MARKUP OF H.R. 5038, THE "FARM WORKFORCE MODERNIZATION ACT OF 2019;"
H.R. 3884, THE "MARIJUANA OPPORTUNITY REINVESTMENT AND EXPUNGEMENT ACT OF 2019" OR THE "MORE ACT OF 2019;"
H.R. 5140, THE "SATELLITE TELEVISION COMMUNITY PROTECTION AND PROMOTION ACT OF 2019;"
Wednesday, November 20, 2019
House of Representatives
Committee on the Judiciary
Washington, D.C.

The committee met, pursuant to call, at 10:14 a.m., in Room 2141, Rayburn Office Building, Hon. Jerrold Nadler [chairman of the committee] presiding.
Chairman Nadler. The Judiciary Committee will please come to order, a quorum being present.

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

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

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

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

The clerk will report the bill.

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

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

[The bill follows:]
Chairman Nadler. I will begin by recognizing myself for an opening statement.

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

These steps are long overdue. For far too long, we have treated marijuana as a criminal justice problem instead of a matter of personal choice and public health. Everyone views the use of marijuana for recreational or medicinal purposes, and arresting, prosecuting, and incarcerating users at the Federal level is unwise and unjust. This issue is not new to Congress. There have been many members who have introduced bills upon which provisions in this bill are based.

Representative Barbara Lee, in particular, and I am told she is here, has sponsored bills that are the foundation of key provisions of the MORE Act, and I thank her for her longstanding leadership on this issue.
Federal action on this issue would follow growing recognition in the States that the status quo is unacceptable. Despite the Federal Government's continuing criminalization of marijuana, 33 States and the District of Columbia have legalized medical cannabis. Eleven States and the District of Columbia have legalized cannabis for adult recreational use. I have long believed that the criminalization of marijuana has been a mistake, and the racially disparate enforcement of marijuana laws has only compounded this mistake with serious consequences, particularly for minority communities.

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

It was only in the early part of the 20th century that
marijuana began to be criminalized in the United States, mainly because of misinformation and hysteria, based at least in part on racially-biased stereotypes connecting marijuana use and minorities, particularly African-Americans and Latinos. In 1970, when President Nixon announced the War on Drugs and signed the Controlled Substances Act into law, the Federal Government placed marijuana on Schedule I where unfairly and unjustifiably it has remained ever since.

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

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

The MORE Act would address some of these negative
impacts by establishing an opportunity trust fund within the Department of the Treasury to fund programs within the Department of Justice and the Small Business Administration to empower communities of color and those most adversely impacted by the War on Drugs. These programs would provide services to individuals, including job training, reentry services, and substance use treatment, and would provide funds for loans to assist small businesses that are owned and controlled by socially- and economically-disadvantaged individuals. It would provide resources for programs that minimize barriers to marijuana licensing and employment for individuals most adversely impacted by the War on Drugs.

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

The MORE Act recognizes this and addresses these harmful
effects by expunging and sealing Federal convictions and
arrests for marijuana offenses. It is not surprising that
over the past 2 decades, public support for legalizing
marijuana has surged. In the most recent Pew Research Center
poll, which was released just last week, 67 percent of
Americans now back marijuana legalization, up from 62 percent
in Pew's 2018 poll.
States have led the way and continue to lead the way,
but our Federal laws have not kept pace with the obvious need
for change. We need to catch up because of public support
and because it is the right thing to do. In my view,
applying criminal penalties with their attendant collateral
consequences for marijuana offenses is unjust and harmful to
our society. The MORE Act comprehensively addresses this
injustice, and I urge all of my colleagues to support this
bill today.
I now recognize the distinguished ranking member of the
Judiciary Committee, the gentleman from Georgia, Mr. Collins,
for his opening statement.
Mr. Collins. Thank you, Mr. Chairman, and I will
address the MORE Act and your introduction of the ANS, but I
do want to make a few introductions and some discussion today
on some observations of this morning's business.
First, I want to say thank you to the chairman for
moving the temporary FISA reauthorization via yesterday's
continuing resolution. I did not support the CR for several reasons on a bigger level, but that part, I appreciate your work because I do support a temporary FISA extension. It would be completely unreasonable to expect our members to vote for a long-term FISA reauthorization when we are expecting in short order a report from the DOJ inspector general on that very topic. So, again, thank you for moving that. And I want to thank Jim Sensenbrenner, in particular, for his partnership and leadership in that effort.

