers in the
2699 U.S. at 2.4 million, while other estimates reach as high as
2700 2.7 million.

2701 Even if the very conservative estimate that 50 percent
2702 of the farm workers are here illegally, which the Chairman
2703 also referenced, well over a million and a half of people
2704 will get a path to citizenship and because that 50 percent
2705 number is from a self-reported survey, we can expect that
2706 number to be actually higher.

2707 What are some of the highlights of H.R. 5038? The bill
2708 promotes fraudulent applications through its extremely low
2709 document standard and the ability to withdraw a knowingly

2710 false application without prejudice.

2711 The bill allows aliens with multiple DUI convictions and
2712 charges to get amnesty. It forgives social security fraud
2713 and rewards aliens who engage in such fraud with a path to
2714 U.S. citizenship.

2715 The bill defines a work day as only 5.75 hours long and
2716 requires 100 of those each year in order to get a path to
2717 citizenship and better yet, an alien can be exempt from one
2718 year of work if they are a caretaker or pregnant. The bill
2719 does not require the alien to pay back taxes.

2720 H.R. 5038 rewards those who fail to attend removal
2721 proceedings as well as those who were removed and illegally
2722 re-entered the U.S. The bill even authorizes U.S. taxpayer
2723 money to help illegal immigrants help apply for amnesty and
2724 permits DHS up to \$10 million from the fees paid by those
2725 seeking legal immigration through this, such as
2726 nationalization.

2727 There are many more provisions in this bill that concern
2728 me. At the outset of this Congress, I did express to the
2729 subcommittee chair my desire to work together on an
2730 agricultural labor reform bill but that has not happened.

2731 Unfortunately, we were not part of this and the bill is
2732 therefore something I cannot support.

2733 This is not, as it was said, a concern from past. I am
2734 not the former chairman and my staff works for me. We are

2735 able to actually come to an agreement here because this is
2736 the Number 1 importer for Georgia because H2A Program,
2737 contrary to what many people think, Georgia is the Number 1
2738 user of H2A Program. This is very important to me. It is
2739 something we can actually work on, but again as we saw in the
2740 first paragraph in the first section of this bill actually
2741 what this bill is more about.

2742 So like the other partisan bills pushed through, I
2743 understand the line coming now is, well, let's get it to the
2744 Senate and maybe we can make some arrangements and get
2745 through H2B.

2746 I think we talked about this in the previous bill. If
2747 the first offer is beyond the pale, then we have an issue and
2748 frankly we have not even mentioned the fact of the White
2749 House in this who actually, I believe, would actually come to
2750 an agreement here suitable to many on the right and many on
2751 the left, if not all on the extreme left or the extreme
2752 right.

2753 We have to find the bill here in the middle that gets
2754 218 and it is going to come, frankly, from those of us in the
2755 middle willing to solve a problem and not actually take on a
2756 problem and push it down the line.

2757 So again I believe this is a missed opportunity. I
2758 congratulate the subcommittee Chair Lofgren. She and I have
2759 worked together well. We disagree on this and we have talked

2760 about this and I think we have come to an understanding.

2761 My hope is that we can revisit this and we find a
2762 solution to this because it is critical to our infrastructure
2763 of agriculture. It is critical that we do this in a way that
2764 actually helps the farmers and not puts us in a position in
2765 which we are, you know, basically boxed in on the other
2766 areas.

2767 We will see how this works out today. There are many
2768 amendments that are going to be offered. I think that if
2769 some of these amendments are actually accepted, then it could
2770 be a bill that gets better but not there yet. We will
2771 continue to work on it.

2772 With that, I yield back.

2773 Ms. Scanlon. [Presiding] I now recognize the Chair of
2774 the Subcommittee on Immigration and Citizenship and the
2775 author of this legislation, the gentle lady from California,
2776 Ms. Lofgren, for her opening statement.

2777 Ms. Lofgren. Thank you, Madam Chairwoman.

2778 Over the last decade, there have been numerous attempts
2779 at legislation to solve the vexing problem facing American
2780 farms. Some of these proposals focused primarily on current
2781 agricultural workers, others focused almost entirely on
2782 reforming temporary worker programs, and none of them
2783 actually became law.

2784 So here we are today with a different approach. H.R.

2785 5038, the Farm Workforce Modernization Act, is different. We
2786 pulled together stakeholders in a bipartisan group of members
2787 of Congress to see if we couldn't work through the issues
2788 that have divided the various parties over the years and this
2789 bill is a product of really almost nine months of meticulous
2790 negotiations. It is bipartisan, it's comprehensive, and I
2791 believe it is a balanced solution to a complex problem.

2792 Broadly speaking, the bill does three things. First, it
2793 establishes a program for current farm workers to earn
2794 temporary status through continued agricultural employment.
2795 The bill includes the option but not the requirement to earn
2796 permanent residence for long-term farm workers who have
2797 established lives here in the United States.

2798 Second, the bill reforms the H2A Program, including wage
2799 reforms to make it more cost-effective, reliable, and
2800 flexible for employers while increasing critical protections
2801 for workers.

2802 And third, the bill establishes mandatory e-verify for
2803 agricultural employers phased I after the legalization and
2804 H2A reforms have been implemented. This serves as a
2805 necessary piece to ensure a legal workforce for the
2806 agricultural sector well into the future.

2807 Over the past few weeks, I have had a lot of
2808 conversations about this bill. Many on both sides of the
2809 aisle have expressed optimism at the possibility of finally

2810 tackling such a critical issue for our country and many on
2811 both sides of the aisle have expressed delight that
2812 bipartisan compromise is still possible, particularly on an
2813 issue as contentious as immigration.

2814 Others seem to misunderstand what the bill does and does
2815 not do. Some have commented, for example, that the bill
2816 doesn't do enough on wages. I have even seen comments that
2817 the bill could actually increase wages for farmers. These
2818 comments are simply inaccurate.

2819 But responding to them does provide an opportunity to
2820 highlight the true compromise that this bill embodies. As
2821 almost everyone knows, the H2A Program uses the adverse
2822 effect wage rate which has been the subject of debate for
2823 many years.

2824 Waiver advocates argue that the AWAR is critical to
2825 protect workers from wage depression. Employers question its
2826 accuracy and maintain that its methodology artificially
2827 inflates wages.

2828 This bipartisan consensus and agreement between the
2829 United Farm Workers Union and employers really led to an
2830 agreement on wages. Any argument that the concessions being
2831 made will not result in actual control of wages is without
2832 merit.

2833 First, the bill implements the wage freeze for the year
2834 2020. This is a very important matter for employers. The

2835 next USDA Wage Survey will be released tomorrow and early
2836 reports indicate that wages are expected to increase by
2837 another seven to eight percent next year. Under this bill,
2838 those wage increases won't happen.

2839 Second, the bill codifies a piece of the Trump
2840 Administration's proposed H2A Rule to publish wages at the
2841 occupational level rather than as aggregate wage. This means
2842 that AWAR will be more reflective of the actual market wages
2843 paid in each occupation. Wages for crop pickers will be
2844 based on wages for crop pickers, wages for supervisors will
2845 be based on wages for supervisors.

2846 Third, the bill adds wage caps to prevent wages from
2847 going up by more than 3.25 percent in most of the country.
2848 Considering that the AWAR rates recently went up 23 percent
2849 in certain states, this is a big concession. Those kinds of
2850 wage increases will no longer happen under this bill.

2851 Finally, after 10 years, the bill requires federal
2852 agencies to issue a new rule to replace the AWAR with a
2853 replacement wage standard. Those who want the AWAR gone,
2854 this bill provides for that eventuality.

2855 These are significant wage reforms. A recent report by
2856 the Cato Institute found that the bill, if enacted, would
2857 have saved farmers \$324 million in labor expenses in 2019
2858 alone. That may be why more than 300 farm groups across the
2859 nation have endorsed this bill.

2860 Let us be clear. I would prefer that these wage
2861 concessions weren't in the bill, but this bill is a
2862 compromise. It was a compromise to make sure that farm
2863 workers today who are looking over their shoulder in fear of
2864 deportation will no longer face that nightmare, and it is a
2865 compromise that allows additional people to come in to meet
2866 the growing needs of our agricultural sector.

2867 I am proud that this bill recognizes the dignity and the
2868 contribution of hard-working farm workers all over the United
2869 States, but it also reaches a compromise with employers that
2870 will allow them to support this bill.

2871 I want to thank the members who have worked so hard on
2872 this bill. Earlier this morning, Mr. Newhouse was here. I
2873 know he had to go to another markup, but he did come by and
2874 we so much appreciate the effort that he put in to this along
2875 with his wonderful staff.

2876 I saw Doug LaMalfa was here this morning. He also
2877 played a key role in putting this bill together.

2878 I see Jimmy Panetta is here in the front row. Jimmy and
2879 his staff worked very hard to help us get to this day.

2880 Earlier, I know that Jim Costa was by and Jim Costa and
2881 his staff helped very much, and we have other members of this
2882 committee, Mr. Correa, so many others, Mr. Peterson, the
2883 Chair of the Agricultural Subcommittee, the Chairman of our
2884 own committee, in an effort to get us here today.

2885 I would just like to note that we have for too long been
2886 diverted from finding solutions to the problems that face our
2887 country. I think the process that we used here, by listening
2888 to each other, by sorting through issues, by making sure that
2889 we understood the other person's point of view, and that a
2890 compromise was necessary in order to solve a big problem is
2891 one we can use for other issues that face our country.

2892 We know that we live in contentious times. I think this
2893 bill shows that members of good faith across the aisle can
2894 work together to find solutions to the big problems that face
2895 America and I am hopeful that we can pass this bill out of
2896 this committee, get it to the House Floor, and we do know we
2897 have been, in discussion with members of the Senate, there is
2898 strong interest in the Senate, and we can go through the
2899 process and end up with a good bill that serves our country,
2900 that is fair for our farm workers, that is fair to farmers,
2901 and makes our country stronger than it is today.

2902 So with that, Mr. Chairman, I thank you for recognizing
2903 me and yield back.

2904 Chairman Nadler. [Presiding] Thank the gentle lady.

2905 I now recognize the Ranking Member of the Immigration
2906 Subcommittee, the gentleman from Colorado, Mr. Buck, for his
2907 opening statement.

2908 Mr. Buck. Thank you, Mr. Chairman.

2909 We are discussing a topic that is of great importance to

2910 me and my district in Eastern Colorado. Agriculture is the
2911 life blood of the region and the backbone of our economy.

2912 I support our farmers and ranchers who put food on our
2913 tables and give our nation a great sense of security. I am
2914 committed to crafting a solution that ensures our nation's
2915 agricultural employers have a stable labor supply, that the
2916 crops our farmers plant on time and the cows are milked every
2917 day.

2918 On this issue, I want to get to yes. So I very much
2919 appreciate Congresswoman Lofgren's efforts, Congressman
2920 Newhouse and LaMalfa, and my friend, Congressman Panetta, who
2921 has sat with me on the Floor on a number of occasions as we
2922 have talked through the issues in this bill.

2923 To this end, I join my colleagues in voting for former
2924 Chairman Goodlatte's Agricultural Guest Worker Act last
2925 Congress which would have created a stable, reliable source
2926 of ag workers for our nation's agricultural employers.

2927 However, I have significant concerns with the bill
2928 before us today. The Farm Workforce Modernization Act fails
2929 to receive buy-in from a number of agricultural
2930 constituencies, including the American Farm Bureau. In fact,
2931 this bill fails to account for a number of important
2932 structural problems with the existing H2A Temporary Guest
2933 Worker Program and it creates a host of new problems.

2934 First, this bill opens the door to a massive amnesty. We

2935 are bringing a bill to markup without even the slightest idea
2936 of how many individuals this bill would put on a pathway to
2937 citizenship. H.R. 5038 allows individuals to apply for legal
2938 status and a work permit which is not limited to agricultural
2939 industries with little more than an affidavit claiming that
2940 the individual worked unlawfully in this country for 1,035
2941 hours or a 180-day work days over the past two years.

2942 Furthermore, the alien who is petitioning for status
2943 under the bill can certify his or her own affidavit under a
2944 just and reasonable inference standard. Existing case law
2945 finds the just and reasonable inference standard essentially
2946 requires adjudicators to accept a petition based on nothing
2947 more than an individual's word.

2948 I plan to offer an amendment changing the evidentiary
2949 standard for the adjudication process to clear and convincing
2950 evidence. I will also note that this change is not too
2951 strong as some of my colleagues may argue. In fact,
2952 Chairperson Lofgren uses the clear and convincing standard
2953 later in the bill when requiring the Secretary of Homeland
2954 Security to show that an employer has failed to comply with
2955 the e-verify requirement. I agree with the approach to e-
2956 verify and believe the same standards should be applied when
2957 an individual seeks to gain a pathway to citizenship.

2958 Second, this bill fails our adjudicators at USCIS by
2959 preventing them from accessing the most comprehensive

2960 background check databases when determining whether an
2961 applicant for certified agricultural worker status poses a
2962 public safety risk.

2963 That is why I plan to offer an amendment ensuring USCIS
2964 has access to Interstate Identification Index or III database
2965 which will give our investigators the critical information
2966 they need to ensure we are not allowing felons and violent
2967 criminals to remain in the country.

2968 Third, H.R. 5038 provides a handout to the trial
2969 attorneys and presents an increased risk of litigation for
2970 agricultural employers by giving H2A workers a federal
2971 private right of action. This provision ignores the current
2972 H2A Program's existing administrative process to address
2973 employment claims.

2974 Furthermore, the bill doesn't give employers the
2975 opportunity to cure violations both before a suit may go
2976 forward. This is fundamentally unfair to the hard-working
2977 farmers and ranchers who care about their employees.

2978 Finally, the bill misses the mark on promises to
2979 streamline the application process, address wage problems,
2980 and provide year-round industries a lasting labor solution.
2981 The bill streamlines data entry for H2A applications but does
2982 nothing to encourage concurrent agency review of H2A
2983 applications. The new pool of 20,000 year-round visas is far
2984 short of industry's needs and fails to fix the problematic

2985 portion of existing law.

2986 I want to support the farmers and ranchers of my
2987 district and throughout the country by passing legislation to
2988 ensure they have a reliable labor pool. This committee and
2989 the House more broadly want to strike an ag labor agreement.
2990 Unfortunately, this bill is flawed and I cannot support it in
2991 its current form.

2992 Mr. Chairman, I want to mention that I have visited a
2993 number of my farms and especially in southeastern Colorado.
2994 We grow the best melons in the country, and I can tell you
2995 that to a farmer, I have heard consistently that the H2A
2996 Program is necessary and it is a great benefit to them. It
2997 can use improvement and I look forward to supporting an
2998 improved version.

2999 I appreciate that and I yield back.

3000 Chairman Nadler. The gentleman yields back.

3001 I now recognize myself for purposes of offering an
3002 amendment in the nature of a substitute.

3003 The Clerk will report the amendment in the nature of a
3004 substitute.

3005 Ms. Strasser. Amendment in the nature of a substitute
3006 to H.R. 5038 offered by Mr. Nadler. Strike all after the
3007 enacting clause and insert the following.

3008 Chairman Nadler. Without objection, the amendment in
3009 the nature of a substitute will be considered as read and

3010 shall be considered as base text for purposes of amendment.

3011 [The amendment in the nature of a substitute of Chairman

3012 Nadler follows:]

3013

3014 Chairman Nadler. I recognize myself to explain the
3015 amendment. The changes in this amendment are either
3016 technical in nature or are necessary to clarify the intent of
3017 the underlying legislation. Most of these changes reflect
3018 the advice of the Department of Labor which provided
3019 technical assistance on the bill.

3020 Various edits, for example, are intended to clarify the
3021 treatment of labor contractors in the H2A Program. The
3022 Department of Labor indicated that not all H2A labor
3023 contractors are also farm labor contractors. So it is
3024 necessary to use slightly different terminology in different
3025 parts of the bill.

3026 The amendment also makes changes to the provisions on
3027 surety bonds carried by labor contractors. One part of the
3028 bill, for example, required labor contractors to post and to
3029 maintain a bond while another part required them to post or
3030 maintain a bond. To avoid any unintended negative
3031 inferences, the amendment simplifies each of these provisions
3032 to simply require contractors to maintain an appropriate
3033 surety bond.

3034 All the changes made in the amendment are minor and
3035 improve on a good bill.

3036 I now recognize the Ranking Member, the gentleman from
3037 Georgia, Mr. Collins, for any comments he may have on the
3038 amendment.

3039 Mr. Collins. Thank you, Mr. Chairman. I appreciate
3040 it.

3041 I do have some comments on the amendment, and I do
3042 think, you know, the discussion here has been better than we
3043 have seen on other immigration bills. I do appreciate that,
3044 but there is still some serious issues.

3045 The only exception I would take with the
3046 characterization of how the negotiations have went on this
3047 bill is it is okay to negotiate with you when you have a bill
3048 that is coming up that could actually make significant
3049 changes and especially with those who disagree. It is better
3050 to have the negotiations with folks you may disagree with to
3051 try and get agreement, but even when you have Democrats and
3052 Republicans, if you are like-minded, when you start your
3053 negotiations, you are not really negotiating because the
3054 like-minded Republicans and like-minded Democrats are going
3055 to say basically the same thing, which I respect.

3056 Dan Newhouse is one of my best friends. We served on
3057 Rules. We trudged through rules many times together. I
3058 mean, we understand this, but when you start off on the same
3059 basic premise, that is not a negotiation. That is putting
3060 together something you already agree upon and that is fine,
3061 but let us also talk about some other issues.

3062 Proponents claim H.R. 5038 will provide wage relief and
3063 wage certainty for growers who utilize the H2A Program, but

3064 there is no guarantee of long-term wage rate relief in this
3065 bill.

3066 The bill requires that H2A workers be paid the highest
3067 of one of four wage rates, (1) collective bargaining, (2)
3068 adverse wage, (3) prevailing wage, or (4) federal-state
3069 minimum wage.

3070 With the exception of a couple of states where the
3071 minimum wage is higher, the AWAR or the adverse rate is
3072 currently paid to H2A workers. The bill freezes AWAR but at
3073 the Fiscal Year 2019 level for Fiscal Year 2020 which will be
3074 moot by the date of enactment since Fiscal Year 2020 it will
3075 already have been implement, then caps increases for the most
3076 part at 3.2 percent each year through Fiscal Year 2029.

3077 But the adverse rate is only cap rate. It is very
3078 possible that under state minimum wage or the prevailing wage
3079 rate, it will exceed the cap adverse rate and H2A will be
3080 required to pay the higher wage.

3081 In fact, it doesn't also mention collective bargaining
3082 here which is not capped and collective bargaining is another
3083 issue here that we would have to look at because if
3084 collective bargaining goes above the cap, then you have to
3085 pay the collective bargaining in certain state. The issue
3086 here is being the only cap rate, it is very possible that
3087 others will actually be required to pay it.

3088 In addition, the bill requires the Department of Labor

3089 and Agriculture to eventually propagate a rule to come up
3090 with a new wage system, but the criteria required by the bill
3091 mirrors the adverse rate. There is no guarantee that the new
3092 wage system will be any different from the current system.

3093 It is possible that any new rule will be enjoined by the
3094 courts and will never go into effect, thereby reverting to
3095 the highest wage rates set out by the bill.

3096 The Department of Labor has told us that there are so
3097 many variables related to wages in H.R. 5038 that for the
3098 most part they have no way of knowing whether wages will be
3099 reduced, increased, or will stay the same.

3100 Soon-to-be released data from the National Agricultural
3101 Statistics Service will be one indicator. For some
3102 agricultural occupations, no wage survey exists, such as that
3103 those employees will have to be paid by the OES or the
3104 Occupational Employment Survey wage rate under the
3105 disaggregation scheme under H.R. 5038. The OES wage rate is
3106 higher than the adverse rate.

3107 That is a complicated way to say that what is being
3108 portrayed in this wage scale is not what it appears to be.
3109 It sounds good when you say that you are capping it. It
3110 sounds good when you say you don't need an adverse rate, but
3111 when you leave off the other possibilities here of how rates
3112 are determined, state and collective bargaining and also the
3113 prevailing wage, this does not provide stability and

3114 especially in areas where this could become an issue.

3115 Again, another issue that could have been probably dealt
3116 with in a different way, it's not going to. I respect the
3117 fact that my friends across the aisle have the votes for this
3118 and this is going to go through. I respect that. It will go
3119 to the Floor where it will have this further discussion.

3120 Maybe by highlighting some of the major issues is why
3121 the American Farm Bureau and others can't go along with this,
3122 then we can begin to process in a markup and crafting of a
3123 bill we can actually pass and actually get to the real heart
3124 of the issue for farmers like mine in Georgia who, frankly,
3125 feel left out and, oh, by the way, I mentioned it before,
3126 Georgia is the largest user of H2A.

3127 So when we look at this, again it sounds good. Moving
3128 forward, I am as soft as a no as I can be on this. I'm not
3129 lighting my hair on fire on this one. The reality is what
3130 this bill does is found in the first section and that is the
3131 part that will -- by the way, right now, it is not going to
3132 get a lot of talk in this committee, but the minute it gets
3133 out of this committee, the pathways and the legalization and
3134 the amnesty will get a lot of attention. Okay. We just have
3135 to acknowledge that.

3136 So we can gloss over that, although I think some of us
3137 have actually found a way -- and I told the subcommittee
3138 chair I could find a way to help with that, but you have got

3139 to have something in here that helps me get there and this
3140 doesn't do it.

3141 So as we go forward, let us continue this conversation,
3142 but if we are going to have wage rate discussions, let us
3143 have an overall wage rate discussion and actually get into
3144 the minutia of this, as I just have, and say that there are
3145 some problems and even DOL can't tell us what those will
3146 actually be.

3147 So as we move forward, again thank you for all we have.
3148 I will yield back.

3149 Ms. Lofgren. Mr. Chairman?

3150 Chairman Nadler. The gentleman yields back.

3151 Are there any amendments to the amendment in the nature
3152 of a substitute?

3153 Ms. Lofgren. Mr. Chair?

3154 Chairman Nadler. For what purpose does the gentle lady
3155 from California seek recognition?

3156 Ms. Lofgren. I wanted to strike the last word.

3157 Chairman Nadler. The gentle lady is recognized.

3158 Ms. Lofgren. First, I am sure that there will be an
3159 amendment on wages. I think, although I do not question the
3160 sincerity of the Ranking Member, I think there are some
3161 incorrect provisions that we will deal with when an amendment
3162 is offered.

3163 I would like to say that this bill has tremendous

3164 support across the country and I would like to ask unanimous
3165 consent to put into the record letters in support from more
3166 than 80 immigration and labor advocacy organizations, Farm
3167 Worker Justice.

3168 Chairman Nadler. Without objection.

3169 [The information follows:]

3170

3171 Ms. Lofgren. Coalition for Humane Immigrant Rights,
3172 United States Conference of Catholic Bishops, Americans for
3173 Prosperity and the Libre Initiative, the Cato Institute, the
3174 Cliff Bar Company, and more than 300 agricultural
3175 organizations.

3176 And I would note that these ag organizations come from
3177 states like Alabama, Arizona, Arkansas, California, Colorado,
3178 Florida, Georgia, Idaho, Iowa, Illinois, Kansas, Maine,
3179 Michigan, the Midwest states, Minnesota, Missouri, Montana,
3180 Nebraska, New York, Virginia, Ohio, Oregon, Pennsylvania,
3181 South Dakota, Southeast Dairy Farmers Association, Tennessee
3182 and Texas, Utah, Virginia, the State of Washington,
3183 Wisconsin.

3184 It is a broad group of agricultural associations, over
3185 300, that support this bill, and I would ask unanimous
3186 consent that their letter be put into the record.

3187 Chairman Nadler. Without objection.

3188 [The information follows:]

3189

3190 Ms. Lofgren. I would just note further on the Manager's
3191 amendment, I agree that it is technical in nature and should
3192 be supported, and I would just like to mention further the
3193 writing of a bill is not an easy process, but I will say we
3194 pulled together a very diverse group of members.

3195 I don't think anybody's going to call Doug LaMalfa a
3196 liberal or Mr. Amodei or Mr. Nunes is not exactly a liberal.
3197 So these are people who have come together on a bill that we
3198 think is meritorious. We will discuss throughout the
3199 amendment process potential ways to improve it.

3200 I will say this and I did invite both the Majority and
3201 Minority to propose amendments in advance of this markup so
3202 that we could kind of run the traps on the bipartisan group
3203 that have worked on this bill to see if we could get
3204 consensus on amendments.

3205 To the extent that that has not happened, I am not going
3206 to be able to accept amendments, but I will say this. If
3207 there is an opportunity, if there are amendments offered
3208 today that we can't accept because we haven't been able to
3209 gain our consensus with those who drafted it, I will commit
3210 to both the Majority and the Minority to work with them
3211 between now and the Floor to see if consensus can in fact be
3212 reached on any proposals that are offered.

3213 And with that, Mr. Chairman, I yield back with thanks
3214 that we can promptly reach a conclusion.

3215 Mr. Collins. Would the gentle lady yield for
3216 conversation?

3217 Ms. Lofgren. I'd be happy to yield.

3218 Mr. Collins. Thank you.

3219 Well, two things really concern me. Number 1 is nothing
3220 that I said would imply that any of my Republican colleagues
3221 are liberal.