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

But the remainder of the bills on the markup schedule are, frankly, mainly nonstarters for most of my Republican colleagues. And also just the simple fact, as we always do many times in this committee, we have members missing because we have other committees going on. But it is particularly telling that we do have members, and especially 4 missing today, on an impeachment inquiry that is going on in the other building in which we will be getting supposedly, from
everything that we can understand from the procedures that
have been passed, shortly. So instead of watching that,
being ready for that, getting something we are going to get
after December, we are now here dealing with, frankly, some
bills that, at best, have conversations starters in the
Senate, and at worst are simply political statements.

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

Also it is my understanding, Mr. Chairman, that we are
having a, and this may have changed, so I willingly admit
that. We are looking at a hard stop of 3:00 p.m. this afternoon because of some meetings and a debate tonight. If that is case, then we have got a lot of work to do, and there are probably a lot of amendments, especially on the H-2(a) bill that we are going to be working on and others. And to schedule all of this in this week when we are trying to just to rush it all in because we know we are going to be completely tied up in this committee, is really a detriment to those members who have actually worked on pieces of legislation on both sides of the aisle on things that we could have been moving even last week when we had just one bill on a markup schedule, and even prior to that when we were just skipping schedules all together.

So, again, I will talk more about the actual underlying bill that we are discussing here, but those needed to come out. We do need to have some understanding of what is coming up and what is about to hit this committee. But, again, I don't have any idea. I am assuming you don't have any idea because I have not received any response back on how the inquiry will proceed from here. But I look forward to working with you to figure that out because according to what has been passed on the floor, whether we like that or not, it is coming here and we got to deal with it. We ought to be able to deal with it in a fair process that actually works for all Americans. And at this point, that has been kept
from us, and, you know, again, needs to be addressed as we go forward, you know, especially on the issue of are we stopping at 3:00 today. That is a question that, I think, for member management we need to know about as well. And then what are we going to do if we are having a hard stop at 3:00 p.m.?

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

With that, I yield back.

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

Mr. Collins. Okay.

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

Mr. Collins. Just a quick question, Mr. Chairman, and I apologize for interrupting. But 3:00, and especially with one of these bills, and Representative Lofgren has got a long bill on H-2A, I could see it easily just by itself passing, 3:00. So I am just curious, again, for our member
management, for everything else, just curious about what we
are looking at here.

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

Mr. Collins. Okay. Thank you.

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

The clerk will report the amendment.

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

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

[The amendment in the nature of a substitute of Chairman
Nadler follows:]
Chairman Nadler. I will now recognize myself to explain the amendment.

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

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

Mr. Collins. Thank you, Mr. Chairman, and I do want to discuss this, and now I am taking the time on the other questions as we need it. But, Mr. Chairman, as you recall in a letter I sent to you in April and at the hearing in the Crime Subcommittee held in July, I asked that you permit the committee to fully examine the issue of marijuana and its implications. Even Democratic presidential candidate, Joe
Biden, agreed, stating this past Saturday that, "Marijuana's legalization is a debate, and before I legalize it nationally, I want to make sure we know a lot more about the science behind it." I don't necessarily agree with Joe Biden in this, but it is interesting that he does ask for more study to be done.

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

While this bill contains several problematic provisions, I am most concerned with what it fails to address. First and foremost, the bill fails to protect America's greatest asset, our youth, the adolescents and young adults who often fall victim to advertisers and social medial influencers as we have seen in the recent outbreak of the vaping industries. This bill also fails to set any standards to prevent marijuana, THC concentrates, vaping products, and edibles from getting into the hands of those who should not have
The U.S. Surgeon General, Jerome Adams, echoed these views in an advisory on the health of marijuana in adolescence and during pregnancy. He said recent increases in access to marijuana and its potency, along with misconceptions about the safety of marijuana, endanger our most precious resource, our Nation's youth. Over the past 10 years, the DOJ has provided, amended, and withdrawn marijuana enforcement guidance to U.S. attorneys in the form of Cole memos.

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

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

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

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

Without objection.
[The information follows:]
Chairman Nadler. Are there any amendments to the amendment in the nature of a substitute? For what purpose does the gentleman from Colorado seek recognition?

Mr. McClintock. California, although --

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

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

[Laughter.]

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

Mr. McClintock. I have an amendment.

Chairman Nadler. The clerk will report the amendment.

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

Mr. Cohen. Mr. Chairman?

[No response.]

Mr. Cohen. Mr. Chairman?

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

Mr. Cohen. To reserve a point of order.

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

417  [The amendment of Mr. McClintock follows:]

418
Chairman Nadler. The gentleman from California is recognized.

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

Chairman Nadler. What?

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

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

A deputy sheriff once observed that if he picked two high school students at random, gave them each $20, told one to go out and buy booze and the other one to go out and buy pot, the first one back would always be the one he sent to
buy pot. They know where to get it, and the seller has no
compunction selling it to them. The one he sends to buy
booze would go to one liquor store after another, get carded,
and get kicked out.

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

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

Marijuana shouldn't be taxed anymore or any less than
comparable products like alcohol, so I recognize that a 5
percent tax is a reasonable compromise. But under the
provisions of the bill, it is not going to stay at 5 percent
very long. So I am offering an amendment as a supporter of
the bill's objectives that would divide the proceeds in two
ways. Half would go as a general revenue into the Federal
treasury to be used as Congress decides. This would remove
the incentive to ratchet up the tax for specific interests.
And the other half would go to local law enforcement on a per
capita basis. I do think we need to recognize that as
marijuana transitions from an illegal enterprise to a legal
one, local law enforcement will face additional burdens as
legal and law-abiding growers displace the criminal element.
It would be appropriate to use a portion of the tax to offset
these costs.
I think this is a rare opportunity for bipartisan
agreement on an important public policy matter, and I would
ask the majority to consider these concerns.
Mr. Collins. Would the gentleman yield?
Mr. McClintock. I would be happy to yield.
Mr. Collins. I appreciate the gentleman offering this
amendment. I agree. I have differences of opinion about the
underlying bill, but I agree this a good step forward making
it work better. And I do appreciate it and yield back.
Chairman Nadler. The gentleman yields back? Does the
gentleman insist on his point of order?
Mr. Cohen. Yes, I do insist. The basis is that it is not germane. This is my Maxine Waters moment, and I do insist. This amendment addresses provisions of the bill that fall outside the committee’s jurisdiction and exceed the scope of the committee’s referral, thereby violating Rules 10 and 12 of the House Rules.

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

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

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

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

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

Chairman Nadler. The gentleman has an amendment at the desk. The clerk will report the amendment.
Ms. Strasser. Amendment to the amendment in the nature of a substitute to H.R. 3884, offered by Mr. Richmond of Louisiana. Page 17, line 20, strike the "and." Page 17 -- Chairman Nadler. Without objection, the amendment will be considered as read.

[The amendment of Mr. Richmond follows:]
Chairman Nadler. The gentleman from Louisiana is recognized to explain his amendment.

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

Mr. Gaetz. Will the gentleman yield?

Mr. Richmond. Sure.

Mr. Gaetz. I thank the gentleman for yielding, and I come as a friend with this question. I am going to vote for this bill today, and I am likely more supportive of some of the restorative justice provisions than many of my Republican colleagues, if not all of them. But as I read your language, I am having a hard time understanding what would be a collateral consequence. And so if the gentleman could just perhaps give some examples of the types of things that would
be eligible with the amendment, it would be helpful at giving
greater particularity. I yield to the gentleman.

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

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

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

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

Mr. Richmond. Sure.

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

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

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

Mr. Richmond. I will yield.

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

Mr. Richmond. And I yield back.