3222 Ms. Lofgren. No, no.

3223 Mr. Collins. Doug LaMalfa and I are members of the Doug
3224 Caucus and we are pretty good. We are both NASCAR fans. We
3225 are good. Okay. They are not liberal and to imply such that
3226 I would say that is just not true. I said like-minded and
3227 that is a big difference. I am like-minded with Hakeem
3228 Jeffries on stuff, but I am not liberal. He dang sure ain't
3229 conservative.

3230 There is an issue, but also the other thing is what I
3231 just heard from you concerns me because markups are designed
3232 for amendments to be worked out and if there is now another
3233 process for working out amendments other than a markup, then
3234 this letter that you sent four days before what we thought
3235 was the original markup of this bill, which has been delayed
3236 several times, I understand wanting to see them, but to tell
3237 me now that you are not going to accept amendments or be a
3238 party to the amendments because we didn't go through your
3239 process, this is the markup. This is what this is for.

3240 Ms. Lofgren. Reclaiming my time, I wanted to go the
3241 extra mile to accommodate any suggestions that you had. In
3242 fact, the markup was delayed in part so that members could
3243 have this large bill, complex bill, everybody could know what
3244 we were working on, and I think we do.

3245 So I will just say this. I look forward to continuing
3246 this markup. I certainly did not mean to mischaracterize
3247 your comments about your Republican colleagues, just to point
3248 out that we did not start in the same spot but we did end up
3249 in the same spot after nine months of hard work.

3250 I yield back.

3251 Chairman Nadler. The gentle lady yields back.

3252 Are there any --

3253 Mrs. Lesko. Mr. Chair?

3254 Chairman Nadler. For what purpose does the gentle lady
3255 from Arizona seek recognition?

3256 Mrs. Lesko. Thank you, Mr. Chair. I move to strike the
3257 last word.

3258 Chairman Nadler. The gentle lady is recognized.

3259 Mrs. Lesko. Thank you, Mr. Chair and Members.

3260 I believe there is a great need to address the growing
3261 labor crisis impacting America's farms. I have been on
3262 several Yuma, Arizona, farm tours while I was in the state
3263 legislature and have seen firsthand the positive economic
3264 impact the industry has in our state and nation.

3265 I voted for the Goodlatte Number 1 bill last year. That
3266 bill allowed temporary H2C visas instead of giving 40,000
3267 green cards every year as this bill does. It also provided a
3268 generous visa allocation to ensure labor needs are met. It
3269 eliminated regulatory burdens by not requiring the employers
3270 to provide free housing and transportation or pay the adverse
3271 effect wage rate. It ensured accountability and compliance
3272 via effective enforcement provisions.

3273 However, the bill we are considering today allows an
3274 individual who committed immigration fraud or who falsely
3275 represented themselves as a U.S. citizen on the Form I-9 to
3276 still be eligible to apply for certified agricultural worker
3277 status.

3278 It allows aliens who are currently inadmissible because
3279 they have been previously removed from the United States to
3280 be eligible to apply for certified agricultural worker
3281 status, as well, even if they unlawfully re-entered after
3282 removal, so long as they illegally re-entered before November
3283 12th, 2019, the date this bill was introduced.

3284 This bill creates, I believe, an incentive for an
3285 illegal alien to file an application, even if the individual
3286 is not eligible, as the applicant receives immediate work
3287 authorization, protection from removal, and the ability to
3288 travel outside the United States with permission upon filing.

3289 It prohibits any illegal alien who is assumed to be

3290 eligible for CAW status to be removed from the United States.
3291 Therefore if an illegal alien simply says they work in
3292 agriculture and wants to apply for a CAW status, they have to
3293 be released and allowed to apply for as long as the open
3294 period for applying lasts.

3295 And although the bill purports to require aliens to
3296 satisfy any applicable federal tax liability in order to
3297 adjust status to a green card, the bill defines that
3298 liability as only the liability that arose beginning on the
3299 date on which the applicant was authorized to work in the
3300 United States as a certified agricultural worker. Thus, a
3301 worker can obtain a green card even if they have not
3302 satisfied federal tax liability in the years during which
3303 they were working illegally.

3304 Thus, illegal aliens who apply for CAW or H2A status
3305 cannot be prosecuted for social security fraud that they
3306 engaged in prior to applying for status. Of course, the
3307 victims of their fraud whose social security numbers were
3308 stolen get no such amnesty from the harm done to them.

3309 That is why I am saddened today to see us voting on a
3310 bill that I believe is not the right solution, a bill myself
3311 and a great majority of my colleagues probably cannot
3312 support.

3313 We need to come up with ways to make much-needed reforms
3314 to this program that don't encourage frivolous claims so we

3315 can support our hard-working employers in our respective
3316 districts and states.

3317 And with that, I yield back.

3318 Chairman Nadler. The gentle lady yields back.

3319 For what purpose does the gentle lady from California
3320 seek recognition?

3321 Ms. Lofgren. I have an amendment at the desk, the
3322 Manager's amendment.

3323 Chairman Nadler. The Clerk will report the amendment.

3324 Ms. Strasser. Amendment to the amendment in the nature
3325 of a substitute to H.R. 5038 offered by Ms. Lofgren. Strike
3326 the term "state" and --

3327 Ms. Lofgren. The amendment be considered as read?

3328 Chairman Nadler. Without objection, amendment is
3329 considered as read.

3330 [The amendment of Ms. Lofgren follows:]

3331

3332 Ms. Lofgren. These changes are entirely technical in
3333 nature. After posting the amendment in the nature of a
3334 substitute, we discovered various typographical errors,
3335 variances in the underlying bill that occurred during
3336 drafting by legislative counsel as well as by the GPO.

3337 This amendment addresses their errors. It does nothing
3338 to change the actual substance or meaning of the underlying
3339 bill. So I hope that it can be accepted even by those who
3340 disagree with the underlying bill.

3341 Chairman Nadler. I recognize the Ranking Member for his
3342 statement.

3343 Mr. Collins. Thank you.

3344 This is simply scribe's errors, clean-up, and I would
3345 find no problem with it.

3346 Chairman Nadler. Then I will ask. The question occurs
3347 on the Manager's amendment.

3348 All in favor, say aye.

3349 Opposed, no.

3350 The ayes have it. The Manager's amendment is adopted.

3351 We are continuing on the amendment in the nature of a
3352 substitute.

3353 Are there any amendments to the amendment in the nature
3354 of a substitute?

3355 For what purpose does the gentle lady from Texas wish to
3356 be recognized?

3357 Ms. Jackson Lee. Mr. Chairman, I have an amendment at
3358 the desk.

3359 Chairman Nadler. The Clerk will report the amendment.

3360 Ms. Strasser. Amendment to the amendment in the nature
3361 of a substitute to H.R. 5038 offered by Ms. Jackson Lee of
3362 Texas. Page 3, strike Lines 19 through 21 and insert the
3363 following.

3364 Ms. Jackson Lee. Mr. Chairman, I would ask that the
3365 amendment may be considered as read.

3366 Chairman Nadler. Without objection, the amendment will
3367 be considered as read.

3368 [The amendment of Ms. Jackson Lee follows:]

3369

3370 Chairman Nadler. The gentle lady is recognized to
3371 explain her amendment.

3372 Ms. Jackson Lee. Thank you very much, Mr. Chairman.

3373 Let me thank the Judiciary Committee, my friends, both
3374 Republican and Democrat, and in particular, Mr. Chairman, Ms.
3375 Lofgren. She emphasized, I think, a very important point and
3376 that is that this is almost a year in working, but I think
3377 she is modest.

3378 I am reminded of our tenure here on the Judiciary
3379 Committee and I think we have attempted to be fair and
3380 bipartisan on immigration reform for at least two decades.

3381 I am reminded of the legislation that came from the
3382 Senate led by the late John McCain. That was a bipartisan
3383 bill that attempted to respond to the issues of undocumented
3384 persons who all they wanted to do was to get a pathway to
3385 citizenship in a myriad of directions but in particular to do
3386 it legally.

3387 I am reminded of listening to farmers, farm workers, and
3388 I know Mr. Panetta here in the room and I note the many other
3389 co-sponsors, we mentioned Mr. Newhouse, and I know those
3390 communities of farming, agricultural communities in the state
3391 of Texas. We are agricultural communities. Even my
3392 congressional district, which could be considered with
3393 incorporated and unincorporated areas, that we are bordering
3394 communities that farm.

3395 And so what we are doing here is what I said we were
3396 doing with the marijuana bill. We are doing the right thing.
3397 We are attempting to reinforce the bread basket that the
3398 United States happens to be to the world, and I have heard
3399 the clamor for farm workers now for a very long time, but I
3400 have also heard the need for fairness.

3401 I have heard from farm workers and the conditions that
3402 they live in, the fear, compensation. In this bill, it is a
3403 regulizing of people who want to be regulized, who want to be
3404 included, to be of help, to contribute to this great nation,
3405 to focus on making the industry, the agriculture industry,
3406 small and large, the best in the nation. Let us take this
3407 offering to accept that.

3408 My amendment is simple. It indicates that individuals
3409 under DED and temporary protective status, as well, can seek
3410 to regulize under the certified agricultural worker status,
3411 having been or having those who worked at least a 180 days in
3412 agriculture over a period of two years post enactment of this
3413 legislation. All the applicants must undergo background
3414 checks and pass strict criminal and national security bars.
3415 The parental status is available for spouses and minor
3416 children as the bill does.

3417 The bill does not require workers to do or apply for
3418 anything else in order to stay and work in the United States.
3419 It is well known that TPS persons have been in the United

3420 States for a period of time. They, too, seek access to a
3421 continued pathway of legalization. So do the VED persons who
3422 have been in for long period of time.

3423 All of these are vital hands and vital families that
3424 really want to be part of the economic engine of this
3425 country. I believe it is a positive addition to this
3426 legislation. It is supported by, I think, the bipartisan
3427 effort.

3428 I want to thank Congresswoman Lofgren, Chairwoman
3429 Lofgren and her team for working with our office to ensure
3430 that this would be a positive way of making the point that
3431 individuals who are around farming areas from Florida,
3432 California, Washington State, individuals like Haitians and
3433 Hondurans and those under the VED would likewise be able to
3434 continue their work legally.

3435 I just want to as an aside mention, did not mention it
3436 before, but we were on the marijuana bill and I just want to
3437 put her name in the record, that is the Honorable Barbara Lee
3438 on the previous bill that we passed who did such great work
3439 because I think it is important when we discuss bills here
3440 like now, the bill dealing with certified agricultural
3441 worker, that we take note of all those who helped us come to
3442 this very point.

3443 The very fact that the bill is bipartisan, uses the same
3444 language that I used earlier, it's important for us to do the

3445 right thing. It is not whether you like a farm worker or you
3446 like an immigrant or non-immigrant. It is whether we should
3447 do the right thing.

3448 This bill is the right thing. My amendment, the Jackson
3449 Lee Amendment, is the right thing, and I ask my colleagues to
3450 support the Jackson Lee Amendment.

3451 With that, I yield back.

3452 Chairman Nadler. The gentle lady yields back.

3453 For what purpose does the gentleman from Georgia seek
3454 recognition?

3455 Mr. Collins. To strike the last word.

3456 Chairman Nadler. The gentleman is recognized.

3457 Mr. Collins. Thank you.

3458 The one thing about this is it has, you know, this bill
3459 has no detriment to how we feel about workers, that we don't
3460 have enough and we need to get enough workers here to work
3461 the labor pool that we have. It doesn't matter where they
3462 come from or who they are, just get them here.

3463 But this amendment shows that we had a long conversation
3464 several months ago on TPS or Temporary Protective Status and
3465 my conversation then, as it is the conversation now, is that
3466 this committee has completely forgotten what temporary means.

3467 Temporary is never meant to be permanent, but this is
3468 what we did and I can understand why we made this amendment
3469 because when we passed that bill earlier, we took every TPS

3470 and basically made them, you know, permanent at the time, but
3471 this is a program that is taking temporary action into
3472 permanent immigration programs as opposed to the temporary
3473 relief that these were elected to provide.

3474 You know, look, I appreciate the gentlelady is concerned
3475 here, but this one probably is just a basic, from our
3476 position, misunderstanding and discussion on what temporary
3477 protection status is. We have already manipulated the system
3478 enough where you had temporary protected status here for 20
3479 and 30 years after natural disasters in their home country.
3480 Now, I understand that, but the natural disaster goes away
3481 even within a year or two, but not 30 years, and we are still
3482 under this in many ways. So I would just ask we reject this
3483 amendment, and that we continue to focus on what matters.

3484 And what I did notice, the gentlelady who had read into
3485 the record all of the groups that support this, it was
3486 amazing and glaring that that at the end of the day, the
3487 American Farm Bureau, the one that is working here, opposes
3488 this bill. You can have a lot of other groups around here,
3489 but it is the farmers in my State and other States that are
3490 trying to get help here, and we are not there. That is why,
3491 again, I respect the gentlelady's opinion in offering this
3492 amendment. I would just ask, though, that we honor the fact
3493 that "temporary" still means temporary. It does not need to

3494 be tied into a permanent program. And with that, I yield
3495 back.

3496 Chairman Nadler. And for purpose does the gentlelady
3497 from California seek recognition?

3498 Ms. Lofgren. To strike the last word.

3499 Chairman Nadler. The gentlelady is recognized.

3500 Ms. Lofgren. I am happy to support this amendment
3501 offered by Ms. Jackson Lee, and I appreciate that she shared
3502 her idea with me in advance of the markup so that we could
3503 reach out to the bipartisan authors of this bill. Obviously
3504 this is the markup. We make our decision here through our
3505 votes, but I am very much informed about what decision to
3506 make by the bipartisan group that worked for 9 months to do
3507 this bill.

3508 And so clearly what this is does is it allows people who
3509 are working in agriculture to avail themselves of the
3510 opportunities in this bill as if they were undocumented. I
3511 think that that is a reasonable thing to do. Years ago we
3512 had a hearing, and then then president of the Southern
3513 Baptist Convention was a witness, and I will never forget the
3514 testimony that he gave to us. He said that for years and
3515 years, America had two signs at the southern border. One
3516 said "no trespassing." The other sign said "help wanted."

3517 People responded to the help wanted sign, and we have
3518 roughly half the farmworkers in America respond to that help

3519 wanted sign at the border, and are here making agriculture
3520 work, but without documentation. This is going to allow them
3521 to get their papers, and this amendment will allow people who
3522 are working in ag now on a TPS status also to get their
3523 papers. So I think it is a sensible one, and I know it is
3524 one that the other authors of the bill also support for which
3525 I am grateful, and I am happy to support as well. And I saw
3526 Ms. Garcia was seeking time. I would be happy to yield to
3527 you.

3528 Ms. Garcia. I thank the gentlelady, and I thank her for
3529 her work. I do rise to support the Jackson Lee amendment and
3530 this bill in full, its efforts to draw a legal, reliable
3531 workforce, and creating a clear path to legalization.
3532 Agricultural workers are an integral part in the American
3533 workforce and crucial to economic growth. For too long,
3534 discussions about farmworkers have focused on these
3535 individuals serving as mere generic units of labor,
3536 disposable, hired to grow and pick our crops. This bill and
3537 this amendment recognizes farmworkers and their families as
3538 people, valuing their human existence, and that is why I
3539 support this amendment and this bill.

3540 I, too, grew up working in the fields of South Texas,
3541 and on my own family farm in Palito Blanco picking cotton.
3542 And now as a member of the United States Congress, I can
3543 testify firsthand about the difficult and dignified work

3544 farmworkers are doing and are willing to do. These are hard
3545 jobs with inherent dignity in the work, and this bill honors
3546 that dignity with important worker protections as proposed.

3547 The State of Texas, as my colleague has mentioned, is
3548 home to almost 250,000 farms alone. The need for a strong
3549 agricultural workforce is vital. Farmworker immigrants have
3550 come to the United States seeking opportunity to provide an
3551 honest living for their families. This bill gives them just
3552 that opportunity. By creating a clear path to legalization
3553 through agricultural employment, this bill not only ensures a
3554 stable workforce, but allows for immigrants to continue
3555 contributing to the American economy in a way that is safe
3556 and legal. This bill streamlines the process of the H-2
3557 visa, and workers can meet their needs more efficiently as
3558 well as working together with the employers. This provision
3559 addresses a labor shortage directly as it provides a faster
3560 legal process for employers to find workers.

3561 Throughout our history, immigrants have helped build a
3562 stronger American economy. Why stop it now? Why change the
3563 course of this American legacy when it has helped in building
3564 our Nation into even more greatness? This bill simply adds
3565 to curb our country's growing agricultural labor shortage
3566 fairly and justly to all parties involved. I urge my
3567 colleagues to honor the work of these workers and to support
3568 the delicate balance of interests achieved in this bill.

3569 Quite frankly, Mr. Chairman, I thought I would never see the
3570 day that there would be a bill that farmworkers and growers
3571 would agree to. And I say if they can agree to it, then so
3572 can I.

3573 Again, having grown up picking cotton, I know how hard
3574 it is to agree with the growers, but I really applaud your
3575 efforts at reaching this compromise, and I support this bill.
3576 I yield my 2 seconds left back to the gentlelady from
3577 California.

3578 Ms. Lofgren. Thank you, and I yield back, Mr. Chairman.
3579 Chairman Nadler. The gentlelady yields back. Who seeks
3580 recognition? For what purpose does the gentleman from Texas
3581 seek recognition?

3582 Mr. Gohmert. To strike the last word.

3583 Chairman Nadler. The gentleman is recognized.

3584 Mr. Gohmert. Thank you, Mr. Chairman, and I yield to
3585 the ranking member.

3586 Mr. Collins. Thank you, the gentleman from Texas. I
3587 appreciate that. The issue here isn't, and it was really an
3588 interesting concern to bring up, you know, again, a southern
3589 Baptist, which I happen to be and still an Air Force chaplain
3590 as a southern Baptist, is, you know, one who cares deeply
3591 about all people. And the interesting thing that you said,
3592 there are two signs, "no trespassing" and "help wanted."
3593 Well, we have a chance to fix that, and a proper way and a

3594 good way, and, in fact, I was one of the ones who voted for
3595 every bill last year that we brought out on the guest worker
3596 program, even when most of my colleagues abandoned this.

3597 The issue here, though, goes back to, you know, how do
3598 we fix this for the farmer who needs it? In Georgia, my wife
3599 grew up and they grew peaches. We have in northeast Georgia
3600 one of my good friends that still has a large peach orchard.
3601 They have diversified to strawberries and everything else.
3602 They can't find workers, and he uses the H-2A Program, but
3603 finds the H-2A Program very difficult and cumbersome to use.
3604 And they are simply saying we will take more people to come
3605 to work and help them come here, and be in good to work with
3606 this, but find us a simpler, easier path. I think the
3607 problem we are coming into, and this amendment sort of hits
3608 at that, is that we are dealing more with status than we are
3609 with the worker situation. And we are dealing more with
3610 other issues that sort of countermand that.

3611 So, again, I just want to say let's have this debate.
3612 Let's get this in there. But also I have to say it is not
3613 only in addition to the gentleman who grows peaches and
3614 strawberries. I have poultry processors, beef processors,
3615 and meat processors all over this country. Last year we
3616 actually had agreed that they needed the help, too. At any
3617 given day in my district, the poultry processing plants run
3618 at 50 to 75 workers down every day, and I am supposed to tell

3619 them this is going to help them? That they need workers,
3620 they are getting refugees and others to work?

3621 This is not going to do that, and these are the kind of
3622 things, and, again, I heard it from the gentlelady's comments
3623 just a second ago. She is happy with this amendment because
3624 the gentlelady shared it with her beforehand. We have a
3625 standard developing here that is very concerning as we go
3626 forward here, that there are going to be amendments given,
3627 but because they were not submitted in a proper form outside
3628 of a markup, they are not going to get considered. That is a
3629 problem, but we will work through it because this is a good
3630 committee to actually be a part of. But that is a problem
3631 and I yield back.

3632 Ms. Jackson Lee. Would the gentleman yield?

3633 Chairman Nadler. The gentleman yielded.

3634 Mr. Gohmert. Yeah, that was Richard Land that made that
3635 comment --

3636 Chairman Nadler. The gentleman yielded back to the
3637 gentleman from Texas. The gentleman from Texas has the time.

3638 Mr. Gohmert. Yeah, just to clarify. That was Richard
3639 Land. He was also ashamed of Republicans apparently when
3640 Romney was our candidate. So anyway, he has never been
3641 president of the Southern Baptist Convention, but he has had
3642 an office there. I think he is now with a seminary. But
3643 anyway with that, I will be glad to yield --

3644 Ms. Lofgren. Would the gentleman yield?

3645 Mr. Gohmert. Sure, yeah.

3646 Ms. Lofgren. I mentioned him because I thought it was a
3647 really good line, and I didn't want to steal his line. And
3648 that is why I mentioned it.

3649 [Laughter.]

3650 Ms. Lofgren. And I yield back.

3651 Mr. Gohmert. All right. Thank you, and I appreciate
3652 that clarification. Yield back.

3653 Chairman Nadler. The gentleman yields back. For what
3654 purpose does the gentleman from Arizona seek recognition?

3655 Mr. Stanton. Mr. Chairman, I move to strike the last
3656 word.

3657 Chairman Nadler. The gentleman is recognized.

3658 Mr. Stanton. And I speak in favor of Representative
3659 Jackson Lee's Amendment and the underlying bill. Thank you,
3660 Mr. Chairman, for hearing this important bill today. And to
3661 Subcommittee Chairwoman Lofgren, thank you for your great,
3662 great leadership. I am encouraged that the Judiciary
3663 Committee is moving forward today with H.R. 5038, a
3664 bipartisan bill that will improve the H-2A Program to make it
3665 easier for Arizona farmers to effectively meet their
3666 workforce needs, while also providing a pathway for
3667 agricultural workers to earn legal status.

3668 In my home State of Arizona, especially in Yuma County,

3669 the H-2A Program has been the difference between leaving
3670 crops in the ground and farmers making ends meet. Farming in
3671 Arizona is hard work. Utilizing automation technology during
3672 harvest is not always an option because of the labor-
3673 intensive crops grown there. This bill rewards these farmers
3674 and workers for their hard work by modernizing the H-2A
3675 Program. This bill boosts efficiency while lowering legal
3676 fees. It creates certainty by streamlining the H-2A filing
3677 process. It creates a single online portal for employers so
3678 farmers can focus on what they do best, feeding Arizonans.

3679 There is no question that the United States grows the
3680 best agricultural products in the world. We are in a time
3681 when farmers are facing difficulties in all fronts from
3682 climate change to the ongoing trade war with China, and crops
3683 should not have to rot in the ground because farmers are
3684 unable to access the workforce they need. Today we are
3685 taking a good step forward in tackling the needs of Arizona
3686 farmers. This bill is example of true bipartisan
3687 cooperation, and we will continue to address the immigration
3688 challenges facing this country. We must continue this
3689 approach.

3690 I support this bill because it is good for Arizona's
3691 economy where agribusiness contributes upwards of \$23.3
3692 billion to the State's economy. And I hope my colleagues on
3693 this committee will join me in supporting this important

3694 bill. I yield back.

3695 Chairman Nadler. The gentleman yields back. For what
3696 purpose does the gentleman from Virginia seek recognition?

3697 Mr. Cline. I move to strike the last word, Mr.
3698 Chairman.

3699 Chairman Nadler. The gentleman is recognized.

3700 Mr. Cline. Thank you, Mr. Chairman. I want to join in
3701 the support on both sides of the aisle for America's farmers
3702 and ranchers. They are essential to our Nation's economic
3703 success and prosperity. Agriculture is by far the largest
3704 industry in the district that I represent in Virginia. In
3705 2017, my district produced nearly \$1.5 billion worth of
3706 agriculture goods, which accounted for 37 percent of
3707 Virginia's agriculture sales alone.

3708 Earlier this fall, I spent time touring farms and
3709 agribusinesses across my district, in addition to hosting an
3710 agricultural listening session with Secretary of Agriculture
3711 Purdue. I was able to meet and hear from farmers firsthand
3712 about the many issues they face on a daily basis. While
3713 passage of the USMCA, rural broadband access, and rolling
3714 back burdensome Federal regulations were among the many
3715 issues we discussed, access to a robust and reliable
3716 workforce was also a top priority for many. Any change in
3717 Federal policy impacting agriculture has a direct and
3718 dramatic effect on the families and businesses that I

3719 represent. So I want to thank the gentlelady from
3720 California, Ms. Lofgren, for her work on this legislation,
3721 bringing forward a bill intended to address the workforce
3722 issues that our farmers and producers are facing.

3723 Unfortunately, I cannot support the bill in its current
3724 form. Although there are provisions that will benefit
3725 certain commodities, the legislation continues to
3726 overcomplicate the H-2A process and creates red tape that our
3727 farmers would have to navigate. Furthermore, it subjects
3728 farmers to increased Federal oversight and additional
3729 financial burdens to meet the new criteria created under this
3730 new H-2A Program. One of the major oversights in the
3731 legislation is that meat and poultry processors are unable to
3732 access year-round labor. These businesses depend on a stable
3733 workforce, and with today's low unemployment rates, often
3734 jobs remain unfilled. We must find a solution that meets the
3735 many year-round labor needs of agriculture and food
3736 manufacturing industries in addition to streamlining the
3737 cumbersome H-2A Program that seasonal operations depend on.