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

Mr. Collins. Thank you, Mr. Chairman. And, again, I appreciate the gentleman's amendment. His heart in this area is evident and well thought out, and I appreciate his concern here. I think I have just a bigger issue in going back to discussing this, is we are talking about, and I think the gentleman from Florida raised a very valid question on this bill. It is a broad-scoping bill. It changes a lot of
And here is an interesting point just for those in the audience. I am not opposed to looking at ways that we can change this. The question I have here, though, is this bill specifically has never had a hearing. This bill specifically has never been discussed except in broad, sweeping strokes in a hearing that we had earlier this year on marijuana policy, and I understand that. But for many people going forward, if we are to actually make real change and actually make change in policy, actually look at it from its medical benefits, from its recreational benefits, anything else we want to do, is we have got to actually have a discussion because for 70- plus, 80-plus years, the American public has been told one thing about marijuana. Bad. It is hard to change opinions and minds over a simple bill right now that is just not simple. It has a lot of moving parts. It has a lot of different areas.

And so for many of us here, the question is do we want to accomplish something or do we want to simply make a political statement? I agree that we need to work on this, but this is not fair to be putting a bill together we have never had a hearing on specifically. These questions, like the gentleman from Florida raised, could have been asked. We could have included it in the base text of this bill that the gentleman from Louisiana brought, which I thought is fine.
This is the concern that I am having that we needed to
get this done this week because we are going to run out of
time, and we needed to push this forward, but yet we have
never actually talked about the bill itself. I appreciate
the chairman's work on this. He has done a lot of work. I
disagree with a lot of it, but that is fine. That is what we
do. That is what our priority is. We just disagree. But my
question is, do we want to accomplish something, or do we
simply want to make a political statement? A political
statement is a bill that can't become law. It is a political
statement, and we can take that to the next election and work
that and work that and work that.

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

This is coming from a State trooper's kid who, you know,
grew up with the fact that you don't get close to it. You
don't touch it. It was against the law. But I am trying to at least train myself to say, okay, what is the other side here because I have not heard the other side. I was not raised in this and our State does not accept, as California and others, a legalization process.

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

And I respect the chairman for wanting to go for it all the week before Thanksgiving with no hearing. But I would like to actually see something that could actually work and be something that could then, if there is legitimate, which we see the vast amount of Americans having a different attitude about this. The first thing you got to do is convince the vast amount of congressmen and senators that the same is true. The way you do that is education. The way we do this is the way we have done the First Step Act, the way we did music modernization, the way we did the Cloud Act, the way we actually worked together yesterday to get the FISA extension redone.
You do it collaboratively and bipartisanally. We might not always agree, and that is just who we are and different places of where represent. But I would just encourage the chairman, I understand we are going to pass this today, and amendments like this will come. And I appreciate so much Mr. Richmond from Louisiana. He is just a fighter on this, and I respect his amendment. I am not going to fight his amendment. That is irrelevant.

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

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

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

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

But I think the reality here is that we do have a crisis that we are digging out of for many of our individuals in our communities, and that is what the MORE Act is about. It is our work to decriminalize cannabis and empower States to make their own policies, and it is about taking that important step forward to undo some of the devastating impacts of the
War on Drugs, particularly for young people of color. And so I am grateful to the chairman for introducing and championing this bill, which I think is historic.

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

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

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

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

So the tides have turned in a very short period of time.

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

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

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

Mr. Gohmert. To strike the last word.

Chairman Nadler. The gentleman is recognized.

Mr. Gohmert. Thank you, Mr. Chairman. Just to go back to the point we are rushing into this. This is a big deal. And since I have been here, I recall apparently, it was in the 80s, the Judiciary Committee went rushing into an effort to be more severe on crack cocaine than powder cocaine. And
many important members of the Congressional Black Caucus, I think somebody from the caucus said if you don't make these penalties against crack cocaine much more severe, then you obviously don't care about minority communities because this poison is destroying our communities.

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

[Laughter.]

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

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

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

But the gentleman from Georgia talked about we haven't had a hearing and we are moving forward on this because we didn't have time for the hearing. Why haven't we had time to do what we are really supposed to do and actually go into these things in depth, bring experts in here and tell us whether this is the right thing to do or not, or at least advise us on that? It is because we spent so much time chasing our tail on impeachment, you know, bringing John Dean in here, and Corey Lewandowski, and then the Russian collusion, and the Mueller report, and all. We have spent inordinate numbers of our hours on that, and now it is in the
Intelligence Committee, and I think most people think it is likely to be back here within the next few weeks. Mr. Chairman, good luck, but so we are going to be back there.