3738 Additionally the bill fails to address the overly-
3739 complicated wage system the farmers must use to pay workers.
3740 We need to have a market-based cost structure so farmers and
3741 workers are both getting a fair deal. It also concerns me
3742 that the bill includes provisions that will subject H-2A
3743 employers to increased risk of unnecessary litigation when

3744 there are already robust and adequate measures in place for
3745 H-2A workers to resolve claims administratively. Finally,
3746 this legislation fails to include strong enforcement
3747 measures, and, as a result, creates a program that will lead
3748 to a continued flow of illegal immigration across our border.
3749 We need to have an immigration system that works for all of
3750 agriculture. And while I am ready and willing to work with
3751 my colleagues to find a solution, I cannot support the bill
3752 in its current form.

3753 I want to thank again the chairwoman for her hard work
3754 to find a solution and for reaching out to both sides of the
3755 aisle. I look forward to continuing the conversation. And
3756 with that, I yield back.

3757 Chairman Nadler. The gentleman yields back.

3758 The question occurs on the amendment.

3759 All in favor of the amendment will say aye.

3760 Opposed, no.

3761 The ayes have it. The ayes have it. The amendment is
3762 adopted.

3763 Are there any further amendments? For what purpose does
3764 the gentleman from Georgia seek recognition.

3765 Mr. Collins. I have an amendment at the desk, Mr.
3766 Chairman.

3767 Chairman Nadler. The clerk will report the amendment.

3768 Ms. Lofgren. I reserve a point of order.

3769 Chairman Nadler. The gentlelady from California

3770 reserves a point of order.

3771 Ms. Strasser. Amendment to the amendment in the nature

3772 of a substitute to H.R. 5038, offered by Mr. Collins of

3773 Georgia. Page 108, strike line 5 and all that follows

3774 through page 111, line 7, and re-designate --

3775 Chairman Nadler. Without objection, the amendment is

3776 considered as read.

3777 [The amendment of Mr. Collins follows:]

3778

3779 Chairman Nadler. The gentleman from Georgia is
3780 recognized to explain his amendment.

3781 Mr. Collins. Thank you, Mr. Chairman. And this is one
3782 of those amendments that I think was discussed, and we talk
3783 about how can things help knowledge to farmers. But unlike
3784 others, I think this is one that could. This amendment
3785 strike Section 204(a) and (b) of the bill. As designed, the
3786 H-2A Program is heavily regulated by the Department of Labor,
3787 Homeland Security, State, and Justice. These agencies
3788 investigate alleged program violations, award back pay to
3789 employees, and otherwise penalize employers who breached
3790 program requirements. The agencies engage in robust
3791 enforcement, and Fair Labor Standard Act claims are also
3792 filed, litigated, and resolved.

3793 H-2A workers are not, however, provided a Federal
3794 private right of action under the Migrant and Seasonal
3795 Agricultural Workers Protection Act, MSPA. In fact, as
3796 defined by MSPA, "migrant agricultural worker" does not
3797 include any temporary non-immigrant alien who is authorized
3798 to work in agricultural employment in the U.S. But H.R. 5038
3799 changes that by specifically stating H-2A workers are
3800 agricultural workers for the purposes of MSPA. And
3801 coincidentally, MSPA contains what is clearly titled "Private
3802 Right of Action in Federal Court."

3803 The only reason to call great workers "agricultural

3804 workers" for the purposes of MSPA is to allow the workers to
3805 sue employers in Federal court. This removes many years of
3806 legal safeguards protecting H-2A growers from frivolous
3807 lawsuits, which are costly to defend and, of course,
3808 principally benefit the trial lawyers. And it is not as if
3809 the private right of action will be the only avenue available
3810 to workers for relief from H-2A violations. In fact, the
3811 contractual claims would be in addition to fair standard
3812 labor claims and claims pursuant to Section 218 of the
3813 Immigration and Nationality Act, and it in would addition to
3814 any criminal or administrative sanctions placed on the
3815 employers by MSPA.

3816 Under H.R. 5038, H-2A workers will be covered under
3817 these MSPA protections and able to sue growers for any
3818 allegation of violation of standards or regulations no matter
3819 how minor. Proponents claim the bill contains mandatory
3820 mediation for MSPA claims. In reality, the bill offers
3821 mediation as an option as long as one party requests it, but
3822 the parties aren't required to resolve the claims through
3823 mediation. In fact, the bill places a 90-day limit on
3824 mediation attempts, so one party could simply delay mediation
3825 for 90 days in order to get into court.

3826 Proponents also claim that if an H-2A user employs a
3827 domestic worker, they are covered under MSPA. While that is
3828 true, H-2A workers are not currently able to use that claim,

3829 and I have heard no examples where H-2A employees have joined
3830 a domestic MSPA lawsuit. That assertion is specious. Others
3831 will point out that damages are only at \$500, but in reality,
3832 damages include actual damages and statutory damages of up to
3833 \$500 per plaintiff per violation where the violation
3834 constitutes distinct provisions.

3835 Most claims involve multiple plaintiffs in class
3836 actions, and could involve many plaintiffs who did not even
3837 want to be a part of the claim. For class actions, the court
3838 is authorized to award the lesser of up to \$500 per plaintiff
3839 per violation, or up to \$500,000. So, in fact, liability
3840 under MSPA could be a half million dollars.

3841 In short, this is a new Federal private right of action
3842 imposed on H-2A employers. No grower or group that
3843 represents growers has ever come to me asking for extended or
3844 additional legal exposure. No H-2A employer has requested
3845 that H-2A workers be subject to MSPA. I suspect that the
3846 union farmworker advocacy groups asked for it in order to be
3847 a tool against the growers. If this provision truly had no
3848 effect on growers or exposed them to additional liability, it
3849 wouldn't be in the bill. I repeat. If this did not expose
3850 them to further exposure, it wouldn't be in the bill. It is
3851 in the bill for a purpose.

3852 Additional procedures, burdens, costs, and litigation
3853 are risks non-consistent was streamlining reform intended to

3854 promote U.S. agriculture as has been said by the proponents
3855 of this bill. They will never help U.S. farmers grow fruits
3856 and vegetables and other agricultural products. They will,
3857 however, result in farms going out of business and U.S. grown
3858 crops becoming a thing of the past. Accordingly, my
3859 amendment strikes Section 204(a) and (b), which are
3860 burdensome to employers and incentivize frivolous claims in
3861 hopes that the employer will settle quickly to avoid a
3862 protracted suit.

3863 Again, why this into H-2A when our idea is simply to get
3864 more workers here to be able to work when they are already
3865 covered under a lot of regulatory provisions? Why? Look at
3866 the bill. With that, I yield back.

3867 Ms. Lofgren. Mr. Chairman?

3868 Chairman Nadler. The gentleman yields back. The
3869 gentlelady from California is recognized.

3870 Ms. Lofgren. I move to strike the last word.

3871 Chairman Nadler. Without objection.

3872 Ms. Lofgren. I oppose this amendment, and I would like
3873 to explain why. It is true that the bill does eliminate the
3874 exemption in MSPA for H-2A workers, which ensures that all
3875 farmworkers will have the same workplace rights and benefits.
3876 That is the only part I agree with the ranking member's
3877 statement, because H-2A workers, although they are not
3878 currently protected by MSPA, they are covered by the Fair

3879 Labor Standards Act and the protections in the H-2A Program
3880 itself. That means that H-2A workers can already sue farmers
3881 in State court under the Fair Labor Standards Act. They can
3882 sue in State court for violations of the H-2A contract. To
3883 suggest that they are without legal remedies is not correct.

3884 Now, a lot of people don't know what the Migrant and
3885 Seasonal Agricultural Worker Protection Act, otherwise known
3886 as MSPA, is. It was enacted in 1983 with the American Farm
3887 Bureau. It is short and simple and lays out basic
3888 protections for farmworkers. The bill effectively requires
3889 the following: farm labor contractors register with the
3890 Department of Labor; employers accurately disclose in writing
3891 at the time of recruitment the terms and conditions of
3892 employment; employers pay the wages that are due; worker
3893 housing meets safety and health requirements; and the
3894 vehicles for transporting workers have to be safe and
3895 properly insured.

3896 Now, MSPA does not really significantly increase the
3897 litigation exposure. As I mentioned earlier, the H-2A
3898 workers can already sue their employers in Federal court for
3899 FLSA or in State court for H-2A contract violations. Second,
3900 MSPA covers many of the same issues covered by the Fair Labor
3901 Standards Act and the H-2A Program. For example, MSPA
3902 requires that workers be paid the wages that are due. That
3903 would be true under the H-2A contracts as well. MSPA doesn't

3904 add anything except the ability to sue in Federal court
3905 rather than State court, and the ability to collect \$500 in
3906 statutory damages per plaintiff. Now, technically the bill
3907 provides for \$5,500 per plaintiff per violation, but MSPA
3908 also states that multiple violations of the same statutory
3909 provision count as only one violation.

3910 So under MSPA, an employer who illegally withholds pay
3911 to the same worker multiple times is only liable to that
3912 worker for one violation. That, honestly, is something I
3913 think we should revisit, but the concern about it that has
3914 been expressed, I think, is misplaced. Third, MSPA does not
3915 provide for attorney's fees. Therefore, it does not provide
3916 for an attorney fee windfall as some might be concerned
3917 about. Like the H-2A contract claims, MSPA provides a way
3918 for workers to get the wages and benefits that they were
3919 contractually due to get.

3920 Now, I think that the mediation requirements actually
3921 will reduce litigation. This bill largely adopts the
3922 agreement from the 2013 comprehensive immigration reform
3923 bill, the bipartisan bill from the Senate, which both
3924 expanded that MSPA protection, but also added the mediation.
3925 And the American Farm Bureau, I would add, supported that
3926 bill at that time. This bill, however, is actually even more
3927 favorable to farmers than the Senate bill was because the
3928 mediation provision is not just limited to MSPA claims. It

3929 also would expand mediation to claims that were filed under
3930 H-2A contract claims or under the FLSA. So the mediation
3931 provisions are greatly expanded as compared to current law,
3932 and I think that will allow an opportunity for mediation to
3933 occur and for problems to be solved before you go to court.

3934 A lot of farmers have told us, being the authors of the
3935 bill, that if they are given a real opportunity to discuss
3936 and settle claims, there really would be no need for lawsuits
3937 in most cases, and this actually takes them up on this offer.
3938 Under 5038, if an H2 a worker files a suit for employment-
3939 related violation, whether it is under MSPA, FLSA, or the
3940 contract, the farmer would now have the option of ordering
3941 mandatory mediation to settle the case. This should reduce,
3942 rather than increase, litigation. And, therefore, I think
3943 this amendment should be rejected, and I yield back the
3944 balance of my time.

3945 Chairman Nadler. The gentlelady yields back. Are there
3946 any others on this amendment?

3947 Ms. Lofgren. And I withdraw my point of order.

3948 Chairman Nadler. The point of order is withdrawn. For
3949 what purpose does the gentleman from Texas seek recognition?

3950 Mr. Gohmert. I move to strike the last word.

3951 Chairman Nadler. The gentleman is recognized.

3952 Mr. Gohmert. I yield to my friend from Georgia.

3953 Mr. Collins. Thank you. This is one of the biggest

3954 areas of disagreement with the Farm Bureau and others on why
3955 this is a problem. It is in the bill because it does
3956 something. Make no mistake about it. It is in the bill
3957 because it does something, and it actually expands this. I
3958 am not sure, and I missed this, and I apologize to the
3959 gentlelady, but it was an understanding that I said that
3960 there was no protection. I read off the protections that
3961 were already there under the worker and different
3962 regulatories. They have plenty of protection. What I said
3963 was they don't need extra. And when we look at this here --

3964 Ms. Lofgren. If the gentleman would yield, I was not
3965 characterizing your comments.

3966 Mr. Collins. That is what I thought. Thank you. I
3967 thought so. But also to say that this doesn't impact the
3968 farmer, a \$500,000 possible liability here? I mean, I am not
3969 sure where most farmers are, but I just don't think they can
3970 write off \$500,000 as being something they could live with.

3971 Also the other part about this is, and the gentlelady
3972 keeps coming back to mediation, and I may offer this. If the
3973 gentlelady believes that the mediation here is mandatory,
3974 then I will offer a friendly amendment right now to add the
3975 word "mandatory mediation" instead of the "90 days" in here,
3976 because you know that she won't accept it because 90 days, I
3977 have done this in litigation. You have probably done it in
3978 litigation. You work it out. You work it out. You are

3979 trying, you are trying, you are trying, but your end result
3980 is to get to Federal court. So it is not mandatory mediation
3981 here. It is you do the process of mediation. You can use it
3982 if you want to, but it is not required and it is not
3983 mandatory.

3984 So, again, all I will say to this is, if there is
3985 genuine concern on this committee about actually putting a
3986 bill that could actually help get it forward, this is a great
3987 place to start because it is one of the main drawbacks to the
3988 American Farm Bureau and others, including myself, on
3989 actually adding cost into this process. Again, it is amazing
3990 here. Why add this into cost when we are trying to make sure
3991 that it is streamlined and get an active workforce and
3992 everything else? This was simply thrown in here as a
3993 provision that, again, puts H-2A under MSPA. It should never
3994 have been put under MSPA.

3995 And, like I said, if mediation is supposedly required
3996 here, then add it into the language. We are not going to
3997 because we know that that is not what happens because we also
3998 know that there are plenty of provisions in here in which
3999 they can sue, which there are other are remedies as we go
4000 forward. So I was offering this as a chance to take away one
4001 of the biggest complaints you have about the bill from
4002 outside farm groups. But if we are not going to do it, I
4003 understand it, but at least everybody knows this is a

4004 provision in here, and it is not in there by mistake. There
4005 is a reason you expanded it under MSPA. That is why I
4006 properly put this amendment, and I yield back to the
4007 gentleman from Texas.

4008 Chairman Nadler. The gentleman yields back.

4009 All in favor of the amendment will say aye.

4010 Opposed, no.

4011 In the opinion of the chair, the noes have it, and the
4012 amendment is not adopted.

4013 Mr. Collins. Roll call vote.

4014 Chairman Nadler. A roll call vote has been requested.

4015 The clerk will call the roll.

4016 Ms. Strasser. Mr. Nadler?

4017 Chairman Nadler. No.

4018 Ms. Strasser. Mr. Nadler votes no.

4019 Ms. Lofgren?

4020 Ms. Lofgren. No.

4021 Ms. Strasser. Ms. Lofgren votes no.

4022 Ms. Jackson Lee?

4023 Mr. Cohen?

4024 Mr. Johnson of Georgia?

4025 Mr. Deutch?

4026 Ms. Bass?

4027 Mr. Richmond?

4028 Mr. Jeffries?

4029 Mr. Cicilline?
4030 Mr. Cicilline. No.
4031 Ms. Strasser. Mr. Cicilline votes no.
4032 Mr. Swalwell?
4033 Mr. Lieu?
4034 Mr. Raskin?
4035 Mr. Raskin. No.
4036 Ms. Strasser. Mr. Raskin votes no.
4037 Ms. Jayapal?
4038 Mrs. Demings?
4039 Mr. Correa?
4040 Mr. Correa. No.
4041 Ms. Strasser. Mr. Correa votes no.
4042 Ms. Scanlon?
4043 Ms. Scanlon. No.
4044 Ms. Strasser. Ms. Scanlon votes no.
4045 Ms. Garcia?
4046 Ms. Garcia. No.
4047 Ms. Strasser. Ms. Garcia votes no.
4048 Mr. Neguse?
4049 Mrs. McBath?
4050 Mrs. McBath. No.
4051 Ms. Strasser. Mrs. McBath votes no.
4052 Mr. Stanton?
4053 Ms. Dean?

4054 Ms. Dean. No.

4055 Ms. Strasser. Ms. Dean votes no.

4056 Ms. Mucarsel-Powell?

4057 Ms. Escobar?

4058 Ms. Escobar. No.

4059 Ms. Strasser. Ms. Escobar votes no.

4060 Mr. Collins?

4061 Mr. Collins. Yes.

4062 Ms. Strasser. Mr. Collins votes yes.

4063 Mr. Sensenbrenner?

4064 Mr. Chabot?

4065 Mr. Gohmert?

4066 Mr. Gohmert. Yes.

4067 Ms. Strasser. Mr. Gohmert votes yes.

4068 Mr. Jordan?

4069 Mr. Buck?

4070 Mr. Ratcliffe?

4071 Mrs. Roby?

4072 Mrs. Roby. Yes.

4073 Ms. Strasser. Mrs. Roby votes yes.

4074 Mr. Gaetz?

4075 Mr. Johnson of Louisiana?

4076 Mr. Biggs?

4077 Mr. McClintock?

4078 Mrs. Lesko?

4079 Mr. Reschenthaler?

4080 Mr. Reschenthaler. Yes.

4081 Ms. Strasser. Mr. Reschenthaler votes yes.

4082 Mr. Cline?

4083 Mr. Cline. Aye.

4084 Ms. Strasser. Mr. Cline votes aye.

4085 Mr. Armstrong?

4086 Mr. Armstrong. Yes.

4087 Ms. Strasser. Mr. Armstrong votes yes.

4088 Mr. Steube?

4089 Mr. Steube. Yes.

4090 Ms. Strasser. Mr. Steube votes yes.

4091 Chairman Nadler. The gentleman from Arizona?

4092 Mr. Stanton. No.

4093 Ms. Strasser. Mr. Stanton votes no.

4094 Chairman Nadler. The gentlelady from Texas?

4095 Ms. Jackson Lee. No.

4096 Ms. Strasser. Ms. Jackson Lee votes no.

4097 Mr. Lieu votes no.

4098 Mr. Johnson of Georgia votes no.

4099 Ms. Mucarsel-Powell votes no.

4100 Mr. Chabot, you are not recorded.

4101 Mr. Chabot. Yes.

4102 Ms. Strasser. Mr. Chabot votes yes.

4103 Chairman Nadler. Has everyone who wishes to vote voted?

4104 [No response.]

4105 Chairman Nadler. The clerk will report.

4106 Ms. Strasser. Mr. Chairman, there are 8 ayes and 16
4107 noes.

4108 Chairman Nadler. The amendment is not adopted.

4109 Ms. Jayapal. Thank you, Mr. Chairman. I have an
4110 amendment at the desk.

4111 Chairman Nadler. The clerk will report the amendment.

4112 Ms. Strasser. Amendment to the amendment in the nature
4113 of a substitute to H.R. 5038, offered by Ms. Jayapal of
4114 Washington. Page 14, line 6 --

4115 Chairman Nadler. Without objection, the amendment will
4116 be considered as read.

4117 [The amendment of Ms. Jayapal follows:]

4118

4119 Chairman Nadler. The gentlelady from Washington --

4120 Mr. Collins. Mr. Chairman, I reserve a point of order.

4121 Chairman Nadler. The gentlelady from Washington is
4122 recognized for the purpose of explaining her amendment. The
4123 gentleman from Georgia reserves a point of order.

4124 Mr. Collins. Thank you.

4125 Ms. Jayapal. Thank you, Mr. Chairman. First, I want to
4126 express my gratitude to Representative Lofgren and to my
4127 colleague from Washington State, Mr. Newhouse, as well as the
4128 many parties that have been a part of putting this together,
4129 including the United Farm Workers, for their work to bring
4130 forward a bill to provide a roadmap to citizenship for
4131 agricultural workers.

4132 While the legislation does a lot of incredible things to
4133 advance the rights of ag workers, there are some pieces that
4134 still do give me pause. For example, as of now, for those
4135 who obtain legal status through this bill, they still would
4136 not be able to access the healthcare insurance exchange for 4
4137 to 8 years, and so that is why I am offering this amendment
4138 to ensure that workers are able to access healthcare
4139 insurance. Under this bill, people who obtain legal status
4140 would be considered lawfully present, consistent with current
4141 policy and practice. In general, anyone who is lawfully
4142 present has access to healthcare insurance. One exception to
4143 this is the DACA recipients, and this bill would expand the

4144 carve-out to include ag workers.

4145 For 2 decades, immigrants, even those here lawfully,
4146 have had a limited ability to access affordable health
4147 insurance. Right now, a person who moves to the United
4148 States with authorization to work or to reunite with family
4149 must wait for 5 years to access Medicaid or CHIP in addition
4150 to many other safety net programs, leaving them to navigate a
4151 complicated system and pay skyrocketing out-of-pocket costs
4152 for the most basic healthcare services.

4153 Immigrant women and children in particular are left most
4154 vulnerable by these restrictions. One-third of non-citizen
4155 immigrant women between the ages of 15 and 44 are uninsured.
4156 The Affordable Care Act, which widely expanded access for the
4157 uninsured, still left out 23 million immigrants, solidifying
4158 their exclusion for many public health benefits. The
4159 disparity in access to healthcare between U.S. citizens and
4160 immigrants is widening, and it is past time that we undo the
4161 harmful restrictions that politicians have enacted on
4162 immigrants' access to affordable health insurance coverage.

4163 Lack of access to healthcare coverage increases the
4164 incidence of negative health outcomes and has profound
4165 impacts on families and communities across this country. By
4166 denying immigrants access to care, we are delaying treatment
4167 for preventable diseases, which means more visits to the
4168 emergency room, increasing costs for our healthcare system,

4169 and increased financial instability for their families.
4170 Beyond the economic impact, lack of healthcare access has a
4171 human cost. A delayed cancer treatment could lead to a
4172 parent's premature death, or a child may miss out on an
4173 intervention in their critical early years of development.

4174 Immigrants are taxpayers. They contribute to our
4175 communities, and they should be treated fairly by the system
4176 into which they pay. That is why I introduced the Health
4177 Equity Access Under the Law for Immigrant Women and Families
4178 Act, also known as the HEAL Act, to correct these injustices.
4179 That bill would eliminate the 5-year waiting period for
4180 lawfully present immigrants, and allow those granted deferred
4181 action to buy into Medicaid and the Children's Health
4182 Insurance Program. That bill also ensures that all
4183 individuals granted federally-authorized presence as well as
4184 those who have been granted deferred action and undocumented
4185 individuals can participate in the marketplaces and access
4186 the cost-sharing reductions and premium tax credits provided
4187 by the Affordable Care Act. By restoring access to health
4188 coverage for immigrant women and families, including those
4189 who are lawfully present, that act would help foster
4190 healthier communities and a stronger economy.

4191 Today, every American is dependent on the labor of
4192 millions of immigrant farmworkers and dairy workers. These
4193 incredibly hardworking people do back-breaking and skilled

4194 labor, waking up before dawn to pick our fruits and our
4195 vegetables, to care for our livestock, to milk our cows, and
4196 so much more. They put food on our tables every single day.
4197 And I believe that the least we should be doing is making
4198 sure that they have healthcare to keep them healthy as they
4199 do the work that sustains our lives.

4200 Now, I know that many of my Democratic colleagues would
4201 support this amendment, including the author of this bill,
4202 Ms. Lofgren. However, I also understand that we still need
4203 to further educate and create consensus around this
4204 amendment. And I hope that as we continue the process of
4205 this bill to the final markup, that we will actually move
4206 this concept of healthcare for farmworkers forward. And so
4207 in the strong hopes that we can do that and come to some
4208 agreement on the importance of healthcare, I will withdraw
4209 this amendment and continue my work to ensure that we are
4210 providing healthcare for our farmworkers and for all
4211 immigrants who are in this country. And with that, I
4212 withdraw my amendment, and I yield back the balance of my
4213 time.

4214 Chairman Nadler. The gentlelady yields back. The
4215 amendment is withdrawn, and I want to thank the gentlelady
4216 for her work on this important topic and for greater equity.
4217 Are there any further amendments to the amendment in the
4218 nature of a substitute?

4219 Mr. Collins. Mr. Chairman, I have an amendment at the
4220 desk.

4221 Chairman Nadler. The gentleman from Georgia has an
4222 amendment at the desk. The clerk will report the amendment.

4223 Ms. Lofgren. I reserve a point of order.

4224 Chairman Nadler. The gentlelady from California
4225 reserves a point of order.

4226 The clerk will report the amendment.

4227 Mr. Collins. By the way, I withdraw my other point of
4228 order.

4229 Ms. Strasser. Amendment to the amendment in the nature
4230 of a substitute to H.R. 5038, offered by Mr. Collins of
4231 Georgia. Page 111, after line 7, insert the following.

4232 Chairman Nadler. Without objection the amendment is
4233 considered as read.

4234 [The amendment of Mr. Collins follows:]

4235

4236 Chairman Nadler. The gentleman from Georgia is
4237 recognized for the purpose of explaining his amendment.

4238 Mr. Collins. Thank you, Mr. Chairman. Continuing this
4239 process that we discussed just a few moments ago, let's take
4240 this down a step further. And I had hoped my arguments in
4241 favor of striking the entire provisions would have worked
4242 that subjecting H-2A users to the MSPA would be persuasive,
4243 and that my Democratic colleagues would have supported my
4244 amendment. But that didn't happen, so I am going to offer
4245 another reasonable alternative here. Let's see if we can.

4246 The amendment would simply provide that when the
4247 employer faces an H-2A-related claim under MSPA, the employer
4248 is provided a right to cure before the claim can proceed.
4249 Specifically, the amendment allows the employer to, within 5
4250 days of receipt of the complaint, attempt to cure the alleged
4251 violation. The employer must also file with the court
4252 documentation demonstrating that the action giving rise to
4253 the complaint has been remedied. After that, the court may
4254 dismiss the complaint if it is satisfied that the complaint
4255 has been resolved.

4256 As I noted when discussing my previous amendment, MSPA
4257 private right of action damages can include actual damages or
4258 statutory damages up to \$500 per plaintiff per violation,
4259 where the violations constitute distinct provisions. Most
4260 claims involve many multiple plaintiffs, and in class actions

4261 could involve the many plaintiffs who don't even want to be a
4262 part of the claim, thus setting up the \$500,000 that we spoke
4263 of earlier. Costs like these to employers, on top of the
4264 court fees and other things added pursuant to the claims
4265 avenue, should not be taken lightly, and they can represent
4266 significant burdens on employers who did not knowingly and
4267 purposely violate H-2A requirements.

4268 The least we can do is provide our growers, who are
4269 trying to do the right thing by utilizing the H-2A Program,
4270 the opportunity to remedy a violation. If the purpose of
4271 filing a complaint is to seek redress, then this amendment
4272 provides a reasonable path forward. And I am sure, however,
4273 that those whose purpose is to subject employers to
4274 additional frivolous claims will oppose my amendment. But
4275 they should do so knowing what the likely negative effects of
4276 MSPA's Federal right of action could be. My amendment would
4277 retain the ability of H-2A workers to obtain redress, but
4278 would provide protection for growers.

4279 I ask the committee to discuss this. If you have a
4280 problem or if an H-2A worker has a problem, which do you
4281 prefer, a pound of flesh or a fix? This provides a fix.
4282 They have got to fix it. It is in the court. They got to go
4283 within 5 days to get it fixed. This is a reasonable
4284 alternative moving forward. If it is punitive against the
4285 grower, then that is out there for everybody to see you as we

4286 move forward on this bill. But if there is a legitimate
4287 concern about a situation of an H-2A worker needing a fix,
4288 this is a legitimate fix.

4289 And for my farmers who actually, you know, some of them
4290 for many years have had the same H-2A workers over and over.
4291 They are part of their extended family. If they are doing
4292 something wrong, they want to fix it. They don't have a
4293 desire in my area, and maybe in other areas, and if there is
4294 we will talk about it. But in my area, they simply want to
4295 have the workers to do the job, and they are willing to fix
4296 any problem that they have. But why do this?

4297 So let's just have an honest fix. My last amendment
4298 failed, but let's at least try this. Have an opportunity to
4299 fix the problem. Have an opportunity to say this is
4300 something that has come up, we agree, but let's give a right
4301 to cure. I bet you that most, most, most every farmer -- I
4302 will never say all -- but most every farmer will say, okay,
4303 yes, I see you have a problem with housing. I see you have a
4304 problem. I will fix it. If they don't, then the system is
4305 failing them and not helping the worker. And at the end of
4306 the day, you are going to lose this. If we continue this
4307 path, you will lose H-2A employers because they are not going
4308 to go through the process here. And then we have less
4309 opportunity for people to come from other places to help us
4310 in ag.

4311 So I am just asking, this is a reasonable alternative.
4312 I would ask that it be accepted. But, you know, I will just
4313 have to leave that there, but I was I think this is something
4314 we can actually work on, on a bill that is very difficult for
4315 many of us. Maybe this will actually help following up our
4316 previous conversation. And with that, I yield back.

4317 Ms. Lofgren. [Presiding.] The gentleman yields back. I
4318 recognize myself in opposition to the amendment, but I will
4319 note that I would look forward to further discussions with
4320 the gentleman between this committee markup and action on the
4321 floor so that we might further explore this idea. This is
4322 the first I have heard of this suggestion today. I do think
4323 that it may be unnecessary, and I will tell you why, but I am
4324 happy to discuss it further.

4325 In order to hit the \$500,000 maximum under MSPA, you
4326 would need to have 1,000 violations. That is not a small
4327 farmer. To have 1,000 violations, you would have to be
4328 fairly big for a class action. I do think that the mediation
4329 that is provided for in the bill essentially will resolve
4330 what the gentleman is trying to accomplish here, which is to
4331 fix problems instead of have litigation.

4332 I do think that, to some extent, the right to cure is a
4333 little bit one-sided as compared to there are two parties in
4334 a court proceeding. But as I said, this is the first I have
4335 heard of this suggestion today. If the gentleman would like

4336 to withdraw it so that we can continue to work on it between
4337 now and the floor, I would be happy to entertain that, or we
4338 can go to a vote. But in either case, I am not able to
4339 accept the amendment here on the spot.

4340 Mr. Chabot. I move to strike the last word.

4341 Ms. Lofgren. Well, I still have got the time. Would
4342 the gentleman like to be yielded to for the comment? No? If
4343 not, then I urge, unless there is an effort to withdraw the
4344 amendment, that we defeat it for today and continue our
4345 discussions between now and the floor. And with that, I
4346 would yield back. And the gentleman from Ohio is now
4347 recognized.

4348 Mr. Chabot. Thank you, Madam Chairwoman, and I yield to
4349 the gentleman from Georgia, the ranking member.

4350 Mr. Collins. Thank you, and I appreciate that. It is
4351 sort of interesting the comments here. Again, I have always
4352 assumed in a court case the object is to fix the problem.
4353 Well, I am giving the opportunity to fix the problem here.
4354 That is the purpose of two-part, and I am not sure how fixing
4355 an opportunity to cure is a one-sided deal. I complain. The
4356 farmer fixes it. We are done. That is the same thing as a
4357 court case, except under your plan, you get to actually file
4358 under Federal court and actually get money. That is a whole
4359 different thing.

4360 I am also not sure, again, I now see that there is a

4361 different standard for amendments here today. If you give it
4362 to a process beforehand, you get better consideration because
4363 what I just heard was is I just heard about this. Well, that
4364 is sort of news to me because it has been the Farm Bureau's
4365 ask for the last 2 months. I mean, a right to cure has been
4366 something that has been discussed for a long time. This is
4367 not new today. I didn't pluck this out of the hat last
4368 night. This has been an ask for a while. So to say that
4369 this is new is, again, not a problem.

4370 The other issue, 1,000 violations. I am not sure that
4371 the gentlelady knows the work of a farm and the costs that
4372 are in many of our smaller farms. Any cost extra here for
4373 many of our farms that are struggling is a problem, so it
4374 doesn't matter if it is 500,000 or 50,000. It is a cost
4375 problem. And if you don't believe it, just go live and work
4376 on farms, especially in my communities where this is
4377 happening.

4378 So mediation, again, we brought it mediation again. If
4379 it is so good in this, make it mandatory. It is not
4380 mandatory in this bill, so don't use it as an excuse to say
4381 this would not really happen. So, again, I see what's
4382 happening here, and I am not going to drop this. I am not
4383 going to work on it before we get to the floor because it is
4384 not going to get added in because of the very arguments that
4385 the gentlelady has made, and I appreciate her stance on this.

4386 She had made it very clear. This is a non-negotiable for
4387 her. I don't understand why because, especially the right to
4388 sue, putting it under MSPA, and others was from the Farm
4389 Bureau for a second, and it could have actually help get us
4390 further and closer along to maybe trying to find more
4391 bipartisan support of this.

4392 But undoubtedly, this is the stick that we are not going
4393 to change on. I respect the gentlelady for that. I applaud
4394 her decision to not move. It is sad, though, when we look at
4395 this bill that, one, our members are being held to a
4396 different standard, and number two, this is not a new fix.
4397 This is not a new ask. And at the end of the day, my
4398 question is simply, what are you trying to accomplish here?
4399 Do you want the problem fixed or do you want to gripe about
4400 the problem? That is the problem and get money for it. That
4401 is the bottom line in this situation. With that, I yield
4402 back to the gentleman from Ohio.

4403 Mr. Chabot. I yield back my time.

4404 Ms. Lofgren. The gentleman yields back. Are there
4405 further requests for time?

4406 [No response.]

4407 Ms. Lofgren. If not, I withdraw my point of order.
4408 Does the gentleman from Maryland wish to be heard on the
4409 amendment? The gentleman is recognized.

4410 Mr. Raskin. I move to strike the last word. Thank you,

4411 Mr. Chair. I rise in opposition to the Collins amendment. I
4412 appreciate the fact that the gentleman seems to want to
4413 support some legislation in the field. But this legislation
4414 already bends over backwards to give additional rights to the
4415 growers that don't exist in other places. As I understand
4416 it, there is a guaranteed right to 90 days of mediation that
4417 you don't get for any other domain within the Federal Labor
4418 Standards Act or within the MSPA. But suddenly we are saying
4419 we are going to have guaranteed mediation because the growers
4420 want it. So this would take us further --

4421 Mr. Collins. Would the gentleman just yield on that
4422 point, and this is very respectful. I know you weren't here
4423 when we had this discussion on the mediation issue. The
4424 problem I had with mediation and the challenge that I made
4425 with sort of the make it guaranteed is the fact that the
4426 mediation is not guaranteed. It is thrown in there that one
4427 party can ask for it, but there is no desire to actually
4428 engage in the mediation process here. And I understand what
4429 the gentleman saying. That was my point all along. It was
4430 not just simply throwing out guaranteed mediation.

4431 Again, my challenge to the gentleman is are we wanting a
4432 fix for the problem, or are we just wanting to carry this
4433 out? That is the only problem that I see, and I yield back.
4434 And I appreciate the gentleman.

4435 Mr. Raskin. Okay. Well, here, I guess I would just say

4436 I have never quite seen a provision like the one this
4437 amendment would add. Essentially, it is creating a new
4438 provision within the Rules of Civil Procedure to have an
4439 additional motion in addition to all of the other motions
4440 that exist, is the way I understand it. I mean, we already
4441 have a full panoply of motions to dismiss, summary judgment
4442 and so on, and you would just be creating a new one under
4443 this statute.

4444 So, I don't know. I am a little puzzled about why we
4445 would want to do that, and so I just wanted raise --

4446 Ms. Lofgren. Would the gentleman yield?

4447 Mr. Raskin. By all means.

4448 Ms. Lofgren. I had the same question in terms of the
4449 point of order because this really is a change to the Code of
4450 Civil Procedure. But since MSPA is in the bill, I decided to
4451 withdraw my point of order.

4452 Mr. Raskin. Yeah.

4453 Ms. Lofgren. But I do think it is one of the questions
4454 that deserves further discussion and thought, which I hoped
4455 to be able to do between now and the floor. But I have some
4456 skepticism that this will accomplish what it is purported to
4457 do. And with that I yield back to the gentleman from
4458 Maryland.

4459 Mr. Raskin. Well, I thank the chair for confirming my
4460 impulses about this. Essentially, I mean, if it creates a

4461 new procedural motion on the grounds that the action giving
4462 rise to the complaint has already been remedied, that is
4463 duplicative of a motion to dismiss for failure to state a
4464 cause of action, or simply a summary judgment. In other
4465 words, there are already a full panoply of civil procedural
4466 motions that can be engaged in order to get at that
4467 particular set of facts.

4468 Mr. Collins. Would the gentleman yield?

4469 Mr. Raskin. By all means.

4470 Mr. Collins. I have no idea what we just went into in
4471 this commercial, okay? We went into civil rights and
4472 procedure. This is a right to cure. This is a regulatory
4473 issue that we can say is a right to cure, to fix the problem.
4474 We are not talking about a motion in court, but you have a
4475 right to cure. To say that this is a new civil procedure or
4476 anything else is simply, and I am going to help the
4477 gentleman. I am going to yield back. I made the point here.
4478 We obviously know this is not going to be a part of it, but
4479 to go far afield with civil procedure and everything else
4480 here. This is simply providing a remedy to the H-2A worker
4481 to get the problem fixed, and that is all we are asking here
4482 as we go forward. And I appreciate the gentleman, and I
4483 yield back.

4484 Mr. Raskin. Okay, and I appreciate that. You know, I
4485 am just reading from the gentleman's amendment. "If an H-2A

4486 worker files a civil lawsuit alleging a violation under MSPA,
4487 the employer may not later than 5 days after receiving
4488 service of the complaint filed with the court documentation,"
4489 et cetera. So, I mean, I am sorry to bring civil procedure
4490 into it, but I think that the whole amendment is about
4491 creating a new right under the Federal Rules of Civil
4492 Procedure as it relates to this act. But I suppose I have
4493 said enough, Madam Chair. I will yield back to you.

4494 Ms. Lofgren. The gentleman yields back that. If there
4495 are no further requests for time. The gentleman from
4496 California, Mr. Correa.

4497 Mr. Correa. Madam Chair, I move to strike the last word
4498 on the --

4499 Ms. Lofgren. The gentleman is recognized for 5 minutes.

4500 Mr. Correa. -- the amendment and the underlying bill.
4501 I also rise to oppose the Collins amendment. I think it is
4502 going to bring down this bill that strikes a delicate balance
4503 among a lot of interested parties here, and I hope Mr.
4504 Collins and the author, Ms. Lofgren, can address this issue,
4505 this amendment before the bill reaches the floor. With that
4506 being said, I want to thank my colleague, Ms. Lofgren,
4507 chairman of the Immigration and Citizenship Subcommittee for
4508 her leadership and work on this critical bill related to farm
4509 labor shortage.

4510 And by the way, I want to take a moment to welcome all

4511 the folks here, farmworkers that have come from California.

4512 [Speaking foreign language.]

4513 California, as you know, is the home to the largest ag
4514 economy in the United States. In California and across the
4515 country, the ag economy depends on hardworking immigrant
4516 workers. They feed this country. They are the breadbasket
4517 of the world. They feed the world. And both farmworkers and
4518 the farmers agree that we need to reform to the current
4519 system. And I would ask my colleagues to consider supporting
4520 this measure and, in a very important, significant way, bring
4521 decency and respect to these farmworkers, who right now are
4522 working and toiling on farms across the country without
4523 documents. This legislation is supported by, again, farmers,
4524 farmworkers, and a set of other interested parties. And with
4525 that, I yield back.

4526 Ms. Lofgren. The gentleman yields back.

4527 The question is on the amendment.

4528 Those who are in favor of the amendment will say aye.

4529 Those who are opposed will say no.

4530 Mr. Collins. Roll call.

4531 Ms. Lofgren. A roll call is requested. The clerk will
4532 call the roll.

4533 Ms. Strasser. Mr. Nadler?

4534 Ms. Lofgren?

4535 Ms. Lofgren. No.

4536 Ms. Strasser. Ms. Lofgren votes no.
4537 Ms. Jackson Lee?
4538 Mr. Cohen?
4539 Mr. Johnson of Georgia?
4540 Mr. Deutch?
4541 Ms. Bass?
4542 Mr. Richmond?
4543 Mr. Jeffries?
4544 Mr. Cicilline?
4545 Mr. Swalwell?
4546 Mr. Lieu?
4547 Mr. Raskin?
4548 Mr. Raskin. No.
4549 Ms. Strasser. Mr. Raskin votes no.
4550 Ms. Jayapal?
4551 Mrs. Demings?
4552 Mr. Correa?
4553 Mr. Correa. No.
4554 Ms. Strasser. Mr. Correa votes no.
4555 Ms. Scanlon?
4556 Ms. Garcia?
4557 Ms. Garcia. No.
4558 Ms. Strasser. Ms. Garcia votes no.
4559 Mr. Neguse?
4560 Mrs. McBath?

4561 Mrs. McBath. No.

4562 Ms. Strasser. Mrs. McBath votes no.

4563 Mr. Stanton?

4564 Ms. Dean?

4565 Ms. Dean. No.

4566 Ms. Strasser. Ms. Dean votes no.

4567 Ms. Mucarsel-Powell?

4568 Ms. Escobar?

4569 Ms. Escobar. No.

4570 Ms. Strasser. Ms. Escobar votes no.

4571 Mr. Collins?

4572 Mr. Collins. Aye.

4573 Ms. Strasser. Mr. Collins votes aye.

4574 Mr. Sensenbrenner?

4575 Mr. Chabot?

4576 Mr. Chabot. Yes.

4577 Ms. Strasser. Mr. Chabot votes yes.

4578 Mr. Gohmert?

4579 Mr. Gohmert. Yes.

4580 Ms. Strasser. Mr. Gohmert votes yes.

4581 Mr. Jordan?

4582 Mr. Buck?

4583 Mr. Buck. Aye.

4584 Ms. Strasser. Mr. Buck votes aye.

4585 Mr. Ratcliffe?

4586 Mrs. Roby?

4587 Mrs. Roby. Aye.

4588 Ms. Strasser. Mrs. Roby votes aye.

4589 Mr. Gaetz?

4590 Mr. Johnson of Louisiana?

4591 Mr. Biggs?

4592 Mr. McClintock?

4593 Mrs. Lesko?

4594 Mr. Reschenthaler?

4595 Mr. Reschenthaler. Aye.

4596 Ms. Strasser. Mr. Reschenthaler votes aye.

4597 Mr. Cline?

4598 Mr. Cline. Aye.

4599 Ms. Strasser. Mr. Cline votes aye.

4600 Mr. Armstrong?

4601 Mr. Armstrong. Yes.

4602 Ms. Strasser. Mr. Armstrong votes yes.

4603 Mr. Steube?

4604 Mr. Steube. Yes.

4605 Ms. Strasser. Mr. Steube votes yes.

4606 Ms. Lofgren. The gentleman from New York?

4607 Chairman Nadler. No.

4608 Ms. Strasser. Mr. Nadler votes no.

4609 Ms. Lofgren. The gentlelady from Texas?

4610 Ms. Jackson Lee. How am I recorded?

4611 Ms. Strasser. Ms. Jackson Lee, you are not recorded.

4612 Ms. Jackson Lee. No.

4613 Ms. Strasser. Ms. Jackson Lee votes no.

4614 Ms. Lofgren. The gentleman from Rhode Island?

4615 Mr. Cicilline. No.

4616 Ms. Strasser. Mr. Cicilline votes no.

4617 Ms. Lofgren. The gentleman from California?

4618 Mr. Lieu. No.

4619 Ms. Strasser. Mr. Lieu votes no.

4620 Ms. Lofgren. The gentlelady from Washington?

4621 Ms. Jayapal. No.

4622 Ms. Strasser. Ms. Jayapal votes no.

4623 Ms. Lofgren. The gentleman from Arizona?

4624 Mr. Stanton. No.

4625 Ms. Strasser. Mr. Stanton votes no.

4626 Ms. Lofgren. The gentlelady from Florida?

4627 Ms. Mucarsel-Powell. No.

4628 Ms. Strasser. Ms. Mucarsel-Powell votes no.

4629 Ms. Lofgren. The gentleman from Georgia?

4630 Mr. Johnson of Georgia. No.

4631 Ms. Strasser. Mr. Johnson of Georgia votes no.

4632 Ms. Lofgren. The gentleman from Tennessee?

4633 Mr. Cohen. No.

4634 Ms. Strasser. Mr. Cohen votes no.

4635 Ms. Lofgren. Any other member wishing to vote or to

4636 change their vote?

4637 [No response.]

4638 Ms. Lofgren. If not, the clerk will report.

4639 Ms. Strasser. Madam Chair, there are 9 ayes and 16
4640 noes.

4641 Ms. Lofgren. And the amendment is not agreed to.

4642 Are there additional amendments? The gentleman from
4643 Texas is recognized.

4644 Mr. Gohmert. Thank you, Madam Chair. I have an
4645 amendment at the desk.

4646 Ms. Lofgren. The clerk will distribute the amendment.
4647 I reserve a point of order.

4648 Ms. Strasser. Amendment to the amendment in the nature
4649 of a substitute to H.R. 5038, offered by Mr. Gohmert of
4650 Texas. Page 43, beginning on line 9, strike Section 1
4651 through 4, and re-designate succeeding sections, and conform
4652 the table of contents accordingly.

4653 [The amendment of Mr. Gohmert follows:]

4654

4655 Ms. Lofgren. The gentleman is recognized for 5 minutes
4656 in support of his amendment, and I withdraw my point of
4657 order.

4658 Mr. Gohmert. Thank you, Madam Chair. My amendment, as
4659 it says, simply would strike Section 134 from the bill. As
4660 written, Section 134 creates grant programs that will fund
4661 taxpayer dollars to nonprofit groups who will help aliens
4662 illegally here file for legal status under the bill.

4663 As some of us have been saying for years and,
4664 unfortunately, not as successful as we would have liked, even
4665 during years Republicans were in the majority, but the best
4666 thing we could do to help people that want to come legally
4667 would be to so simplify the filing for visas, for
4668 citizenship, for work visas, that nobody ever feels the need
4669 to hire a lawyer, a paralegal or anything.

4670 They can just file it. Just way too many people, I find
4671 out, have paid thousands of dollars to lawyers because we
4672 have not properly simplified the process.

4673 But whether or not you agree with legalizing millions of
4674 people who are here illegally, certainly, it would seem like
4675 most of us should agree the U.S. taxpayer shouldn't have to
4676 foot the bill including and especially those who have paid
4677 the price without any help from U.S. taxpayers to come
4678 legally.

4679 Other individuals who want to apply for an immigration

4680 benefit through the normal process must find and pay for
4681 their own legal fees and technical assistance.

4682 Yet, this bill treats millions of aliens who came here
4683 illegally better than they.

4684 In addition to an unspecified amount of, quote, "any
4685 funds appropriated to carry out this section," unquote, H.R.
4686 5038 also authorizes the DHS secretary to basically loot the
4687 Immigration Examinations Fee account to the tune of \$10
4688 million.

4689 That account is comprised of fees received by Homeland
4690 Security Department from those going through the legal
4691 process the legal way to apply for immigration benefits, so
4692 people seeking to naturalize, U.S. citizens seeking a green
4693 card for their spouse, and families adopting a child from
4694 abroad will be paying that price.

4695 For people who have not done as they but have come in
4696 illegally -- in other words, those immigrants who are paying
4697 to do things the right way will end up paying for aliens to
4698 come in that came in illegally to get status through this
4699 special process.

4700 There is no reason that the U.S. taxpayer should have to
4701 shoulder the burden for that special certified agricultural
4702 worker status, which leads to a green card path to
4703 citizenship, nor should legal immigrants have to subsidize
4704 the applications by directing the fees they paid out of their

4705 own pockets to these nonprofit organizations. It simply
4706 isn't fair to U.S. taxpayers or to legal immigrants doing
4707 things the right way.

4708 And it really is a slap to every immigrant who did
4709 everything legally and it wasn't paid for by taxpayers or by
4710 others who were coming in.

4711 But it just seems, once again, we are seeing this effort
4712 that is not taking people who consider and work through
4713 things legally appropriate -- appropriately considered.

4714 Anyway, this amendment removes the wasteful and
4715 unnecessary grant program and I would ask that my colleagues
4716 support this, and I understand, from what the chairman said
4717 earlier -- not the sitting chairman but the committee
4718 chairman, that gee, we don't have to do what we think the
4719 Senate might pass. I understand that. I have been an
4720 advocate of doing what we think is right.

4721 However, let us be real. If there are Republican
4722 senators and some Democratic senators, were they to vote to
4723 require people who came in legally to help fund people who
4724 are coming in illegally or came in illegally, they are going
4725 to have problems getting reelected.

4726 So I would hope that we can strike this provision. I
4727 think it makes the bill more passable.

4728 And with that, I would yield back.

4729 Ms. Lofgren. The gentleman yields back.

4730 I recognize myself in opposition to the amendment.

4731 First, I think it is important to clarify, as the
4732 gentleman did in some of his comments, that the funding for
4733 this is not from the taxpayer. It comes from fees in the
4734 administration of the Immigration Act, not from taxpayer
4735 money.

4736 And I think that the program in the bill is meritorious
4737 and here is why. If you fill out an application properly
4738 when you are eligible, that streamlines the system.

4739 We have written a bill that we think is clear in terms
4740 of eligibility but not everyone is going to necessarily have
4741 the legal background. That is why we have lawyers to help
4742 people fill out the application so it is done properly.

4743 Just a further note. This bill provides for a way for
4744 farm workers to comply with the law. They are not doing
4745 something wrong.

4746 They are complying with the law that we wrote. And it
4747 is not outside of the law. It is within the law. We retain
4748 the right to determine and to devise the immigration laws of
4749 the United States and if we are to enact this bill, which I
4750 hope we do, what we are saying is that people who have worked
4751 here for many, many years in agriculture are going to have
4752 the capacity to have a agricultural worker visa to be right
4753 with the law pursuant to the law, and that we are going to
4754 provide nonprofits some funding so that we can make sure that

4755 applicants are, indeed, complying with what we wrote in the
4756 -- in the immigration laws as part of this bill.

4757 I do think that when you think about the role the farm
4758 workers have played in our country and in our economy, we
4759 wouldn't have an agricultural industry without agricultural
4760 workers. And for them to be living in fear and for their
4761 employers to be living in fear is not a good thing to the
4762 agricultural sector.

4763 We are providing in this bill not only a way for
4764 agricultural workers to get an agricultural worker visa but
4765 also help in filling out the application to do that.

4766 As has been mentioned in my opening statement, a person
4767 who gets an agricultural worker visa can continue to renew
4768 that visa. They can stay in that status the rest of their
4769 lives if they want.

4770 However, they have an opportunity, if they go through
4771 some more hoops, to someday apply to become a legal resident
4772 if they choose, or they can stay in the agricultural worker
4773 visa program, whichever they wish.