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

Chairman Nadler. Would the gentleman yield?

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

Mr. Gohmert. Sure.

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

Mr. Gohmert. And I appreciate that, but still there is a lot that has happened in 42 years, a lot more information,
and a lot more information about the effects of marijuana
that hadn't been previously known. I think it would be a
better idea to hear from experts instead of ourselves. And I
don't know if the Speaker didn't have enough faith in
Democrats on this committee or too much faith in Republicans,
but we need to get jurisdiction back to impeachment. I yield
back.

Chairman Nadler. The gentleman yields back. For what
purpose does the gentleman from Tennessee seek recognition/
Mr. Cohen. To strike the last word.
Chairman Nadler. The gentleman is recognized.
Mr. Cohen. Mr. Chairman, members of the committee, the
idea that this committee or the United States of America and
the Congress and the Senate are rushing reform on marijuana
is ludicrous. We are so far behind. We don't need a bunch
of experts to come tell us what we know what they are going
to tell us. If they are from the Drug Enforcement Agency,
law enforcement, they are going to say it is awful. If they
are normal citizens with an ounce of understanding of what
the effects of this drug have been, it is distinguished from
alcohol and tobacco, they will say make it like alcohol and
legalize it, leave it up to the States.

The idea that marijuana should be in Schedule I where it
can't be researched, where you can't research it and then
learn maybe something about it, which is part of our problem,
is ludicrous. It is in a class with heroin, psilocybin, acid, meth, Quaaludes, ecstasy. That is what it is in a class with. It doesn't belong. Which one doesn't fit? Marijuana. Schedule I is supposed to be recognized medical use. We know it helps people with glaucoma, with PTSD, with appetite disorder, people with multiple sclerosis, PTSD veterans, chemo, cancer. It relieves nausea. We know that, so it doesn't fit that class.

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

There is no need. This is the right thing. And if we didn't have this bill scheduled and we didn't have a bill, they would say, well, because of impeachment, the Democrats
are not working on bills. They are not doing anything. But
you have a hearing to work on a bill, they say, oh, you
shouldn't have this hearing, just like they said they
shouldn't have closed door hearings on impeachment. And then
once they opened them up, they said you shouldn't have open
hearings on impeachment.

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

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

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

Mr. Gaetz. To strike the last word.

Chairman Nadler. The gentleman is recognized.

Mr. Gaetz. I thank the chairman for bringing this good
bill forward. I intend to vote for the MORE bill, but I fear
that to get something done, we may need a little less than
more. Nonetheless, I do appreciate the challenge that is
presented in legislating around this issue. I have to
remark, though, to my dear friend and mentor from Texas' 
comment that he feels we may be rushing into marijuana 
reform, I have never heard the marijuana reform movement
accused of rushing into anything.

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

Another area is the criminal justice restoration policy
space. And this is where I fear the legislation we have
before us may not achieve the high goals of the sponsors and
those of us who intend to vote for it. The pro-marijuana
reform coalition in our country is massive. A vast majority
of Americans support marijuana reform, but they do so for a
variety of different reasons. There are some who believe in
use, and believe that medical use and adult use can be
helpful or is allowed. There are others, like my good friend from California, Mr. McClintock, who are not pro-marijuana, but they have principled views regarding the rights of States and the rights of people to be free from excessive intrusion from the Federal Government. I remember our former colleague, Mark Sanford. He was similarly of that view, supported innovation at the State level, but was not someone that was going to go out and really advocate for people to take up marijuana as a habit or as a medical solution.

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

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

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

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

Mr. Gohmert. Will the gentleman yield?

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

Mr. Gohmert. Will the gentleman yield?

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

[Laughter.]

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

Mr. Gaetz. I yield back.

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

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

Chairman Nadler. The gentleman is recognized.