4774 I would just note that this bill is a compromise because
4775 it is not just for the workers. It is also for the
4776 employers.

4777 We have got a program on immigration enforcement that is
4778 underway now called the No Match system where the Social
4779 Security Administration tries to match up the Social Security

4780 numbers with the employees in a particular workforce.

4781 Those letters have been going out to farmers all across
4782 the United States and what they are discovering is that there
4783 are anomalies between the Social Security records and the
4784 employee records, and in some cases these farmers, who saw a
4785 document, are looking at half their workforce being gone and
4786 their businesses being destroyed.

4787 So we need to take action to change the laws for the
4788 benefit of the farm workers but also for the benefit of the
4789 farmers, which is why this bill has the support it has from
4790 both the employer section and the farm worker section, and
4791 why we have got the broad bipartisan support in terms of
4792 original co-sponsors on the bill.

4793 I know that the gentleman's amendment is well
4794 intentioned. I don't agree that it would be an improvement
4795 in the bill and I would urge its defeat.

4796 And with that, I would yield back.

4797 Are there additional members?

4798 The gentlelady from Washington is recognized to strike
4799 the last word.

4800 Ms. Jayapal. Thank you, Madam Chair.

4801 Thank you for your comments. I agree completely and I
4802 think that I oppose this amendment.

4803 I was thinking as I was reading this and also as I have
4804 been listening to some of the comments throughout the

4805 discussion of the bill that sometimes we make legislation and
4806 we almost make it sound like it is divorced from real people
4807 that are out there.

4808 And one of the things that we get to do as legislators
4809 is look out into the audience at all of the people in the
4810 room and recognize that there are some very special people in
4811 the room, and I wanted to just bring into this conversation a
4812 couple of the stories of the people from Washington State who
4813 are in this room.

4814 And so I will start with Jorge Ramirez, who is 34 years
4815 old from Sunnyside, Washington. Worked 10 years in dairy,
4816 and here is what he says.

4817 "I believe that undocumented farm workers deserve the
4818 opportunity to legalize because they need to have a better
4819 life without the constant fear of abuses that most of them
4820 receive from their employers.

4821 If you don't have papers, you are more prone to
4822 mistreatment because they know that you are vulnerable. When
4823 I worked in dairy, my supervisor would always scream at us
4824 and knew that none would do anything because most of my co-
4825 workers did not have papers.

4826 Every day the abuse was the same -- constant yelling and
4827 negative talks."

4828 Or how about this from Paula Hernandez -- because when
4829 we talk about these grant programs and who they are helping,

4830 when we talk about this bill and who it is helping, employers
4831 and workers, we have to remember these are real people who
4832 have suffered severe physical harm in many instances.

4833 But, really, the lack of dignity that has been afforded
4834 to our undocumented work force across this country while
4835 people benefit from the fruits -- literal fruits of their
4836 labor.

4837 So here is the story of Paula Hernandez, 54 years old
4838 from Sunnyside, Washington. Worked in agriculture for 22
4839 years, specifically, apples, pears, beer hop, and grapes.
4840 Also worked in apples and corn-packing houses.

4841 "This legislation would positively impact several of my
4842 friends and family. For example, some of my brothers are
4843 undocumented. They are good people with no criminal record
4844 but have not been given the opportunity to legalize and they
4845 have been living in limbo.

4846 I have worked with H-2A workers. What happens is they
4847 don't get to speak up when they are being abused. When we
4848 have legal status, it is easy for us to speak out. We feed
4849 America and we all need the opportunity to legalize for the
4850 hard work that we do.

4851 All we ask is for that opportunity to legalize to be
4852 given to undocumented workers. I now have legal status and I
4853 am able to grow as a person without allowing anyone to step
4854 over me. We all want to remain together."

4855 And then a last one from Ana Cruz from Prosser,
4856 Washington, 40 years old. Has worked in ag and dairy for 13
4857 years, including apples, grapes, cherries, beer hop.

4858 "During harvesting," Ana says, "we wake up at 3:00 a.m.
4859 and take our kids to the day care, and then we work until
4860 5:00 or 6:00 p.m., and we do this every single day. We work
4861 on weekends, too, and all farm workers deserve to be in
4862 peace.

4863 We would have more safety at work if we all had legal
4864 status. We would not be afraid to speak out. When they
4865 leave their homes, undocumented workers would not be afraid
4866 of coming back home to their kids."

4867 That is from Ana Cruz.

4868 So, Madam Chair, I am grateful for your work on this
4869 bill. But more than anything, I am just grateful to this
4870 industry and the workers that have sustained this country for
4871 so long.

4872 Sometimes I think, having worked on immigration for 20
4873 years, that there is actually incentive to leave this
4874 situation -- to leave this situation broken, to not fix this
4875 system that is, literally, utilizing the labor of people
4876 without -- not just without giving any reward but actually
4877 then criminalizing those same immigrant workers who are doing
4878 this work.

4879 And so I don't believe that the people that -- on both

4880 sides of the aisle that put this bill together want that
4881 situation to continue and that is a great day for our country
4882 that we can have a bipartisan agreement on it.

4883 Let us bring the people that we are talking about into
4884 the room and I hope that when we pass this bill we do it
4885 thinking about the millions of workers that have given so
4886 much for us to be able to eat, to be able to live, and to
4887 have healthy lives.

4888 Thank you, Madam Chair.

4889 Ms. Lofgren. The gentlelady yields back.

4890 The gentleman from Colorado is recognized to strike the
4891 last word.

4892 Mr. Buck. Thank you, Madam Chair.

4893 I yield to my friend from Texas, Mr. Gohmert.

4894 Mr. Gohmert. Thank you. I appreciate yielding.

4895 Addressing a couple of things, as the chairman
4896 indicated, basically, whatever we say is legal is legal. But
4897 as people in responsible positions on the border have told me
4898 repeatedly, when you guys talk about legalizing anybody who
4899 is here illegally, we get another huge wave.

4900 As I have said numerous times, if we could get help from
4901 the majority to secure the border, you would be surprised
4902 what some of us will agree to. Otherwise, we are just
4903 sending a red flag -- waving a green flag, I guess. Come on
4904 in, help wanted, and someday there will be a legalization.

4905 But the trouble is in addition to really hardworking
4906 fine folks that come in, you have some people that are not
4907 good for America.

4908 So and with regard to the documentation required in this
4909 bill, I will point out, since it will be drawing funds from
4910 both taxpayers and from people who come in legally,
4911 documentation can be just sworn affidavits -- individual have
4912 direct knowledge.

4913 That could be the individual. It could be friends, and
4914 so that is an issue when you are going to take the funds to
4915 enact this bill.

4916 And I know the chair indicated that the funds actually
4917 will just come from the fees that are paid in by people
4918 coming in legally.

4919 On Page 44, it is part of Section 134 this amendment
4920 would strike, it says in addition to any funds appropriated
4921 to carry out this section, the secretary may use up to \$10
4922 million from the Immigration Examinations Fee account.

4923 So there will be this account from people who are paying
4924 fees to come in legally. That will be up to \$10 million
4925 there.

4926 But as Section 134 points out, that is in addition to
4927 other funds that will be appropriated. So it will be both,
4928 as I said earlier, and I did want to make that clear.

4929 Ms. Lofgren. Would the gentleman yield on that point?

4930 Mr. Gohmert. Yes.

4931 Ms. Lofgren. You are correct in reading this. However,
4932 we can't know what the Appropriations Committee would do. I
4933 just would note that the entire immigration system, USCIS, is
4934 100 percent supported by fees.

4935 There are no appropriated funds and I would expect that
4936 this would be the same as the entire rest of the USCIS
4937 system. There is no appropriated funds to run it. It is all
4938 fee driven.

4939 And I thank the gentleman for yielding.

4940 Mr. Gohmert. Certainly, and I appreciate that point.
4941 Exactly right. We don't know what amount may be
4942 appropriated. But it is anticipated there will be some
4943 amount and it should be noted that once you start pulling off
4944 funds from those CIS fees, then you can turn that fund upside
4945 down from where it is currently being effective.

4946 So I would encourage my colleagues, please support this
4947 amendment. It will make the bill better and it will make it
4948 more palatable for so many, including those who came in
4949 legally.

4950 And with that, I would yield back to my friend from
4951 Colorado.

4952 Mr. Buck. And I yield back, Madam Chair.

4953 Ms. Lofgren. The gentleman yields back.

4954 The question is on the amendment.

4955 All those in favor of the amendment will signify by
4956 saying aye.

4957 All those who are opposed will say no.

4958 In the opinion of the chair, the noes have it.

4959 The gentleman from Ohio is recognized for purposes of --

4960 Mr. Chabot. I have an amendment at the desk.

4961 Ms. Lofgren. Amendment at the desk.

4962 Clerk will report the amendment and I reserve a point of
4963 order.

4964 Ms. Strasser. Amendment to the amendment in the nature
4965 of a substitute to H.R. 5038.

4966 [The amendment of Mr. Chabot follows:]

4967

4968 Mr. Chabot. I ask unanimous consent the amendment be
4969 considered as read.

4970 Ms. Lofgren. So ordered. Yeah.

4971 Mr. Chabot. Thank you.

4972 Madam Chair, my amendment recognizes the danger that
4973 driving under the influence of alcohol or drugs presents to
4974 all our communities.

4975 It makes individuals ineligible for amnesty under this
4976 bill if they have a conviction for a misdemeanor DUI, if
4977 their impaired driving led to the serious bodily injury or
4978 death of another person, or if they have been convicted of
4979 multiple DUI offenses.

4980 According to MADD, Mothers Against Drunk Driving, the
4981 average drunk driver by the time that they are arrested for a
4982 DUI has driven 80 times drunk before they actually get picked
4983 up.

4984 Further, MADD estimates that drunk drivers injure
4985 hundreds of thousands of innocent individuals every year and
4986 kill thousands more each and every year in this country.

4987 Individuals who demonstrably have repeatedly put
4988 themselves and others at risk by driving under the influence
4989 should be removed and not given the generous amnesty provided
4990 in this bill.

4991 As currently drafted, unless an applicant has been
4992 convicted of a felony DUI, he or she is eligible for amnesty

4993 until they are convicted of three additional misdemeanors.

4994 This means that an applicant for amnesty could have
4995 already been convicted twice of a misdemeanor DUI and still
4996 be eligible for amnesty.

4997 It could even have a third charge, or more, than that
4998 pending so long as they haven't been convicted. Yet, they
4999 are eligible for this pathway to citizenship.

5000 My amendment is necessary because even though an
5001 individual with two crimes involving moral turpitude is
5002 ineligible for amnesty under the bill, most misdemeanor DUI
5003 offenses are not crimes involving moral turpitude under the
5004 longstanding Board of Immigration Appeals precedent.

5005 Some may point out that the secretary could, in theory,
5006 deny an applicant with two DUIs in the exercise of
5007 discretion. That is certainly a possibility under the bill
5008 but it isn't required.

5009 I, for one, believe that Congress should send a clear
5010 message that amnesty should not be granted to individuals who
5011 have demonstrated that they pose a threat to our communities
5012 and don't respect our law by driving while impaired by
5013 alcohol or drugs.

5014 My amendment is simple. It ensures that individuals who
5015 have been convicted of a DUI offense that caused serious
5016 bodily injury to another or death or who has been convicted
5017 of two or more DUIs are ineligible to have their status

5018 adjusted.

5019 A special path to citizenship that this bill provides is
5020 a significant immigration benefit that should not be given
5021 lightly and certainly should not be given to individuals who
5022 have proven themselves dangerous to our communities with
5023 repeated DUI offenses or a DUI offense that caused injury or
5024 death to another person.

5025 I hope that my colleagues from across the aisle will
5026 support my amendment to help keep impaired drivers off our
5027 roads.

5028 We should not be passing laws which shield drunk drivers
5029 from removal or reward them for their dangerous conduct by
5030 fast tracking them to get a green card.

5031 By voting against my amendment you will be doing just
5032 that.

5033 And I yield back.

5034 Ms. Lofgren. Gentleman yields back.

5035 I recognize myself for five minutes in opposition to the
5036 amendment.

5037 First, I would note that last year we had an ag labor
5038 bill introduced by Chairman Goodlatte that passed this
5039 committee with only Republican votes and that bill had no
5040 provision such as being offered by the gentleman from Ohio
5041 today.

5042 In fact, that bill was exactly the same as the current

5043 bill relative to disqualification.

5044 Second, the reason why the amendment wasn't in the
5045 Goodlatte bill and shouldn't be included here is that it is
5046 unnecessary.

5047 DUI is a serious issue. No one wants to give benefits
5048 to individuals who are true threats to public safety and this
5049 bill accomplishes that by, first, categorically barring
5050 applicants for serious or repeat offenses, and two, providing
5051 DHS with significant discretion to otherwise deny individuals
5052 for other reasons, including because of DUI convictions.

5053 Let us go through all the ways in which the bill
5054 authorizes DHS to deny benefits to individuals with DUIs.

5055 First, the bill bars anyone with a felony conviction,
5056 including felony DUI. Most states will charge a person with
5057 a felony on their second or third DUI.

5058 Second, the bill bars persons with crimes involving
5059 moral turpitude, which includes a DUI with a suspended
5060 license and a DUI involving serious harm.

5061 Third, the bill bars anyone with more than two
5062 misdemeanors of any kind.

5063 Finally, the bill does not force the secretary to grant
5064 status to anyone just because they lack such convictions, as
5065 with current law in other categories of immigration.

5066 The bill provides discretion to deny cases when other
5067 factors are present and this could include lesser DUI

5068 convictions or even arrests without convictions.

5069 Now, I have heard the claim over and over through the
5070 years that even one DUI is too many, and we all believe that
5071 this is a serious matter.

5072 But if a single DUI conviction automatically makes an
5073 individual a threat to public safety, then perhaps we should
5074 change the rules of this House because we have members who
5075 serve with us who have been convicted of DUIs.

5076 Are they a threat to public safety? Should we change
5077 the rules and boot them from the House of Representatives?

5078 I, for one, do not think we should paint with such a
5079 broad brush. People make mistakes and laws and policy
5080 decisions we make should reflect that.

5081 The bill provides ample protection for DUIs. The
5082 amendment is not only unnecessary but it is novel because it
5083 was not offered to Mr. Goodlatte's bill last year.

5084 With that, I would yield back.

5085 Are there additional speakers to this amendment?

5086 If not, the question is on the amendment.

5087 All those who are in favor will say aye.

5088 Those who are opposed will say no.

5089 In the opinion of the chair, the noes have it.

5090 Mr. Chabot. I would request a recorded vote.

5091 Ms. Lofgren. The gentleman from Ohio asks for a
5092 recorded vote.

5093 The clerk will call the roll, please.

5094 Ms. Strasser. Mr. Nadler?

5095 Ms. Lofgren?

5096 Ms. Lofgren. No.

5097 Ms. Strasser. Ms. Lofgren votes no.

5098 Ms. Jackson Lee?

5099 Mr. Cohen?

5100 Mr. Johnson of Georgia?

5101 Mr. Deutch?

5102 Ms. Bass?

5103 Mr. Richmond?

5104 Mr. Jeffries?

5105 Mr. Cicilline?

5106 Mr. Swalwell?

5107 Mr. Lieu?

5108 Mr. Lieu. No.

5109 Ms. Strasser. Mr. Lieu votes no.

5110 Mr. Raskin?

5111 Ms. Jayapal?

5112 Ms. Jayapal. No.

5113 Ms. Strasser. Ms. Jayapal votes no.

5114 Mrs. Demings?

5115 Mr. Correa?

5116 Mr. Correa. No.

5117 Ms. Strasser. Mr. Correa votes no.

5118 Ms. Scanlon?
5119 Ms. Garcia?
5120 Ms. Garcia. Yes.
5121 Ms. Strasser. Ms. Garcia votes yes.
5122 Mr. Neguse?
5123 Mrs. McBath?
5124 Mrs. McBath. No.
5125 Ms. Strasser. Mrs. McBath votes no.
5126 Mr. Stanton?
5127 Ms. Dean?
5128 Ms. Mucarsel-Powell?
5129 Ms. Mucarsel-Powell. No.
5130 Ms. Strasser. Ms. Mucarsel-Powell votes no.
5131 Ms. Escobar?
5132 Ms. Escobar. No.
5133 Ms. Strasser. Ms. Escobar votes no.
5134 Mr. Collins?
5135 Mr. Sensenbrenner?
5136 Mr. Chabot?
5137 Mr. Chabot. Aye.
5138 Ms. Strasser. Mr. Chabot votes aye.
5139 Mr. Gohmert?
5140 Mr. Gohmert. Aye.
5141 Ms. Strasser. Mr. Gohmert votes aye.
5142 Mr. Jordan?

5143 Mr. Buck?

5144 Mr. Buck. Aye.

5145 Ms. Strasser. Mr. Buck votes aye.

5146 Mr. Ratcliffe?

5147 Mrs. Roby?

5148 Mrs. Roby. Aye.

5149 Ms. Strasser. Mrs. Roby votes aye.

5150 Mr. Gaetz?

5151 Mr. Johnson of Louisiana?

5152 Mr. Biggs?

5153 Mr. McClintock?

5154 Mrs. Lesko?

5155 Mr. Reschenthaler?

5156 Mr. Cline?

5157 Mr. Cline. Aye.

5158 Ms. Strasser. Mr. Cline votes aye.

5159 Mr. Armstrong?

5160 Mr. Steube?

5161 Mr. Steube. Yes.

5162 Ms. Strasser. Mr. Steube votes yes.

5163 Mr. Cohen, you are not recorded.

5164 Chairman Nadler. How am I recorded?

5165 Ms. Strasser. Mr. Nadler, you are not recorded.

5166 Chairman Nadler. No.

5167 Ms. Strasser. Mr. Nadler votes no.

5168 Ms. Garcia. How am I recorded?

5169 Ms. Strasser. Ms. Garcia, you are recorded as yes.

5170 Ms. Garcia. I am sorry. That is a no.

5171 Ms. Strasser. Ms. Garcia votes no.

5172 Mr. Cohen. And no.

5173 Ms. Strasser. Mr. Cohen votes no.

5174 Chairman Nadler. One at a time.

5175 Mr. Johnson?

5176 Mr. Johnson of Georgia. No.

5177 Ms. Strasser. Mr. Johnson of Georgia, you are not

5178 recorded.

5179 Chairman Nadler. The other gentleman from Georgia.

5180 Ms. Strasser. Mr. Johnson of Georgia votes no.

5181 Mr. Collins votes yes?

5182 Mr. Collins. Yes.

5183 Ms. Jackson Lee. How is Ms. Jackson Lee recorded?

5184 Ms. Strasser. Ms. Jackson Lee, you are not recorded.

5185 Ms. Jackson Lee. No.

5186 Ms. Strasser. Ms. Jackson Lee votes no.

5187 Ms. Dean, you are not recorded.

5188 Ms. Dean. No.

5189 Ms. Strasser. Ms. Dean votes no.

5190 Mr. Stanton. Am I recorded?

5191 Ms. Strasser. Mr. Stanton, you are not recorded.

5192 Mr. Stanton. I will vote no.

5193 Ms. Strasser. Mr. Stanton votes no.

5194 Mr. Cicilline. How am I recorded?

5195 Ms. Strasser. Mr. Cicilline, you are not recorded.

5196 Mr. Cicilline votes no.

5197 Chairman Nadler. Does anyone wish to vote who hasn't

5198 voted?

5199 Has anyone not voted who wishes to vote?

5200 The clerk will report.

5201 [Pause.]

5202 Chairman Nadler. [Presiding.] The gentleman from

5203 Maryland.

5204 Mr. Raskin. No.

5205 Ms. Strasser. Mr. Raskin votes no.

5206 Chairman Nadler. Let me ask the question again. Has

5207 everyone voted who wishes to vote?

5208 The clerk will report.

5209 Ms. Strasser. Mr. Chairman, there are seven ayes and 16

5210 noes.

5211 Chairman Nadler. The amendment is not recorded. I am

5212 sorry, the amendment is not adopted.

5213 Before we go on to the next amendment, I want to make an

5214 announcement.

5215 We will recess the committee at approximately 3:00 p.m.

5216 so that our Democratic Caucus members may attend an important

5217 caucus meeting. We expect a series of votes on the House

5218 floor at approximately 4:30 or 5:00 o'clock.

5219 As I do not expect, unfortunately, that we will have
5220 finished all of our committee business by 3:00 o'clock, which
5221 is in 20 minutes, I would ask all members to return to the
5222 committee immediately after votes to continue our business.

5223 So we will be recessing at about 3:00. We will
5224 reconvene immediately after the series of votes that we
5225 expect at 4:30 or 5:00 o'clock. Please return as soon as
5226 those votes are over so we can continue.

5227 I should say that we will go somewhat into the evening
5228 and if we don't finish we will have to reconvene tomorrow
5229 morning.

5230 Mr. Gohmert. Will the chairman yield?

5231 Chairman Nadler. Obviously, I don't know if we will
5232 finish tonight.

5233 Yes, go ahead.

5234 Mr. Gohmert. Would the chair find it helpful for
5235 Republican members to go to your caucus with you?

5236 [Laughter.]

5237 Chairman Nadler. You might find it interesting. But
5238 probably not.

5239 It wouldn't speed things up.

5240 [Laughter.]

5241 Chairman Nadler. Okay. Is there -- are there any
5242 further amendments to the amendment in the nature of a

5243 substitute?

5244 The gentleman from Maryland?

5245 Mr. Raskin. Mr. Chairman, just a point of order about

5246 your last point. Are we to return after the Democratic

5247 Caucus just after --

5248 Chairman Nadler. No. No. No.

5249 After the Democrat -- that is not a point of order. It

5250 is a point of information.

5251 Mr. Raskin. Okay.

5252 Chairman Nadler. After the point -- after the point of

5253 order, after the Democratic Caucus there will be votes on the

5254 floor. We should return here as soon as the votes on the

5255 floor are over.

5256 That is the answer to your question.

5257 Are there further amendments to the amendment in the

5258 nature of a substitute?

5259 The gentleman from Colorado?

5260 Mr. Buck. Mr. Chairman, I have an amendment at the

5261 desk.

5262 Chairman Nadler. The clerk will report the amendment.

5263 Ms. Lofgren. I reserve a point of order.

5264 Chairman Nadler. The gentlelady reserves a point of

5265 order.

5266 The clerk will report the amendment.

5267 Ms. Strasser. Amendment to the amendment in the nature

5268 of a substitute to H.R. 5038, offered by Mr. Buck of
5269 Colorado. Page 24 beginning on line one, strike "as a matter
5270 of just and reasonable inference" and insert "by clear and
5271 convincing evidence."

5272 [The amendment of Mr. Buck follows:]

5273

5274 Chairman Nadler. The gentleman is recognized for the
5275 purpose of explaining his amendment.

5276 Mr. Buck. Thank you, Mr. Chairman.

5277 This amendment is simple. It requires an individual
5278 applying for status as a certified agricultural worker to
5279 meet a clear and convincing evidence standard when producing
5280 documentation to show their agricultural employment history.

5281 As currently written, the bill requires an extremely low
5282 standard -- just and reasonable inference, which equates to
5283 nothing more than accepting a petitioner's affidavit claiming
5284 work history on a wink and a promise.

5285 In fact, this evidence standard is most often used in
5286 unpaid wage claims and was also unsuccessfully utilized in
5287 the 1986 special agricultural worker legalization bill. That
5288 legislation led to widespread fraud and even amnesty for one
5289 of the World Trade Center bombers, who wasn't an agricultural
5290 worker at all but a taxi driver in New York City.

5291 Merely requiring an applicant to produce evidence
5292 showing the extent of his or her employment as a matter of
5293 just and reasonable inference is too low a standard to confer
5294 a status that will put certified agricultural workers on a
5295 path to a green card and, eventually, citizenship.

5296 In unpaid wage claims suits, courts have ruled that a
5297 just and reasonable inference standard merely requires
5298 testimonial evidence which may then be rebutted by the

5299 employer.

5300 But in this context when Congress is offering the
5301 opportunity to become a U.S. citizen, how can we know for
5302 sure that the individual's statement of work history is true?

5303 Furthermore, even though the bill includes the
5304 possibility that an applicant can submit verifiable
5305 employment records, that isn't required.

5306 This standard will only result in DHS having to take the
5307 applicants, quite literally, at their word. This is in
5308 addition to the fact that one of the forms of evidence an
5309 applicant may submit to prove farm work history is a sworn
5310 affidavit from an individual who has direct knowledge of the
5311 alien's work history.

5312 Nothing precludes the alien from submitting his or her
5313 own sworn affidavit. This creates perverse incentives which
5314 an alien only has to say they worked in agriculture, submit
5315 his or her own affidavit, and wait for DHS to rubber stamp a
5316 pathway to citizenship.

5317 If it wasn't so ridiculous, it would be laughable. It
5318 is necessary to raise the evidentiary standard to prevent
5319 fraud and properly verify that applicants have actually
5320 worked the required time in an agricultural job.

5321 Clear and convincing is a higher standard than just and
5322 reasonable inference. But it is not insurmountable. In
5323 fact, Chairperson Lofgren uses the clear and convincing

5324 standard when requiring the secretary of Homeland Security to
5325 show that an employer is not complying with E-verify
5326 requirements.

5327 I urge my colleagues not to make the same mistakes that
5328 Congress made in 1986, special agricultural work amnesty
5329 program, and to instead raise the evidentiary standard to
5330 ensure integrity of this extraordinary benefit.

5331 I urge my colleagues to support the amendment and I
5332 yield back.

5333 Chairman Nadler. Before I yield to -- the gentleman
5334 yields back.

5335 Before I yield to the gentlelady from California, I
5336 would point out the amendment erroneously says Page 24.

5337 That should be Page 34, Page 34, beginning on line one,
5338 et cetera. So everyone should make that correction.

5339 I now yield to the gentlelady from California.

5340 Ms. Lofgren. Mr. Chairman?

5341 Chairman Nadler. Rather, I recognize the gentlelady.

5342 Ms. Lofgren. I move to strike the last word.

5343 Chairman Nadler. The gentlelady strikes the last word.

5344 Ms. Lofgren. I oppose the amendment and here is why.

5345 Secretary still has substantial discretion in the bill.

5346 But these are farm workers who have been undocumented, who

5347 may have -- may not have the most orderly records in the

5348 world.

5349 Every other immigration benefit in the whole Immigration
5350 and Nationality Act is preponderance of the evidence. It is
5351 not clear and convincing, which is a very high standard. We
5352 would be making the standard for this higher than any other
5353 standard in the Act, which is unreasonable.

5354 But I do think the annual record of certified
5355 agricultural worker employment, employment records from
5356 employers, collective bargainers, these are going to be hard
5357 for people to get, which is why the sworn affidavits, which
5358 is under penalty of perjury -- a pretty big deal -- is one of
5359 the things that is permitted.

5360 The secretary has broad discretion in whether or not to
5361 accept the documents that are advanced. I do think,
5362 obviously, the gentleman doesn't want fraud in the program
5363 and neither do I. I don't think the amendment will
5364 accomplish that.

5365 But if the gentleman has other ideas between now and the
5366 floor for anti-fraud provisions, I would be very interested
5367 in discussing it with him to see if there is some further
5368 issues that could be dealt with.

5369 I don't think this will accomplish what you are hoping
5370 to accomplish and I would yield to the chairman.

5371 Chairman Nadler. Gentl lady yield?

5372 Thank you. I thank the gentl lady for yielding.

5373 I would also point out in law there are different

5374 standards of proof, obviously. If you want to convict
5375 someone of a crime you have to prove it beyond a reasonable
5376 doubt. That is the highest standard.

5377 In most civil suits, I sue you for a thousand dollars
5378 because you owe me the money and you never paid it, you need
5379 -- the standard is preponderance of the evidence, meaning
5380 more likely than not.

5381 Clear and convincing evidence is higher than you would
5382 need in most civil lawsuits, less than a criminal conviction
5383 but higher, substantially higher, than most civil lawsuits
5384 and especially in light of what the gentlelady pointed out
5385 about the, who we are talking about, people who are not in a
5386 position to have the most clear cut records, et cetera, it is
5387 entirely unreasonable to request -- to require clear and
5388 convincing evidence, which is a very, very high and difficult
5389 standard of proof to meet.

5390 So I would join the gentlelady in opposing this
5391 amendment.

5392 I yield back to you.

5393 Mr. Buck. Would the gentlelady yield?

5394 Chairman Nadler. I yield back to the gentlelady.

5395 Ms. Lofgren. In just one second.

5396 I would just note that for the, in some cases, I am led
5397 to believe, that women sometimes work under their spouses'
5398 time sheet and may lack independent documentation, which is

5399 an additional complication for -- in addition to the clear
5400 and convincing evidence, which I think would be
5401 extraordinarily high.

5402 So I don't -- I can't support this amendment today. But
5403 I -- if there are other ways to address the issue you are
5404 raising, which is to prevent fraud, I would be eager to hear
5405 them between now and the floor, and I do think a fail-safe
5406 provision is the discretion given to the secretary.

5407 And I will be happy to yield to the gentleman from
5408 Colorado.

5409 Mr. Buck. I appreciate that, and I would note two
5410 things.

5411 One, the clear and convincing standard is used on the E-
5412 verify portion of this bill. And secondly, if the gentlelady
5413 would propose an amendment to my amendment for stating that
5414 it is a preponderance of the evidence, I would accept that as
5415 a friendly amendment.

5416 Ms. Lofgren. Let us do this. I can't do that at this
5417 time. But I would be happy to discuss it further with you
5418 and also to involve the bipartisan co-authors of this bill
5419 because this has been a collaboration from day one.

5420 So I would be happy to have a further discussion on the
5421 latter point, and the E-verify, you know, and Mr. Gohmert
5422 made this point on an earlier amendment, it is in a different
5423 status than some of the other provisions.

5424 It is taxpayer funded because it is enforcement and
5425 there are certain other provisions. It is separated out from
5426 the rest of the Immigration and Nationality Act.

5427 So with that, I am looking forward to further
5428 discussions. But I can't support the amendment today.

5429 Mr. Buck. When this is defeated I look forward to
5430 having those discussions.

5431 Ms. Lofgren. I yield back, Mr. Chairman.

5432 Chairman Nadler. The gentlelady yields back.

5433 The question occurs on the amendment.

5434 All in favor say aye.

5435 Opposed, no.

5436 The noes have it. The amendment is defeated.

5437 Are there further amendments to the amendment in the
5438 nature of a substitute?

5439 The gentleman from Florida?

5440 For what purpose does the gentleman from Florida seek
5441 recognition?

5442 Mr. Steube. I have an amendment at the desk.

5443 Chairman Nadler. The clerk will report the amendment.

5444 Ms. Lofgren. I reserve a point of order.

5445 Chairman Nadler. The gentlelady reserves a point of
5446 order.

5447 Ms. Strasser. Amendment to the amendment in the nature
5448 of a substitute to H.R. 5038, offered by Mr. Steube of

5449 Florida. In Section 218 of the Immigration and Nationality
5450 Act, as proposed to be amended by Section 202, strike
5451 Secretary of Labor each place it appears and insert Secretary
5452 of Agriculture. In Section 203, strike Secretary of Labor
5453 each place it appears and insert Secretary of Agriculture.

5454 [The amendment of Mr. Steube follows:]

5455

5456 Chairman Nadler. The gentleman is recognized for the
5457 purpose of explaining his amendment.

5458 Mr. Steube. Thank you, Mr. Chairman.

5459 In 1962, President Abraham Lincoln created the
5460 Department of Agriculture, recognizing the importance of
5461 agriculture to the American economy and the need for the
5462 federal agency dedicated to the requirements and needs of
5463 America's farmers.

5464 Today, the USDA still provides leadership on food,
5465 agriculture, natural resources, rural development, nutrition,
5466 and related issues based on public policy, the best available
5467 science, and effective management.

5468 They are the expert when it comes to agriculture and,
5469 therefore, are the best people to determine the needs of the
5470 agriculture community when it comes to labor.

5471 That is why I am proposing this amendment to move the H-
5472 2A program from the jurisdiction of the Department of Labor
5473 to the jurisdiction of the Department of Agriculture.

5474 I will give you a little bit of history and knowledge
5475 about my particular district and why I think this is
5476 important.

5477 My congressional district is the number-one citrus-
5478 producing district in the entire country. So if you are
5479 drinking orange juice, pretty good chance it came from my
5480 district.

5481 And talking to the citrus growers, the dairy ranchers,
5482 the cattle ranchers, and the -- all the farmers that we have
5483 in my district, one of the big frustrations that they have
5484 had in dealing with the Department of Labor -- and I have got
5485 a couple of other amendments later that are going to discuss
5486 some of these more specific issues -- is the challenges that
5487 they face in discussing their agricultural-related issues to
5488 the Department of Labor, who doesn't have an understanding of
5489 the issues that they face in agriculture.

5490 So this bill would take it back to where it previously
5491 was. The H-2A program used to be administered by the
5492 Department of Ag and at some point in time Congress decided
5493 to move it to the Department of Labor.

5494 So I think it is appropriate that the Department of
5495 Agriculture oversee -- be the agency overseeing agricultural
5496 workforce and agricultural labor.

5497 So this amendment would move the H-2A program from the
5498 Department of Labor to the Department of Agriculture.

5499 Chairman Nadler. Gentleman yield back?

5500 Mr. Steube. I yield back.

5501 Chairman Nadler. Gentleman yields back. I would point
5502 out that in 1862, Congress, perhaps at the recommendation of
5503 President Lincoln, established the Department of Agriculture.

5504 Mr. Steube. Noted.

5505 [Laughter.]

5506 Chairman Nadler. We have to stick up for the
5507 prerogatives of our branch.

5508 For what purpose does the gentlelady from California
5509 seek recognition?

5510 Ms. Lofgren. To strike the last word.

5511 Chairman Nadler. The gentlelady is recognized.

5512 Ms. Lofgren. And to speak in opposition to the
5513 amendment and I also withdraw my point of order.

5514 I think the amendment is outdated to some extent. It is
5515 true that growers were once frustrated with the Department of
5516 Labor and there was a big effort to transfer processing to an
5517 agency that was perceived as friendlier to their interests.

5518 But I think time has passed us by. Most growers are
5519 relatively happy with the DOL processing and in discussing
5520 with us over these past many months opposed the involvement
5521 of another government agency, particularly the Department of
5522 Agriculture, which has no experience in making labor
5523 certifications.

5524 The Department of Labor is the only agency that
5525 possesses the high level of technical expertise and
5526 experience that is required to properly administer the labor
5527 certification component of the H-2A program.

5528 That means that the Department of Labor is best equipped
5529 to determine when workers are needed and to ensure that wages
5530 and working conditions of U.S. workers are not compromised as

5531 a result of the employment of H-2A workers.

5532 The USDA has no experience administering or enforcing
5533 such programs, and it is not only that they lack expertise in
5534 the area; they also actually lack the infrastructure to carry
5535 out the responsibility.

5536 If the USDA were to assume all or a portion of the labor
5537 certification process, the agency would be required to invest
5538 a massive amount of money and time to acquire the necessary
5539 resources to train their staff.

5540 It would delay the H-2A program. In fact, there
5541 wouldn't be any H-2A workers coming into the United States
5542 for quite some time because the Department of Agriculture
5543 would be unable to actually meet the requirements, even under
5544 the current law, let alone the changes proposed in this bill.

5545 So the Department of Labor, once not loved by the
5546 agricultural community, has actually been working with
5547 growers to improve the H-2A processing.

5548 I think most growers prefer keeping the labor
5549 certification process with the Department of Labor. Since
5550 2013, the Department of Labor has improved the processing
5551 times, which currently average 26 days.

5552 And, of course, with the streamlining procedures in this
5553 bill -- one portal, no advertising in the newspaper, being
5554 able to do rolling approvals -- that whole process is going
5555 to be further improved for employers.

5556 And so although I am sure that the gentleman offers this
5557 amendment in good faith, I think it would weaken the bill and
5558 it would be disruptive to the program. And so I urge
5559 opposition to the amendment with thanks to his input.

5560 And yield back, Mr. Chairman.

5561 Chairman Nadler. Gentlelady yields back.

5562 The question occurs on the amendment.

5563 All in favor of the amendment will say aye.

5564 Opposed, no.

5565 The ayes have it. The amendment is not adopted.

5566 It is now 3:00 o'clock. We will recess the committee at
5567 this point, but we will return as soon -- as I said before,
5568 we are expecting a vote series at about 4:30 or 5:00.

5569 As soon as that vote series is over, please return here
5570 promptly so we can get as much done as possible and we don't
5571 have to work too late tomorrow.

5572 Thank you very much. The committee is recessed.

5573 [Recess.]

5574 Chairman Nadler. The committee will come to order,
5575 please.

5576 We are resuming consideration of the amendment in the
5577 nature of a substitute on H.R. 5038, the Farm Workforce
5578 Modernization Act of 2019. What is before us is the
5579 amendment in the nature of a substitute. Are there any
5580 further amendments to the amendment in the nature of a

5581 substitute?

5582 [No response.]

5583 Chairman Nadler. If there are no further amendments.

5584 [Laughter.]

5585 Chairman Nadler. For what purpose does the gentlelady
5586 from Arizona seek recognition?

5587 Mrs. Lesko. Thank you, Mr. Chair. Yeah, almost. We
5588 lucked out, huh?

5589 [Laughter.]

5590 Mrs. Lesko. Thank you, Mr. Chairman. I have an
5591 amendment at the desk.

5592 Chairman Nadler. There is an amendment at the desk.
5593 The clerk will report the amendment.

5594 Ms. Lofgren. I reserve a point of order.

5595 Chairman Nadler. The gentlelady reserves a point of
5596 order.

5597 Ms. Strasser. Amendment to the amendment in the nature
5598 of a substitute to H.R. 5038, offered by Mrs. Lesko of
5599 Arizona. Strike Section 111(a)(2)(B)(2) and insert the
5600 following.

5601 Chairman Nadler. Without objection, the amendment is
5602 considered as read.

5603 [The amendment of Mrs. Lesko follows:]

5604

5605 Chairman Nadler. The gentlelady from Arizona is
5606 recognized for the purpose of explaining her amendment.

5607 Mrs. Lesko. Thank you, Mr. Chairman. Under H.R. 5038,
5608 dependent spouses and children of a certified agricultural
5609 worker can self-petition for adjustment of status to obtain a
5610 green card if they have been battered or subjected to extreme
5611 cruelty by the certified agricultural worker. My amendment
5612 makes sure there is accountability for individuals who would
5613 batter their spouses and children or subject them to extreme
5614 cruelty by requiring the Secretary of Homeland Security to
5615 deny any pending adjustment application and revoke certified
5616 agricultural worker status for the principal alien who
5617 commits the battery or extreme cruelty.

5618 Under the bill as written, the spouse and children can
5619 self-petition to receive green cards, but there is no
5620 consequence for the certified agricultural worker who
5621 battered or subjected their family members to extreme
5622 cruelty. Self-petitioning is an extraordinary remedy and
5623 should not be taken lightly, but should always be supported
5624 with adequate evidence. And where that evidence shows that a
5625 certified agricultural worker committed battery or extreme
5626 cruelty of his or her spouse or child, that certified
5627 agricultural worker should not be permitted to receive a
5628 green card nor to remain in certified agricultural status.
5629 And I urge my colleagues to support my amendment.

5630 Chairman Nadler. Would the gentlelady yield for a
5631 question?

5632 Mrs. Lesko. I will.

5633 Chairman Nadler. My question is the following. It is
5634 one thing to, if someone is subjected to violence, still get
5635 a green card. It is another thing to say that there should
5636 be a penalty assessed against someone who commits violence.
5637 That has to be proven. Under your amendment, before this
5638 person was denied a green care or admission or whatever, what
5639 kind of proceeding would there be to determine whether, in
5640 fact, the allegation is true? What standard of proof? In
5641 other words, someone says that Joe committed violence and the
5642 Secretary should deny the green card, but who would determine
5643 whether it is true that Joe committed violence?

5644 Mrs. Lesko. Thank you, Mr. Chairman. I would assume
5645 that when this whole evidence is being done, for instance, on
5646 the green card, if the spouse or child when they are
5647 petitioning saying that they have been violated against or
5648 abused or, you know, whatever, that then it would be
5649 determined then that that actually happened, that there was
5650 concrete evidence that that happened. And if that does
5651 happen, my concern is under the bill, there is no avenue to
5652 then say, okay, the person that actually did the abuse
5653 shouldn't have the green card.

5654 And so, you know, if the language is not clear, I am

5655 open to amending it by a voice amendment. But that is the
5656 goal of my amendment, just to say that, listen, if we have
5657 evidence that an agricultural worker that has this status is
5658 abusing their child, their spouse, they shouldn't have the
5659 privilege of keeping the green card.

5660 Chairman Nadler. Do you yield back?

5661 Mrs. Lesko. Yes, I yield back.

5662 Chairman Nadler. I recognize myself. You raise an
5663 interesting problem, and arguably we should do something
5664 about it. But the amendment as written, you might have one
5665 standard for saying we are going to grant the green card to
5666 someone who seems to be a victim of violence and who presents
5667 a good case that they are victims of violence. But you can't
5668 just leave it to the Secretary to determine penalty for what
5669 amounts to a criminal violation.

5670 So it seems to me we have to figure out some way of
5671 having some sort of proceeding of a more judicial nature, not
5672 necessarily, I don't know, in front of a court. It seems to
5673 me that you raise a question which we can look at it, but the
5674 amendment in its current form cannot be supported.

5675 Mrs. Lesko. Well, thank you, Mr. Chairman. I will
5676 point out --

5677 Chairman Nadler. I yield to the gentlelady.

5678 Mrs. Lesko. Oh, thank you. Thank you, Mr. Chairman. I
5679 will point out that apparently there is enough evidence that

5680 you are going to grant the spouse or child a green card based
5681 on the abuse. So, you know, I think the standard should be
5682 the same because the Secretary is determining that.

5683 Chairman Nadler. I will reclaim my time. That is the
5684 disagreement. I don't think the standard should be the same.
5685 You can be okay with granting someone relief to stay in the
5686 country, you know, get a green card because you are a victim
5687 of violence. The standard of proof before you penalize
5688 someone for doing the violence, which is a criminal act, has
5689 got to be maybe somewhat different and maybe a different
5690 proceeding. So as I said, you raise an interesting question,
5691 but I would have to oppose the amendment, and I urge that the
5692 amendment --

5693 Ms. Lofgren. Would the gentleman --

5694 Chairman Nadler. -- in its present form not be
5695 supported. I yield to the gentlelady.

5696 Ms. Lofgren. I thank the chairman for yielding. I
5697 think the point that you are making here is not an
5698 unreasonable one. I am not prepared to accept this amendment
5699 as written today, but I do think that the logic of dealing
5700 with it is there. And I am hopeful that we can work together
5701 between now and the floor and come up with something that
5702 really addresses the issue that you have raised, and I would
5703 promise to do that with you.

5704 Chairman Nadler. I yield.

5705 Mrs. Lesko. Would the chairman yield? And thank you,
5706 Ms. Lofgren. And I serve on the Rules Committee, so I guess
5707 I could always do an amendment in the Rules Committee if we
5708 get to an agreement. Thank you. But obviously I still
5709 support my amendment.

5710 Chairman Nadler. Okay. The question occurs on the
5711 amendment.

5712 All in favor of the amendment, say aye.

5713 Opposed, no.

5714 The noes have it. The amendment is not agreed to.

5715 Mrs. Lesko. Mr. Chair, I call for a recorded vote.

5716 Chairman Nadler. A recorded vote is requested. The
5717 clerk will call the roll.

5718 Ms. Strasser. Mr. Nadler?

5719 Chairman Nadler. No.

5720 Ms. Strasser. Mr. Nadler votes no.

5721 Ms. Lofgren?

5722 Ms. Lofgren. No.

5723 Ms. Strasser. Ms. Lofgren votes no.

5724 Ms. Jackson Lee?

5725 Mr. Cohen?

5726 Mr. Johnson of Georgia?

5727 Mr. Deutch?

5728 Ms. Bass?

5729 Ms. Bass. No.

5730 Ms. Strasser. Ms. Bass votes no.
5731 Mr. Richmond?
5732 Mr. Jeffries?
5733 Mr. Cicilline?
5734 Mr. Cicilline. No.
5735 Ms. Strasser. Mr. Cicilline votes no.
5736 Mr. Swalwell?
5737 Mr. Lieu?
5738 Mr. Raskin?
5739 Mr. Raskin. No.
5740 Ms. Strasser. Mr. Raskin votes no.
5741 Ms. Jayapal?
5742 Ms. Jayapal. No.
5743 Ms. Strasser. Ms. Jayapal votes no.
5744 Mrs. Demings?
5745 Mr. Correa?
5746 Mr. Correa. No.
5747 Ms. Strasser. Mr. Correa votes no.
5748 Ms. Scanlon?
5749 Ms. Scanlon. No.
5750 Ms. Strasser. Ms. Scanlon votes no.
5751 Ms. Garcia?
5752 Ms. Garcia. No.
5753 Ms. Strasser. Ms. Garcia votes no.
5754 Mr. Neguse?

5755 Mrs. McBath?
5756 Mrs. McBath. No.
5757 Ms. Strasser. Mrs. McBath votes no.
5758 Mr. Stanton?
5759 Mr. Stanton. No.
5760 Ms. Strasser. Mr. Stanton votes no.
5761 Ms. Dean?
5762 Ms. Mucarsel-Powell?
5763 Ms. Escobar?
5764 Mr. Collins?
5765 Mr. Sensenbrenner?
5766 Mr. Chabot?
5767 Mr. Gohmert?
5768 Mr. Gohmert. Yes.
5769 Ms. Strasser. Mr. Gohmert votes yes.
5770 Mr. Jordan?
5771 Mr. Buck?
5772 Mr. Ratcliffe?
5773 Mrs. Roby?
5774 Mr. Gaetz?
5775 Mr. Johnson of Louisiana?
5776 Mr. Biggs?
5777 Mr. McClintock?
5778 Mrs. Lesko?
5779 Mrs. Lesko. Aye.

5780 Ms. Strasser. Mrs. Lesko votes aye.

5781 Mr. Reschenthaler?

5782 Mr. Cline?

5783 Mr. Cline. Aye.

5784 Ms. Strasser. Mr. Cline votes aye.

5785 Mr. Armstrong?

5786 Mr. Steube?

5787 Mr. Steube. Yes.

5788 Ms. Strasser. Mr. Steube votes yes.

5789 Chairman Nadler. Are there any members who wish to vote

5790 who haven't voted yet?

5791 [No response.]

5792 Chairman Nadler. The clerk will report.

5793 The gentleman from Colorado? I am sorry. The gentleman

5794 from Arizona?

5795 [Laughter.]

5796 Chairman Nadler. The gentleman from Georgia?

5797 Mr. Johnson of Georgia. No.

5798 Ms. Strasser. Mr. Biggs votes yes.

5799 Mr. Johnson of Georgia votes no.

5800 Chairman Nadler. Is there anybody else who wants to

5801 vote who hasn't voted?

5802 [No response.]

5803 Chairman Nadler. The clerk will report.

5804 Ms. Strasser. Mr. Chairman, there are 5 ayes --

5805 Chairman Nadler. One second. The gentleman from
5806 California?

5807 Mr. McClintock. Aye.

5808 Ms. Strasser. Mr. McClintock votes aye.

5809 Chairman Nadler. The gentleman from Ohio?

5810 Mr. Chabot. How am I recorded?

5811 Chairman Nadler. You are not.

5812 Mr. Chabot. Yes.

5813 Ms. Strasser. Mr. Chabot votes yes.

5814 Chairman Nadler. Now the clerk will report if no one
5815 else shows up.

5816 Ms. Strasser. Mr. Chairman, there are 7 ayes and 12
5817 noes.

5818 Chairman Nadler. The amendment is not agreed to. Are
5819 there any further amendments? For what purpose does the
5820 gentleman from Florida seek recognition?

5821 Mr. Steube. I have an amendment at the desk, Mr. Chair.

5822 Chairman Nadler. The gentleman has an amendment. The
5823 clerk will report the amendment.

5824 Ms. Strasser. Amendment to the amendment in the nature
5825 of a substitute --

5826 Ms. Lofgren. I reserve a point of order.

5827 Chairman Nadler. The gentlelady reserves a point of
5828 order.

5829 Ms. Strasser. Amendment to the amendment in the nature

5830 of a substitute to H.R. 5038, offered by Mr. Steube of
5831 Florida. Page 103, line 12, insert after "under this
5832 section" --

5833 Mr. Steube. Waive the reading.

5834 Ms. Strasser. -- the following.

5835 Chairman Nadler. Without objection, the amendment will
5836 be considered as read.

5837 [The amendment of Mr. Steube follows:]

5838

5839 Chairman Nadler. The gentleman from Florida is
5840 recognized for the purpose of explaining his amendment.

5841 Mr. Steube. Thank you, Mr. Chairman. For decades,
5842 farmers in my district and across America have relied upon
5843 the H-2A Visa Program for laborers that are vital to their
5844 operations. These workers assist with critical harvesting
5845 and other agricultural operations to help feed our country
5846 and other countries in the world. Some of these workers fill
5847 the essential positions of driving agricultural,
5848 horticulture, and Florida culture commodities. This is a
5849 very big issue in my district as we sit here right now.

5850 The Department of Labor has changed their interpretation
5851 of how they interpret H-2A labor to drive and haul produce,
5852 citrus, sugar cane, sugar beets, cotton from the fields to
5853 the processing facilities. And I will just give the example
5854 in my district, citrus growers who for decades have relied
5855 upon H-2A drivers to drive commodities from the citrus groves
5856 to the citrus processing facilities are currently being
5857 denied applications for those drivers at H-2A. I have worked
5858 through the Department of Labor on the issue. I have worked
5859 through the Administration on the issue. The Department of
5860 Labor has been unwilling to change their interpretation of
5861 the rule. The Florida Department of Citrus has actually
5862 filed a lawsuit against the Department of Labor as it relates
5863 to this issue, and I have basically been told that it needs

5864 to be fixed legislatively.

5865 So what this amendment would do is allow those H-2A
5866 workers, who for decades under previous interpretations of
5867 the rule would be allowed to be hired to drive the produce,
5868 or the citrus, or the cotton, or the sugar cane from the
5869 fields to the harvesting and processing facilities. This
5870 would make it very clear in the law that those individuals
5871 would be eligible for H-2A. That is the amendment, Mr.
5872 Chair.