Mr. Correa. First of all, let me thank the chairman for this work on the MORE Act. I just wanted to quickly, the issue of rushing into this issue. California was the first
State in the Union to legalize medical marijuana back in 1998, and we know medical marijuana is good for seizures, glaucoma, and other sorts of things. Our veterans in my home State, home to the greatest number of veterans in the Union, are telling me we want cannabis. We prefer cannabis to opioids. So I have approached the VA. I have asked the VA please do research into what cannabis is good for and what cannabis is not good for. And the only thing I get from the VA is we are not going to do it, Federal law.

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

There are currently many agencies across the Federal Government who are very familiar with recognizing products like cannabis, such as alcohol and prescription drugs. We may, Mr. Chairman, be able to work with those agencies to come up with a robust regulatory framework for cannabis as we move forward. And let me share also my views that our member
from Florida had to say about the STATES Act. I do hope we move on that legislation. The sooner the better.

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

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

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

Chairman Nadler. The gentlelady is recognized.

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

Chairman Nadler. Excuse me [off audio].

Mrs. McBath. I am not a lawyer. I am simply a mother. I will always be a mother. And so I am going to speak to you from a mother's heart today with my remarks. I know that we are still really learning about the health and safety and therapeutic questions that surround the use of marijuana. And I am proud to represent many scientists and researchers, medical professionals, all that are in my district, the Centers for Disease Control, the CDC, and experts that we need to answer some of these questions to know how best to regulate marijuana going forward.
Federal regulations of marijuana have severely limited researchers who could otherwise find the answers to these important questions that we are asking today, and I have to say simply I am voting in support of the MORE Act so that we can answer these questions. I mean, how can we best keep our kids safe in light of some State's decision to legalize marijuana? Can marijuana help our veterans? What are the best therapeutic uses of marijuana? With the passage of the bipartisan MORE Act, I hope that we can begin to answer these really, really critical questions, and in doing so, we provide better information for every State to decide for themselves how they want to regulate marijuana. But as a mom, the safety for our kids is always the most important consideration we as parents make, and I know that there are moms out there who worry about their kids using marijuana. That is a legitimate concern. I worried about the very same thing with my son, Jordan. Unfortunately, though, for decades now, we have lived in a world where those consequences our young people face for marijuana use can depend far too much on the color of their skin. We live in a system where some are given the opportunity to move on from their mistakes, maybe a single day of suspension from school, no driving privileges or no allowance. But for other families, families that look like mine, those mistakes can become something that labels their teen as a criminal or a
convict, and the mistake becomes something that takes that
teen away from school for months or even sometimes years.
Suddenly the scholarships are all gone, and college is
completely out of reach for those teens. Coming home for
Thanksgiving is a hope, but not a guarantee.

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

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

Chairman Nadler. Gentlelady yields back.

Who else needs recognition?
The gentlelady from Pennsylvania?
For what purpose does she seek recognition?
Ms. Dean. Move to strike the last word.
Chairman Nadler. The gentlelady is recognized.
Ms. Dean. Thank you, Mr. Chairman.

I thank you for bringing this bill forward and I want to
speak in support of the amendment of the bill and also the underlying bill.

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

Did they try to move legislation to reform our marijuana laws? I wasn't here, but I have a feeling the answer is no. So there is no rush. In fact, we are decades late. The studies, the research, the damage is known. Communities of color have disproportionately been damaged, destroyed, delayed in what they can do economically, educationally, and in every other way.

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

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

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

People of color have disproportionately borne the burdens of these draconian policies, facing longer prison sentences and a lifetime of economic consequences of having a
criminal record.

As my colleague from Georgia so eloquently stated, think of the difference and the injustice between what might happen to one of my three sons and what would happen to her own. We can right that injustice. We can correct past wrongs. The MORE Act is more than just a marijuana bill. It is a sweeping effort to bring equity to our criminal justice system.

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

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

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

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

So I am pleased to join Mr. Richmond on his amendment and I am pleased to join the chairman on this underlying
bill, and I look forward to its swift bipartisan passage.

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

Mr. Johnson of Georgia. Mr. Chairman?

Chairman Nadler. For what purposes does the gentleman from Georgia seek recognition?

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

Chairman Nadler. The gentleman is recognized.

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

I rise in support of the amendment and I must tell you that -- something that you already know and that is the war on drugs as been a complete and resounding failure both inside of America's borders and also in South America and in Central America.

What is happening now is you have got the president of Honduras, Juan Orlando Hernandez, having a brother whose name is Juan Antonio Hernandez, found guilty in New York federal court just last month of drug trafficking.

And while the president, his brother, is supposed to be fighting drug trafficking in his country, taking American money to fight the war on drugs in his nation, his brother is running drugs with El Chapo. That is what he got convicted of.

Now, how can that be that right under the president of
Honduras's nose his brother is running drugs, he is taking
drug money for his election and he is also taking American
money for drug suppression, and meanwhile, everyone is
fleeing Honduras.

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

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

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

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

This is ridiculous. It needs to stop. Too many lives
have been lost to unfair jail times, decades of probation, all for selling or possessing marijuana.

And with that, I will yield the balance of my time to the gentleman from Louisiana, Mr. Richmond. Mr. Richmond. Thank you, Congressman Johnson. Hopefully, I can be very quick.

I just didn't want to miss this opportunity, Mr. Chairman, for a sense of bipartisanship. I thought I heard my colleague, Mr. Gohmert, mention that we should learn from the failed policy of the 100 to 1 discrepancy between -- disparity between crack offenses and powder cocaine offenses. So I was wondering if my colleague would like to join with me and bring crack cocaine and powder cocaine both to one to one in terms of sentencing, because I think on a bipartisan basis we may be -- actually be able to get that done, and I --

Mr. Gohmert. Will the gentleman yield?

Mr. Richmond. Absolutely.

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

Thank you. Yield back.

Mr. Richmond. Thank you.

And I would just ask the chairman if we could get that done whether we could bring that and mark that up. Thank
you, Mr. Chairman, and thank you to my colleague, Mr. Gohmert, and thank you to Mr. Johnson.

Chairman Nadler. The gentleman yields back.

Mr. Johnson of Georgia. I yield back.

Chairman Nadler. The gentleman yields back.

Mr. Raskin. Mr. Chairman?

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

Mr. Raskin. Move to strike the last word.

Chairman Nadler. The gentleman is recognized.

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

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

There are 600,000 marijuana arrests every year.

Millions of people's lives have been affected by marijuana prohibition, which has proven to be a disaster at every level.

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

But the majority of the states have passed medical
marijuana reform laws or decriminalized marijuana or straight out legalized marijuana, and Congress is way, way in the rear here.

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

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

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

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

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

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

It, essentially, built organized crime in America and it has been the same with marijuana. It has ruined a lot of
people's lives. It has corrupted a lot of law enforcement in different parts of the country and it has essentially put the government at war with the people.

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

We should end this disastrous experiment.

Now, alcohol has both costs and benefits to it, and we didn't repeal the prohibition of liquor because liquor is always great. It is not. But it has got to be dealt with in a serious public policy manner and is a public health issue rather than is a question of criminal law enforcement and Big Brother.

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

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

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

The vast majority of the states are already there. We should catch up with them. We should, indeed, remove
marijuana from Schedule One drugs in the Controlled Substances Act, as this legislation would do, and Congress should join with the states in developing far more rational and precise and scientific efforts.

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

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

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

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

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

So, Mr. Chairman, I will yield back, just saying I am glad that we are moving forward and I hope that we will move quickly to bring this to the floor.
Chairman Nadler. The gentleman yields back.

For what purpose does the gentleman from Colorado seek recognition?

Mr. Buck. Move to strike the last word.

Chairman Nadler. The gentleman is recognized.

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

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

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

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

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

We see increased traffic accidents. We see more juveniles in drug rehab programs. We see things that concern me.
I don't know that there is a simple answer for it but it is worth a debate. This is one issue that I think we have overwhelming bipartisan support and the right bill would pass the House in a way that would demand Senate action.

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

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

And I yield to my friend.

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

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

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

We will get experience with different states once they will choose this safeguard and others, that safeguard to
another, maybe no safeguards, and we will learn from it.