5873 Chairman Nadler. Does the gentlelady insist on her
5874 point of order?

5875 Ms. Lofgren. No, I don't, Mr. Chairman.

5876 Chairman Nadler. The gentlelady does not insist on her
5877 point of order. The gentlelady is recognized.

5878 Ms. Lofgren. I would like to strike the last word. And
5879 I oppose the amendment, although I am sympathetic to where
5880 the gentleman is coming from. The current H-2A Program
5881 adopts an expansive definition of "agriculture." The
5882 definition includes "any practices performed by a farmer or
5883 on a farm as an incident to or in conjunction with such
5884 farming operations." So it also includes "delivery to
5885 storage, or to market, or to a carrier for transportation to
5886 market in its unmanufactured state any agricultural or
5887 horticultural commodity, but only if such labor is performed
5888 by an individual employed by the operator of a farm."

5889 Now, for years, labor contractors were approved for use
5890 of the H-2A, the trucking of ag products, under that
5891 definition. However, the Department of Labor has begun to
5892 deny applications filed by the labor contractors because it
5893 doesn't fit into the H-2A definition. Farmers and ag
5894 associations can continue to use the H-2A workers for these
5895 services, but not the contractors.

5896 Now, as I said, we have had 9 months of discussion.
5897 This was discussed among the bipartisan drafters of the bill,
5898 which issue, which industries, and positions should be in the
5899 program. Earlier today the ranking member was talking about
5900 chicken processing plants where there is a labor shortage and
5901 other things. But what we decided to do was just to focus on
5902 ag, not try and deal with every issue that exists in the
5903 immigration arena. Just focus on ag. And accordingly, the
5904 decision was made that we should not try and expand the scope
5905 of this bill, that we should leave the definitions as is.
5906 And it is part of the delicate compromise that was reached.

5907 I would note that we can run the specific amendment
5908 through the various bipartisan co-sponsors and see if there
5909 is any wiggle room on it in terms of the delicate
5910 negotiations. But in addition to the need that has been
5911 raised by the gentleman, which is not wrong, there is going
5912 to be quite a large number of newly-legalized individuals who
5913 will be able to take these jobs. For example, if you were

5914 adding 40,000 other worker visas for the non-college degree
5915 visa category, there is a preference for agriculture, but
5916 those individuals will be available to take jobs such as this
5917 one. Additionally, for those who get their LPR status
5918 following their ag worker visa, they are then free to move in
5919 whatever industry that we want.

5920 We know from the farmers who are here who could move
5921 into another industry as well as the historical practices
5922 from the 1986 act, that people who have been in ag for 10 or
5923 15 years tend not to leave ag. But for an ag-related job,
5924 that is inside and not outside in the field, there are going
5925 to be additional individuals who will be able to take these
5926 important functions for hire.

5927 So at this point I am not able to accept this amendment
5928 at this moment here in this markup, but I would like to think
5929 about it and see if there is any way to accommodate what has
5930 been expressed without blowing up the finely-tuned compromise
5931 that was reached after 9 months. And with that, I would
5932 yield back, Mr. Chairman.

5933 Chairman Nadler. For what purpose does the gentleman
5934 from Virginia seek recognition?

5935 Mr. Cline. I move to strike the last word.

5936 Chairman Nadler. The gentleman is recognized.

5937 Mr. Cline. Thank you, Mr. Chairman. I would yield to
5938 the gentleman from Florida.

5939 Mr. Steube. Thank you. I just want to respond, and I
5940 will even be willing to take out, because you talk about it
5941 being agriculture, and the language in my amendment says
5942 "agriculture, horticulture, and Florida culture," I would be
5943 even willing to take out "horticulture and Florida culture."
5944 I don't think, even if this bill were to pass without this
5945 amendment, that my growers in my district, the cotton growers
5946 in the southeast United States, the sugar cane and sugar beet
5947 growers all across the eastern seaboard, would be able to
5948 utilize the way they have utilized it in the last decades,
5949 because the Department of Labor is still going to interpret
5950 the rule as they are interpreting it right now. So they are
5951 not going to allow individuals who are filing applications
5952 for H-2A labor specifically to transport agricultural
5953 products, and that is all we are talking about, that is all
5954 that is in this amendment, from the point of the field to the
5955 processing facility. And I don't think if this issue is
5956 addressed that it is going to change.

5957 I mean, people in my district are filing lawsuits
5958 against the Department of Labor based on this single issue.
5959 So if it is not addressed specifically in this bill, our
5960 agriculture producers all across this country are going to be
5961 in the same scenario if we are not allowing these employers
5962 to file applications for H-2A labor specifically to drive
5963 agricultural products from the field to the processing

5964 facilities because they are going to interpret it the way
5965 they are interpreting it now where they are drivers and not
5966 agricultural workers.

5967 Ms. Lofgren. Would the gentleman yield?

5968 Mr. Steube. I would be happy to.

5969 Ms. Lofgren. I think it is important. You are making
5970 an accurate point as to labor contractors. However, farmers
5971 and farm associations can still use H-2A workers for this
5972 task --

5973 Mr. Steube. That is not the way the DOL is interpreting
5974 the --

5975 Ms. Lofgren. No, I think it is.

5976 Mr. Steube. If you would yield back. I would be happy
5977 to share with you letters from my office, responses from DOL,
5978 letters from Florida Citrus Mutual, letters from the cotton
5979 industry, letters from sugar cane, because that is not what
5980 is happening on the ground right now.

5981 Ms. Lofgren. Well, if the gentleman would further
5982 yield.

5983 Mr. Steube. Yeah, it is your time.

5984 Ms. Lofgren. I would look forward to talking with you
5985 after the markup on this because if that is what the DOL is
5986 saying, that is contrary to what the DOL position here is in
5987 Washington. So let's work through that. I don't know if we
5988 can take this amendment, but let's work through that problem

5989 because if that is what they are doing in Florida, that is
5990 not what the law provides. So let's see if we can help
5991 resolve it.

5992 Mr. Cline. It is not just Florida. It is Florida. It
5993 is the southeast United States, anywhere where cotton is
5994 produced. It is anywhere where sugar beets are produced,
5995 Minnesota.

5996 Ms. Lofgren. That the farmers themselves cannot do this
5997 because that is not what this --

5998 Mr. Steube. Yeah.

5999 Ms. Lofgren. Well, I look forward to talking with you
6000 about that further.

6001 Mr. Steube. Yeah, if you would be willing to meet with
6002 me to discuss this issue, I will withdraw the amendment.

6003 Ms. Lofgren. I would be happy to do that.

6004 Mr. Steube. All right. I will withdraw the amendment.

6005 Chairman Nadler. Without objection, the amendment is
6006 withdrawn. Are there any further amendments? For what
6007 purpose does the gentleman from --

6008 Mr. Armstrong. North Dakota.

6009 Chairman Nadler. -- from North Dakota seek recognition?

6010 Mr. Armstrong. I have an amendment at the desk.

6011 Chairman Nadler. The gentleman has an amendment at the
6012 desk, and the clerk will report the amendment.

6013 Ms. Strasser. Amendment to the amendment in the nature

6014 of a substitute to H.R. 5038, offered by Mr. Armstrong of
6015 North Dakota.

6016 Ms. Lofgren. I reserve a point of order.

6017 Chairman Nadler. The gentlelady reserves a point of
6018 order. Without objection, the amendment will be considered
6019 as read.

6020 [The amendment of Mr. Armstrong follows:]

6021

6022 Chairman Nadler. The gentleman from North Dakota is
6023 recognized for the purpose of explaining his amendment.

6024 Mr. Armstrong. Thank you, Mr. Chairman, and I
6025 appreciate the debate today. I wish we would have taken the
6026 approach with this amendment that we have taken in antitrust.
6027 And at the risk of saying something complimentary about my
6028 friend from Rhode Island, this is a grind. Yeah, this is a
6029 grind. We are working through things. This is an incredibly
6030 important issue to North Dakota.

6031 Immigration is the number one call I get in my office.
6032 Ag labor immigration is far and away the biggest part of that
6033 conversation. And as we continue to have inputs go up,
6034 commodity prices stay stagnant. Currently, right now in
6035 North Dakota, 47 out of 52 counties are under a disaster
6036 declaration. And at a detriment to the ag labor market, but
6037 a really good thing for the rest of our State is we have
6038 20,000-plus open jobs, and those jobs are in the oil patch.
6039 They are in construction. They are in the service industry.
6040 They are in a lot of these different niches, all of which can
6041 pay over-market prices, causing North Dakota farmers, North
6042 Dakota ranchers to run into situations where they can't
6043 compete in a true labor market, which is where the H-2A Visa
6044 Program and legal ag labor immigration comes into play.

6045 And, I mean, I have said it before in this committee,
6046 but we suffer from geography and weather, but we can compete

6047 in the ag labor market. What we cannot do is compete against
6048 both the other States and other industries for that ag labor.
6049 And people who go through the process of complying with this
6050 H-2A process and traveling all the way to North Dakota have
6051 no trouble traveling another 15 miles to go somewhere where
6052 they can work part time in the ag labor market, also part
6053 time in the construction market.

6054 So we need a simplified, streamlined process, and this
6055 amendment simply ensures that anybody getting an ag H-2A
6056 immigration pass has to work in the ag labor market. And I
6057 recognize our ranking member's concerns about dairy and
6058 different issues where I am not entirely sure how this works.
6059 But I don't think the way the bill is currently written
6060 actually helps the farmers and ranchers in North Dakota right
6061 now, so that is why I offer this amendment. And with that, I
6062 yield back.

6063 Chairman Nadler. The gentleman yields back. For what
6064 purpose does the gentlelady from California seek recognition?

6065 Ms. Lofgren. To strike the last word.

6066

6067 AFTER 6:00 P.M.

6068 Chairman Nadler. The gentlelady is recognized.

6069 Ms. Lofgren. This is a complicated amendment, but the
6070 point you are making is not an unreasonable one. And what I
6071 would like to do is reach out to the bipartisan authors of
6072 this bill and see if we can get some consensus on it. But my
6073 inclination is that what you are suggesting is accurate, and
6074 so I promise, and you may want to vote on it now. I can't
6075 support it today, but I do promise to work on this and see if
6076 we can't accommodate the issue that you have raised.

6077 Mr. Armstrong. Would the gentlelady yield, and I
6078 appreciate that, and I would like a vote on it. And I would
6079 also point out through all the other things that go on this,
6080 as this continues to move through the process, if these work
6081 through, I tend to go with my ranking member on this. I am a
6082 no, but I am a really soft no. I think there is movement
6083 here. And I think in the immigration space, if we are ever
6084 going to get to a place, which is an issue that has slogged
6085 down this town for way longer than I have been here for 10
6086 months, this is the place we can do it. So thank you.

6087 Ms. Lofgren. I yield back.

6088 Chairman Nadler. The gentlelady --

6089 Ms. Lofgren. I would just note I can't support it
6090 today, but I think that we might have some promise later.

6091 Chairman Nadler. The question occurs on the amendment.

6092 All those in favor, say aye.

6093 Opposed, no.

6094 The noes have it, although we will look at the issue.

6095 The noes have it.

6096 Are there any further amendments? The gentleman from

6097 Florida?

6098 Mr. Steube. I have an amendment at the desk, Mr.

6099 Chairman.

6100 Chairman Nadler. The gentleman has an amendment at the

6101 desk. The clerk will report the amendment.

6102 Ms. Lofgren. I reserve a point of order.

6103 Ms. Strasser. Amendment to the amendment in the nature

6104 of a --

6105 Chairman Nadler. The gentlelady reserves a point of

6106 order.

6107 Ms. Strasser. -- substitute to H.R. 5038, offered by

6108 Mr. Steube of Florida. Beginning on page 55, strike line 21

6109 and all that follows through page 65, line 23, and insert the

6110 following.

6111 Chairman Nadler. Without objection, the amendment will

6112 be considered as read.

6113 [The amendment of Mr. Steube follows:]

6114

6115 Chairman Nadler. The gentleman is recognized for the
6116 purpose of explaining his amendment.

6117 Mr. Steube. Thank you, Mr. Chairman. The wage
6118 structure proposed in this bill is extremely complicated and
6119 overly burdensome for farmers across America. Without a
6120 human resources department and a team of payroll managers,
6121 there is way the average American farmer, the people who rely
6122 on the H-2A Program, will be able to keep up with its
6123 requirements. Instead, I am proposing a streamlined system
6124 that would simply ask employers to offer the greatest of,
6125 one, the State or local minimum wage; two, 115 percent of the
6126 Federal minimum wage; or three, the actual wage level paid by
6127 the employer to all other individuals in the job. This
6128 amendment will ensure workers are paid a fair wage while
6129 farmers can better plan for the year ahead, knowing their
6130 wages and livelihood are not subject to the whims of a
6131 poorly-designed system. That is the amendment. I yield
6132 back.

6133 Chairman Nadler. The gentleman yields back. Does the
6134 gentlelady insist on her point of order?

6135 Ms. Lofgren. No, I do not.

6136 Chairman Nadler. The gentlelady does not insist on her
6137 point of order, and she is recognized.

6138 Ms. Lofgren. Well, one of the things that took the very
6139 longest as we worked through the issues was how to deal with

6140 wages moving forward, and I think this suggestion actually
6141 disrupts something that we think is quite workable in the
6142 bill. The minimum wage is not really a workable standard.
6143 The adverse wage level currently is a little bit higher than
6144 the minimum wage in some States. We have accommodated those
6145 few States where the minimum wage is higher, for example, my
6146 own State of California, in a way that works. But we don't
6147 think, and we all agreed, not only the representatives of the
6148 workers, but also the employers, that was not workable. We
6149 also in the bill, we have got the prevailing wage, the
6150 Federal or State, the 1-year wage freeze, the disaggregated
6151 wages. We have got wage caps and something that we think
6152 will actually work very well to protect employers.

6153 There has been concern expressed, I don't know if it is
6154 helping to fuel this amendment, that the bill does not cap
6155 prevailing wages. However, the prevailing wage operates in a
6156 very different way. It is a non-factor for most employers.
6157 And, in fact, most States don't report any prevailing wage
6158 findings because of peculiarities of how they are conducted.
6159 For example, there were no surveys conducted at all in most
6160 States. There were surveys conducted in some other States
6161 that were insufficient. Only 8 States actually did surveys
6162 that met the standards for prevailing wage. So I do think
6163 this this amendment cannot be accommodated to keep faith with
6164 all of the negotiations that have been undertaken over the

6165 last 9 months, and the agreements made from all of the
6166 authors of the bill.

6167 I would be happy, maybe not here, but to go through, if
6168 the gentleman wishes later, how the portal is going to work
6169 and how it is going to be streamlined so that employers will
6170 not have a very tough time in figuring out what the wage rate
6171 is going to be. This is going to be a very simple process
6172 for employers, much improved over the current process. And
6173 with that, Mr. Chairman, I urge a no vote and yield back.

6174 Chairman Nadler. The gentlelady yields back. The
6175 question occurs on the amendment.

6176 All those in favor, say aye.

6177 Opposed, no.

6178 The noes have it. The amendment is not adopted.

6179 Are there any further amendments? Who seeks
6180 recognition?

6181 Mr. Steube. Could I ask for a recorded vote on that?

6182 Chairman Nadler. Yeah, you should have done it earlier,
6183 but, yes. The clerk will call the roll on the amendment we
6184 are dealing with.

6185 Ms. Strasser. Mr. Nadler?

6186 Chairman Nadler. No.

6187 Ms. Strasser. Mr. Nadler votes no.

6188 Ms. Lofgren?

6189 Ms. Lofgren. No.

6190 Ms. Strasser. Ms. Lofgren votes no.
6191 Ms. Jackson Lee?
6192 Ms. Jackson Lee. No.
6193 Ms. Strasser. Ms. Jackson Lee votes no.
6194 Mr. Cohen?
6195 Mr. Johnson of Georgia?
6196 Mr. Deutch?
6197 Ms. Bass?
6198 Ms. Bass. No.
6199 Ms. Strasser. Ms. Bass votes no.
6200 Mr. Richmond?
6201 Mr. Jeffries?
6202 Mr. Cicilline?
6203 Mr. Cicilline. No.
6204 Ms. Strasser. Mr. Cicilline votes no.
6205 Mr. Swalwell?
6206 Mr. Lieu?
6207 Mr. Raskin?
6208 Mr. Raskin. No.
6209 Ms. Strasser. Mr. Raskin votes no.
6210 Ms. Jayapal?
6211 Ms. Jayapal. No.
6212 Ms. Strasser. Ms. Jayapal votes no.
6213 Mrs. Demings?
6214 Mr. Correa?

6215 Mr. Correa. No.

6216 Ms. Strasser. Mr. Correa votes no.

6217 Ms. Scanlon?

6218 Ms. Scanlon. No.

6219 Ms. Strasser. Ms. Scanlon votes no.

6220 Ms. Garcia?

6221 Ms. Garcia. No.

6222 Ms. Strasser. Ms. Garcia votes no.

6223 Mr. Neguse?

6224 Mrs. McBath?

6225 Mrs. McBath. No.

6226 Ms. Strasser. Mrs. McBath votes no.

6227 Mr. Stanton?

6228 Mr. Stanton. No.

6229 Ms. Strasser. Mr. Stanton votes no.

6230 Ms. Dean?

6231 Ms. Dean. No.

6232 Ms. Strasser. Ms. Dean votes no.

6233 Ms. Mucarsel-Powell?

6234 Ms. Mucarsel-Powell. No.

6235 Ms. Strasser. Ms. Mucarsel-Powell votes no.

6236 Ms. Escobar?

6237 Mr. Collins?

6238 Mr. Sensenbrenner?

6239 Mr. Chabot?

6240 Mr. Chabot. Aye.

6241 Ms. Strasser. Mr. Chabot votes aye.

6242 Mr. Gohmert?

6243 Mr. Gohmert. Aye.

6244 Ms. Strasser. Mr. Gohmert votes aye.

6245 Mr. Jordan?

6246 Mr. Buck?

6247 Mr. Ratcliffe?

6248 Mrs. Roby?

6249 Mr. Gaetz?

6250 Mr. Johnson of Louisiana?

6251 Mr. Biggs?

6252 Mr. McClintock?

6253 Mr. McClintock. Aye.

6254 Ms. Strasser. Mr. McClintock votes aye.

6255 Mrs. Lesko?

6256 Mrs. Lesko. Aye.

6257 Ms. Strasser. Mrs. Lesko votes aye.

6258 Mr. Reschenthaler?

6259 Mr. Reschenthaler. Aye.

6260 Ms. Strasser. Mr. Reschenthaler votes aye.

6261 Mr. Cline?

6262 Mr. Cline. Aye.

6263 Ms. Strasser. Mr. Cline votes aye.

6264 Mr. Armstrong?

6265 Mr. Armstrong. Yes.

6266 Ms. Strasser. Mr. Armstrong votes yes.

6267 Mr. Steube?

6268 Mr. Steube. Yes.

6269 Ms. Strasser. Mr. Steube votes yes.

6270 Chairman Nadler. Has everyone who wishes to vote voted?

6271 The gentleman from Georgia?

6272 Mr. Johnson of Georgia. How am I recorded?

6273 Ms. Strasser. Mr. Johnson, you are not recorded.

6274 Mr. Johnson of Georgia. I vote no.

6275 Ms. Strasser. Mr. Johnson of Georgia votes no.

6276 Chairman Nadler. Has everyone who wishes to vote voted?

6277 [No response.]

6278 Chairman Nadler. How is Ms. Bass recorded?

6279 Ms. Strasser. Ms. Bass, you are recorded as no.

6280 Chairman Nadler. Okay. The clerk will report.

6281 Ms. Strasser. Mr. Chairman, there are 8 ayes and 15

6282 noes.

6283 Ms. Strasser. The amendment is not agreed to. Are

6284 there any further amendments? For what purpose does the

6285 gentleman from California seek recognition?

6286 Mr. McClintock. I have an amendment, Mr. Chairman.

6287 Chairman Nadler. The gentleman from California has an

6288 amendment. The clerk will report the amendment.

6289 Ms. Lofgren. I reserve a point of order.

6290 Chairman Nadler. The point of order is reserved.

6291 Ms. Strasser. Substitute for the amendment in the

6292 nature of a substitute to H.R. 5038, offered by Mr.

6293 McClintock of California. Strike all that follows after the

6294 enacting clause and insert the following.

6295 Chairman Nadler. Without objection, the amendment is

6296 considered as read.

6297 [The amendment of Mr. McClintock follows:]

6298

6299 Chairman Nadler. The gentleman is recognized for the
6300 purpose of explaining his amendment.

6301 Mr. McClintock. And per our discussions, I would ask
6302 unanimous consent to waive the printing requirement.

6303 Chairman Nadler. I am sorry. I couldn't hear you.

6304 Mr. McClintock. And per our staff discussions, I would
6305 ask unanimous consent to waive the printing requirement on
6306 this amendment.

6307 Chairman Nadler. Without objection.

6308 Mr. McClintock. Thank you.

6309 Chairman Nadler. We are saving a few forests.

6310 Mr. McClintock. Yeah, and I promise to be as brief as
6311 the amendment is long. It simply adds to the bill the
6312 provisions of H.R. 4760 from the last session of this
6313 Congress authored by the chairman of this committee,
6314 Congressman Goodlatte. Members will remember it as Goodlatte
6315 1. I do so because it brought us closest to a comprehensive
6316 solution to our immigration crisis by assuring that
6317 legalizing the status of young people brought to our country
6318 through the illegal acts of their parents and legalizing
6319 seasonal workers who are here illegally, was accompanied by
6320 restoring border security in the enforcement of our
6321 immigration laws. The two have to go together. Otherwise,
6322 we will simply encourage illegal immigration to continue,
6323 secure in the expectation that ever-widening amnesty bills

6324 will legitimize their illegal acts in the future.

6325 We keep hearing that we need to make an exception for
6326 this or that, just this one little portion. But each of
6327 these exceptions weakens our ability to enforce our existing
6328 laws, and each of these exceptions encourages more illegal
6329 acts, and it has to stop. While I am sympathetic with the
6330 need for additional labor, time of record, low unemployment,
6331 just as I am sympathetic with the needs of those brought here
6332 as children with no ties to the country of their birth, we
6333 make the problem worse by addressing it piecemeal.

6334 The amendment I offer includes a lot of provisions I
6335 don't like and many other provisions that many other people
6336 don't like. But Goodlatte's work in trying to reach a middle
6337 ground should be the starting point to address this issue if
6338 we are really serious about resolving it. I would yield
6339 back.

6340 Ms. Lofgren. Mr. Chairman?

6341 Chairman Nadler. The gentleman yields back. For what
6342 purpose does the gentlelady from California seek recognition?

6343 Ms. Lofgren. This actually is not germane. It goes far
6344 beyond the underlying bill. It goes into family immigration,
6345 unaccompanied, asylum and the like, border security. It is
6346 not germane, and so I do insist on my point of order.

6347 Chairman Nadler. The gentlelady insists on her point of
6348 order. Does the gentleman want to be heard on the point of

6349 order?

6350 Mr. McClintock. I will simply point out that all the
6351 provisions of the bill are under the jurisdiction of this
6352 committee, which passed it out during the last session of the
6353 Congress with no objections on it.

6354 Chairman Nadler. I am prepared to rule on the point of
6355 order. The gentleman is correct, as far as I know, that all
6356 the provisions of this bill are within the jurisdiction of
6357 the committee. However, that is not why it is not germane.
6358 The amendment is not germane because it goes far beyond the
6359 scope the bill it seeks to amend. If it were a separate
6360 bill, it is within the jurisdiction of the committee, which
6361 is why we could consider it last year. As an amendment to
6362 this bill, it goes well beyond the subject matter of the
6363 bill, and, therefore, is not germane, and, therefore, is out
6364 of order. So the amendment is out of order. Are there any
6365 further amendments?

6366 [No response.]

6367 Chairman Nadler. If there being no further amendments,
6368 the question occurs on the amendment in the nature of a
6369 substitute, as amended. This will be followed immediately by
6370 vote on final passage of the bill.

6371 All those in favor of the amendment in the nature of a
6372 substitute, respond by saying aye.

6373 Opposed, no.

6374 In the opinion of the chair, the ayes have it, and the
6375 amendment in the nature of a substitute is agreed to.

6376 A reporting quorum being present, the question is on the
6377 motion to report the bill, H.R. 5038, as amended, favorably
6378 to the House.

6379 Those in favor, respond by saying aye.

6380 Those opposed, no.

6381 The ayes have it. The bill is ordered reported
6382 favorably. No one requests a recorded vote?

6383 A recorded vote is requested. Under Rule II(j)(1) of
6384 the committee's rules, we are going to postpone the recorded
6385 vote to report H.R. 5038 until tomorrow morning. That means
6386 when we reconvene tomorrow morning, the first order of
6387 business will be the recorded vote. Nothing else is
6388 permitted, no amendment, no discussion. We have already
6389 taken the voice vote, but as soon as we reconvene tomorrow
6390 morning, we will take the recorded vote.

6391 We will now go on. Just to explain that to everybody.
6392 We have taken the voice vote on this bill because for a
6393 number of reasons, the majority and the minority have agreed
6394 to postpone the recorded vote to the first item of business
6395 tomorrow morning. Nothing else is in order before that vote.
6396 We will, however, now go on to other bills.

6397 Ms. Jackson Lee. Mr. Chairman? Would you yield for a
6398 moment?

6399 Chairman Nadler. Who seeks recognition?

6400 Ms. Jackson Lee. Jackson Lee.

6401 Chairman Nadler. Yes?

6402 Ms. Jackson Lee. I may be speaker pro tem on the floor,
6403 so I ask unanimous consent to record my prospective vote as
6404 an aye on the agricultural bill, which is 5038. I would just
6405 like to ask unanimous consent to be recorded in the record
6406 that if I was present in the morning --

6407 Chairman Nadler. Without objection, it will be noted in
6408 the record.

6409 Ms. Jackson Lee. Thank you.

6410 Chairman Nadler. Pursuant to notice, I now call up H.R.
6411 5133, the Affordable Prescriptions for Patient Through
6412 Promoting Competition Act of 2019, for purposes of markup,
6413 and move that the committee report the bill favorably to the
6414 House.

6415 The clerk will report the bill.

6416 Ms. Strasser. H.R. 5133, to amend the Federal Trade
6417 Commission Act prohibit anticompetitive behaviors by drug
6418 product manufacturers, and for other purposes.

6419 Chairman Nadler. Without objection. The bill is
6420 considered as read and open for amendment at any point.

6421 [The bill follows:]

6422

6423 Chairman Nadler. I will begin by recognizing myself an
6424 opening statement.

6425 H.R. 5133, the Affordable Prescriptions for Patient
6426 Through Promoting Competition Act of 2019, is one of two
6427 bipartisan measures that we are considering today as part of
6428 the committee's efforts to lower the soaring cost of
6429 prescription drugs and deliver more affordable healthcare for
6430 consumers. This legislation addresses a practice known as
6431 product hopping, which occurs when a company makes a nominal
6432 change to a product that is facing the end of patent
6433 exclusivity, such as a change to its dosage or delivery
6434 mechanism. The company then either removes the old product
6435 from the market or makes the old product seem much less
6436 attractive than the new product. Doctors and patients,
6437 therefore, have essentially no choice but to switch to the
6438 new, but not improved, drug, for which the drug company can
6439 continue to charge monopoly prices.

6440 This conduct focuses on the delivery of profits to big
6441 pharma rather than meaningful innovation for sick patients.
6442 For example, in a recent case, a drug manufacturer with a
6443 lifesaving medication for opioid addiction changed the form
6444 of the treatment from tablets to a film, even though it was
6445 more expensive to manufacture and was no more safe or
6446 effective, just so it could continue its stranglehold on the
6447 market. As chairman Joseph Simons of the Federal Trade

6448 Commission testified earlier this month before the Antitrust
6449 Subcommittee, this anticompetitive scheme shifted existing
6450 patients away from the product about to face generic
6451 competition, and onto another more lucrative product that
6452 enjoyed patent protection and provided no legitimate
6453 incremental benefits. Unfortunately courts have struggled to
6454 consistently apply the antitrust laws to this conduct.
6455 Moreover, antitrust litigation to address anticompetitive
6456 behavior in pharmaceutical markets is costly and slow, often
6457 taking years, if not decades, to stop the abusive behavior.

6458 To address these concerns, H.R. 5133 would prohibit
6459 product hopping by establishing that it is an unfair method
6460 of competition in violation of the Federal Trade Commission
6461 Act. In doing so, not only would this legislation help deter
6462 such conduct in the first place through the FTC's ability to
6463 obtain equitable monetary relief, it would also expedite
6464 traditional proceedings by providing much-needed clarity to
6465 the law. This bill is companion legislation to part of S.
6466 1426, the Affordable Prescription for Patients Act, which was
6467 favorably reported by the Senate Judiciary Committee by a
6468 unanimous vote in June. According to the nonpartisan
6469 Congressional Budget Office, this legislation will save
6470 American taxpayers more than half a billion dollars over a
6471 10-year period. This legislation builds on the committee
6472 strong record of bipartisan legislation to lower the price of

6473 prescription drugs to patients.

6474 Earlier this year, the committee unanimously reported a
6475 series of bills to confront one of the leading drivers of
6476 high prescription drug costs: competition-blocking efforts
6477 by branded drug companies to keep generic drugs off the
6478 market so that they can preserve their monopoly profits.
6479 This outrageous behavior, which puts profits before patients,
6480 thwarts the competition that is essential to lowering
6481 prescription drug prices. According to a study by the
6482 Federal Trade Commission, having a single generic competitor
6483 in the market can lower the price of a branded drug product
6484 by as much as 20 to 30 percent off the branded product's
6485 price, while the entry of additional competitors can lower
6486 the price by 85 percent or more. H.R. 5133 would address
6487 similarly anticompetitive conduct by drug makers to help
6488 reduce the cost of prescription drugs for consumers.

6489 I thank the sponsor of this legislation, Mr. Cicilline,
6490 the chairman of the Antitrust, Commercial, and Administrative
6491 Law, as well as Ranking Member Collins and Subcommittee
6492 Ranking Member Sensenbrenner, for their leadership on this
6493 bipartisan measure, and I urge my colleagues to support this
6494 legislation.

6495 The statement of the ranking member will be made a part
6496 of the record.

6497 [The information follows:]

6498

6499 Chairman Nadler. I now recognize the chair of the
6500 Subcommittee on Antitrust, Commercial, and Administrative
6501 Law, the sponsor of this legislation, the gentleman from
6502 Rhode Island, Mr. Cicilline, for his opening statement.

6503 Mr. Cicilline. Thank you, Mr. Chairman, and thank you
6504 for including this important piece of legislation in our
6505 markup today. Across the country, the outrageous costs of
6506 prescription drugs is ruining lives. According to Kaiser
6507 Health, a quarter of Americans cannot afford their medicine,
6508 and many cancer patients are delaying care, cutting their
6509 pills, or skipping drug treatment entirely. Prices are
6510 skyrocketing, and people are going bankrupt and even dying
6511 because they can't afford the prescription medicine, and
6512 despite decades of rising costs, the United States ranks dead
6513 last in health outcomes among similarly-developed countries.

6514 Ending the crisis of skyrocketing healthcare costs has
6515 been a top priority of mine as chair of the Antitrust
6516 Subcommittee, and it is essential that House Democrats keep
6517 our promise to work for the people by taking on drug
6518 profiteering and other barriers to affordable healthcare.
6519 Today's markup of H.R. 5133, Affordable Prescriptions for
6520 Patient Through Promoting Competition Act of 2019, is our
6521 latest bipartisan effort to lower drug prices through the
6522 full benefits of competition.

6523 This legislation addresses product hopping, a

6524 particularly abusive form of conduct used by drug
6525 manufacturers to protect their profits by artificially
6526 extending their monopolies on certain prescription drugs. As
6527 described in a 2016 study by the National Institutes of
6528 Health, product hopping involves a brand name company
6529 switching the market for a drug prior to its patent
6530 expiration date to a reformulated version that has a later
6531 expiring patent, but which offers little or no therapeutic
6532 advantage.

6533 Professor Aaron Kesselheim of Harvard Medical School
6534 testified last Congress that this conduct is especially
6535 problematic when the manufacturer removes the original drug
6536 from the market before its patent term expires, ensuring that
6537 generic versions of that drug cannot be marketed. This
6538 practice allows big pharma to preserve their profits at the
6539 expense of everyday Americans.

6540 For example, several years ago, as the pharmaceutical
6541 company, Actavis, attempted to remove its blockbuster
6542 treatment for Alzheimer's disease and replace it with a new
6543 and improved version in order to extend its patent monopoly
6544 until 2029. The only problem, the new version was simply a
6545 once-daily dosage instead of a twice-daily dosage, not a
6546 significant improvement to the treatment. This is not true
6547 innovation, and it is costing hardworking Americans. Based
6548 on the pharmaceutical company's own data, this behavior, if

6549 it had been successful, would have resulted in health
6550 insurers paying \$1.4 billion dollars more for the therapy.
6551 And according to a report by the Department of Health and
6552 Human Services, blocking generic entry alone would have cost
6553 American taxpayers \$6 billion over a 10-year period.

6554 Hardworking Americans have had enough of these games,
6555 and that is why I have introduced the Affordable
6556 Prescriptions for Patient Through Promoting Competition Act.
6557 This bipartisan legislation will end this abusive delay
6558 tactic by expressly prohibiting product hopping as an unfair
6559 method of competition on the Federal Trade Commission Act,
6560 subject to all equitable remedies, including restitution and
6561 discouragement of profits.

6562 I want to thank you, Chairman Nadler, for your
6563 leadership on this issue. I want to thank the ranking
6564 member, Doug Collins, and Ranking Member Sensenbrenner for
6565 their bipartisan leadership and support, and urge all of my
6566 colleagues to support this legislation. And I yield back.

6567 Chairman Nadler. The gentleman yields back. Are there
6568 any amendments to H.R. 5133?

6569 [No response.]

6570 Chairman Nadler. A reporting quorum being present, the
6571 question is on the motion to report the bill, H.R. 5133,
6572 favorably to the House.

6573 Those in favor say aye.

6574 Opposed, no.

6575 The ayes have it, and the bill is ordered reported

6576 favorably to the House. Members will have 2 days to submit

6577 views.

6578 [The information follows:]

6579

6580 Chairman Nadler. We will have another bill in a moment.

6581 Pursuant to notice, I now call up H.R. 3991, the
6582 Affordable Prescription for Patients Through Improvements to
6583 Patent Litigation Act of 2019, for purposes of markup and
6584 move that the committee report the bill favorably to the
6585 house.

6586 The clerk will report the bill.

6587 Ms. Strasser. H.R. 3991, to amend Title 35, United
6588 States Code, to clarify and improve the process for
6589 Subsection K --

6590 Chairman Nadler. Without objection, the bill is
6591 considered as read and open for amendment at any point.

6592 [The bill follows:]

6593

6594 Chairman Nadler. I will begin by recognizing myself for
6595 an opening statement.

6596 H.R. 3991, the Affordable Prescription for Patients
6597 Through Improvements to Patent Litigation Act of 2019, is the
6598 second bipartisan measure we are considering today that aims
6599 to stem the tide of rising medical costs and make healthcare
6600 more affordable. This legislation concerns consumer
6601 alternatives to brand-name biologics, which are complex large
6602 molecule drugs, such as genetically-modified proteins, that
6603 have to be grown and extracted from cell cultures. Biologics
6604 are expensive to develop and bring to market, and these
6605 dynamics are reflected in their high costs and spending
6606 totals.

6607 In 2018, spending on biologics suppressed \$125 billion
6608 dollars in the United States, and the cost for some biologics
6609 can reach hundreds of thousands of dollars per patient per
6610 year. In 2010, the Biologics Price Competition and
6611 Innovation Act established an important mechanism for getting
6612 biosimilars to the market. However, that process is not
6613 working as effectively as it could be to streamline the
6614 patent litigation process and get biosimilars on the market
6615 more quickly, part of which is hampered by what is known as
6616 patent thickening.

6617 Patent thickening is when a manufacturer prolongs its
6618 exclusive rights to market a drug by filing numerous patent

6619 claims to fend off biosimilars attempting to enter the
6620 market. For example, years after a brand-name biologics
6621 release, the manufacturer may file claims to the subject
6622 biologic that do not incorporate significant changes or
6623 claims to a method that the manufacturer does not itself use.
6624 These claims tie up biosimilars in litigation and keep them
6625 off the market. H.R. 3991 takes an important step toward
6626 addressing these tactics and ultimately lowering drug prices
6627 for this particularly costly class of drugs.

6628 The legislation limits the number of patents that the
6629 brand name manufacturer can assert in litigation, which
6630 forces the manufacturer to focus on its key patents and
6631 streamline the litigation process. When biosimilars can get
6632 to the market quickly, consumers get to see those savings
6633 more quickly.

6634 I applaud Mr. Johnson and Mrs. Roby, the chairman and
6635 ranking member of the Subcommittee on Courts, Intellectual
6636 Property, and the Internet, for their bipartisan work on this
6637 issue. I likewise applaud Senators Blumenthal and Cornyn for
6638 leading on companion legislation in the Senate, which has
6639 passed out of the Senate Judiciary Committee unanimously. I
6640 urge my colleagues to support this legislation.

6641 The ranking member's statement will be inserted in the
6642 record.

6643 [The information follows:]

6644

6645 Chairman Nadler. I now recognize the chairman of the
6646 Subcommittee on Courts, Intellectual Property, and the
6647 Internet, and the sponsor of this legislation, the gentleman
6648 from Georgia., Mr. Johnson, for his opening statement.

6649 Mr. Johnson of Georgia. Thank you, Mr. Chairman. There
6650 is no question that the cost of brand-name prescription drugs
6651 have soared too high and put affordable healthcare out of
6652 reach for many Americans. H.R. 3991, the Affordable
6653 Prescription for Patients Through Improvements to Patent
6654 Litigation Act of 2019, seeks to bring down these costs by
6655 streamlining the pathway for alternatives to expensive brand-
6656 name biological drugs, known as biologics, to get to
6657 consumers. Improving access to these alternatives, which are
6658 called biosimilars, is critical to lowering medical costs.

6659 In 2010, Congress created a streamlined application
6660 process for biosimilars to reach the market through the
6661 Biologics Price Competition and Innovation Act, or BPCIA.
6662 The benefit of having more biosimilars available is tangible.
6663 For example, one report estimates that over the next 5 years,
6664 global pharmaceutical spending will be approximately \$160
6665 billion lower than it would have been had biosimilars not
6666 reached the market. Although BPCIA created a robust
6667 application process for biosimilars to get to the market
6668 quickly, it has not been able to reach its full potential.
6669 H.R. 3991 addresses one clog in the current system, patent

6670 thickening.

6671 Brand-name biologics have kept their exclusive hold on
6672 the market by using the patent system to fend off their
6673 biosimilar competition for far longer than contemplated, and
6674 at no benefit to American consumers. These efforts include
6675 building up a portfolio of late-filed patents, some of which
6676 may have only minor or inconsequential innovations. These
6677 filings are often timed to keep the brand-name drugs'
6678 exclusivity alive just as the drugs more critical patents
6679 begin to expire. The manufacturer of the branded biologic
6680 will assert these patents in litigation against the
6681 biosimilar applicant, and, in the meantime, get to retain
6682 their exclusive hold on the market, and consequently their
6683 hold on Americans' wallets.

6684 H.R. 3991 strengthens the BPCIA by encouraging both the
6685 brand-name manufacturer and the biosimilar applicant to
6686 engage more completely in the BPCIA's process, and by
6687 addressing manufacturers' patent-thickening tactics.
6688 Specifically, this legislation limits the number of patents
6689 that the manufacturer of the brand-name biologic can assert
6690 against the biosimilar applicant only when the parties have
6691 engaged in the BPCIA's process. Patents that are filed after
6692 the biosimilar applicant taken some of the first steps under
6693 the BPCIA process are further limited. By streamlining and
6694 simplifying the patent litigation process, we hope to help

6695 make these important and lifesaving biologics more affordable
6696 for American consumers and more accessible to the
6697 marketplace.

6698 I am glad to have worked with Mrs. Roby, my counterpart
6699 on the Subcommittee on Courts, Intellectual Property, and the
6700 Internet, in introducing this measure, and it is another bold
6701 step in the committee's efforts to lower the cost of staying
6702 healthy. I urge my colleagues to support this bill, and with
6703 that I yield back.

6704 Chairman Nadler. The gentleman yields back. We will
6705 insert the statement of the ranking member of the
6706 subcommittee in the record.

6707 [The information follows:]

6708

6709 Chairman Nadler. Without objection, all other opening

6710 statements will be included in the record.

6711 [The information follows:]

6712

6713 Chairman Nadler. I now recognize myself for purposes of
6714 offering an amendment in the nature of a substitute.

6715 The clerk will report the amendment.

6716 Ms. Strasser. Amendment in the nature of a substitute
6717 to H.R. 3991, offered by Mr. Nadler.

6718 Chairman Nadler. Without objection, the amendment
6719 nature of a substitute shall be considered as read and shall
6720 be considered as base text for purposes of amendment.

6721 [The amendment in the nature of a substitute of Chairman
6722 Nadler follows:]

6723

6724 Chairman Nadler. I will recognize myself to explain the
6725 amendment.

6726 This amendment makes minor technical clarifications to
6727 the bill, but makes no substantive changes, and I urge my
6728 colleagues to support the amendment.

6729 The statement from the ranking member of the committee
6730 on the amendment in the nature of a substitute will be
6731 inserted in the record.

6732 [The information follows:]

6733

6734 Chairman Nadler. Are there any amendments to the
6735 amendment in the nature of a substitute? The gentlelady from
6736 Georgia, for what purpose does she seek recognition?

6737 Mrs. McBath. Thank you, Mr. Chairman. I move to strike
6738 the last word.

6739 Chairman Nadler. The gentlelady is recognized.

6740 Mrs. McBath. Thank you. I am very proud that the
6741 Judiciary Committee is continuing to make progress in
6742 lowering the price of prescription drugs. I am a 2-time
6743 breast cancer survivor, so I know all too well, you know, the
6744 stress and the heartache of having a life-changing diagnosis
6745 and treatment. It was exhausting both physically and
6746 emotionally, and I was truly blessed to be able to afford my
6747 medications. Unfortunately that is not the reality of a lot
6748 of Americans here in the country, and time and time again, my
6749 constituents continue to tell me that affordable healthcare
6750 and prescription drug prices are their top priority. It
6751 should be my top priority. And can you really blame them?

6752 Americans are basically drowning in the high cost of
6753 their healthcare. So there are life-changing and lifesaving
6754 medications that we are talking about here, and they just
6755 simply are not optional for people like me and people that
6756 have preexisting conditions. And people should never have to
6757 make the unthinkable decision about whether or not they are
6758 going to purchase their medications or put food on the table

6759 and put gas in their car. The American people are sick and
6760 tired of seeing endless price increases on their medications,
6761 while pharmaceutical executive give out big bonuses and buy
6762 lots and lots of stock.

6763 We need to find a different way, and I came to Congress
6764 to protect lower prescription drug costs for Georgians and to
6765 truly make healthcare more affordable and accessible for
6766 everyone. And this Congress simply has to act and deliver on
6767 these promises, both Republicans and Democrats working on
6768 behalf of our communities. So today, I am really excited
6769 that we are taking action to lower the cost of prescription
6770 drugs by addressing patent and competition issues that have
6771 driven up the cost of our healthcare. And I am proud to
6772 support these bipartisan bills, and I urge my colleagues to
6773 join me in supporting them today and making sure that we have
6774 swift passage this evening. I yield back the balance of my
6775 time.

6776 Chairman Nadler. The gentlelady yields back. For what
6777 purpose does the gentleman from California seek recognition?

6778 Mr. Correa. Mr. Chair, I move to strike the last word
6779 with reference --

6780 Chairman Nadler. The gentleman is recognized.

6781 Mr. Correa. Thank you, with reference to H.R. 5133. I
6782 want to thank my colleague, Representative Cicilline, for his
6783 hard work on H.R. 5133, the Affordable Prescription for

6784 Patients Through Promoting Competition Act. It is important
6785 that Congress address high drug prices and provide immediate
6786 relief for patients. This bipartisan bill is an important
6787 step in that direction, and that is why I support this
6788 legislation.

6789 And I am pleased that this bill includes language that
6790 differentiates bad behavior from true innovation so that we
6791 continue to incentivize what is seen as good behavior,
6792 meaning research on new chemical entities and new molecular
6793 entities from the definition of follow-on products. The
6794 development of truly novel products is exactly the type of
6795 behavior we want to incentivize, and this legislation ensures
6796 that these important advancements aren't inadvertently
6797 misclassified as anticompetitive.

6798 I thank my colleague again and his staff for all their
6799 good work, and I yield back the remainder of my time.

6800 Chairman Nadler. The gentleman yields back. For what
6801 purpose does the gentlelady from Texas seek recognition?

6802 Ms. Jackson Lee. To strike the last word.

6803 Ms. Garcia. Mr. Chairman, I move to strike the last
6804 word.

6805 Chairman Nadler. The gentlelady from Texas is
6806 recognized. This gentlelady from Texas.

6807 Ms. Garcia. I yield to the other gentlelady from Texas.

6808 Chairman Nadler. She has the time.

6809 Ms. Jackson Lee. I will be judicious. Mr. Chairman, it
6810 is my privilege to indicate my support for this legislation,
6811 and thank the proponents, and thank Mr. Johnson and others,
6812 Mr. Cicilline and others, working on this very important
6813 issue, the chairman. Texas has been and continues
6814 unfortunately to be the poster child for the uninsured, and,
6815 as well, many seniors and others who need access to
6816 pharmaceuticals for good health and to live. Any time that
6817 we can spend providing a relief to the extensive cost that
6818 families have to pay on pharmaceuticals, on life-saving drugs
6819 is crucial.

6820 Anticompetitive conduct in the pharmaceutical industry
6821 harms American consumers through higher drug prices and,
6822 worse, healthcare outcomes. We know it well in Texas.
6823 Delaying entry of generic and biosimilar competition deprives
6824 consumers of the lower prices that competition brings to the
6825 market. We are filled in Houston with large medical
6826 facilities, small clinics, doctors' offices, federally-
6827 qualified health clinics, but all of them require, if you
6828 will, the use and prescription of drugs. It is difficult for
6829 families to be able to provide for their sick loved ones,
6830 some with chronic illnesses, when the competition is
6831 decreased and the cost of pharmaceuticals go up.

6832 For life-saving reasons, I rise to support H.R. 3991,
6833 H.R. 3991, that takes into consideration two forms of

6834 anticompetitive practices by branded drug manufacturers. It
6835 is time that we put the consumer and the family first. And
6836 as I close, let me particularly say the disparities in
6837 healthcare as it relates to minorities not only in Texas, but
6838 in the Nation is stark still, even with now a few years of
6839 the Affordable Care Act behind us. We need to find ways to
6840 immediately address this question. Reducing prescription
6841 drug costs coming from the Judiciary Committee is an
6842 important moment, and I ask my colleagues to support
6843 enthusiastically the legislation. And I yield back my time.

6844 Chairman Nadler. The gentlelady yields back. For what
6845 purpose does the gentlelady seek recognition?

6846 Ms. Garcia. I move to strike the last word.

6847 Chairman Nadler. The gentlelady is recognized.

6848 Ms. Garcia. Thank you, Mr. Chairman. And before I
6849 start, I just wanted to say that I have done countless town
6850 hall meetings, and, in fact, a tele-town hall on healthcare,
6851 and there is no one issue that people care more about in my
6852 district, quite frankly, than this one. Prescription drug
6853 prices are just totally out of control because, quite
6854 frankly, the system is fundamentally broken. Anticompetitive
6855 behavior in the pharmaceutical industry and a lack of
6856 oversight has led to higher drug prices in the United States
6857 compared to anywhere else in the world. Our hardworking
6858 families are having to choose between buying medically-

6859 necessary prescription drugs and paying rent or buying
6860 groceries. That is just flat wrong.

6861 Brand-name manufacturers are fortifying their monopolies
6862 with patents for nominal changes for drugs to keep
6863 competition out. These medications treat conditions like
6864 opioid addiction and cancer, and without them patients die.
6865 We can use words like "product hopping" and "evergreen," but
6866 let's be clear about what this really is: anticompetitive
6867 tactics to secure and retain a monopoly. As a committee and
6868 a Congress, we have worked hard to address the issues of
6869 soaring prescription drug prices, and we must continue to do
6870 more.

6871 I am proud to support Mr. Johnson's bill that we have in
6872 front of us today and the bill that we just voted for, and I
6873 urge all my colleagues to do the same. I thank you, and I
6874 yield back the remainder of my time.

6875 Chairman Nadler. The gentlelady yields back.

6876 The question occurs on the amendment in the nature of a
6877 substitute. This will be followed immediately by vote on
6878 final passage of the bill.

6879 All those in favor, respond by saying aye.

6880 Opposed, no.

6881 In the opinion of the chair, the ayes have it. The
6882 amendment in the nature of a substitute is agreed to.

6883 A reporting quorum being present, the question is on the

6884 motion to report the bill, H.R. 3991 favorably to the House.

6885 Those in favor, respond by saying aye.

6886 Opposed, no.

6887 The ayes have it, and the bill is ordered reported

6888 favorably.

6889 Members will have 2 days to submit views.

6890 This bill will be reported as a single amendment in the
6891 nature of a substitute incorporating all adopted amendments.

6892 Without objection, staff is authorized to make technical
6893 and conforming changes.

6894 The members will be, I assume, pleased to hear that the
6895 committee will now stand in recess until 9:00 a.m. tomorrow
6896 morning, 9:00 a.m. sharp, at which time we will do two
6897 things. Tomorrow morning we will take a final recorded vote
6898 on H.R. 5038, the agriculture immigration bill, and we will
6899 consider H.R. 5140, the Satellite Television Communication
6900 Protection and Promotion Act of 2019. Please be here
6901 promptly at 9:00 a.m. so we can do the recorded vote on the
6902 immigration bill and consider STELA, and finish at a
6903 reasonable hour. With that, I thank the members.

6904 The committee will stand in recess.

6905 [Whereupon, at 6:43 p.m., the committee recessed, to
6906 reconvene at 9:00 a.m., Thursday, November 21, 2019.]