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

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

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

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

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

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

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

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

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

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

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

So I and a number of other Republicans join our Democrat colleagues in advocating for delisting marijuana in some way with common sense safeguards, and it is a first step. In 10 years we may have solved some of those problems and moved on to the next step. But this bill, I believe, goes too far for a number of reasons.

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

And I yield back.

Chairman Nadler. The gentleman yields back.
For what purpose does the gentleman from New York seek recognition?

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

Chairman Nadler. The gentleman is recognized.

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

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

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

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

Today, there are 2.2 million, disproportionately black and Latino, disproportionately from low-income communities of every race across the country -- urban America and rural America.
It is a stain on American society that we incarcerate more people per capita than any other country in the world, including China and Russia combined.

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

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

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

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

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

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

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

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

Chairman Nadler. The gentleman yields back.

For what purpose does the gentlelady from Florida seek recognition?

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

Chairman Nadler. The gentlelady is recognized.
Ms. Mucarsel-Powell. Thank you.

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

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

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

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

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

So I think it is important that we support this bill by
beginning to deschedule marijuana, working on these initiatives to make sure that the bill will add equity to minority communities and ensuring that they have a voice in the growing industry as well because what I have also seen is that we have a tale of two Americas. On the one hand, we have a wealthy white business America that dominates the medical cannabis, especially in Florida we have found that to be true. But on the other hand, black and brown citizens of my community are suffering the consequences of these one-sided laws. So I just wanted to make those comments, respond to Mr. Buck, and support the legislation --

Mr. Gaetz. Will the gentlelady yield?

Ms. Mucarsel-Powell. Yes, I yield.

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

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

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

Mr. Gaetz. What is the gentlelady's basis then for the view that it is rich white people who benefit in the Florida medical marijuana industry?
Ms. Mucarsel-Powell. You have to look at the statistics, Representative Gaetz.

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

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

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

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

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

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

Ms. Mucarsel-Powell. Thank you -- thank you, Mr. Gaetz.

I am reclaiming my time now and let me just, since you are bringing up ethnicity, today is Latina Equal Pay Day and I just want to yield back my time to the chairman.

Thank you.

Chairman Nadler. The gentlelady yields back.
The question occurs on the amendment.
All those in favor say aye.
Oppose, no.
The ayes have it. The amendment is adopted.
Is there any further -- are there any further amendments to the amendment in the nature of a substitute?
For what purpose does -- what purpose does the gentleman from Colorado seek recognition?
Mr. Buck. I have an amendment at the desk.
Chairman Nadler. The clerk will report the amendment.
Ms. Strasser. Amendment to the amendment in the nature of a substitute to H.R. 3884, offered by Mr. Buck. Page 3, strike line 22 and all that follows, through Page 8 line 4 and insert the following.
[The amendment of Mr. Buck follows:]


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

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

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

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

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

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

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

And so I thank the chair for his allowing this amendment
to be considered and I yield time to my friend from Florida, Mr. Gaetz.

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

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

And so, perhaps, we could follow the lead of our states and do precisely what Mr. Buck has suggested. That incrementalism, I think, is particularly evident in my home state of Georgia. We initially passed a low THC medical cannabis bill.

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

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

But in Florida, since the gentlelady mentioned it, we actually thought we were so concerned that communities of color may have been locked out of access to large-scale agricultural operations to be able to meet the need that we required in the state of Florida that licenses at some point had to go to black farmers who were members of the Pigford class in a class action lawsuit brought by sharecroppers. And so, again, the charge that the state of Florida has only helped rich white people in the marijuana industry is unsupported by the evidence.

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

I yield back to the gentleman from Colorado.

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

Chairman Nadler. The gentleman yields back.

I recognize myself in opposition to the amendment.

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

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

This amendment, by maintaining all federal criminal penalties in states that have not legalized marijuana under state law, would continue to limit research and commerce. It would leave in place federal criminal penalties and enforcement in states that have not legalized marijuana, including draconian mandatory minimums.

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

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

By removing marijuana from Schedule One, the underlying
Nothing in the amendment protects from federal prosecution and scrutiny those banks which facilitate cash transfers across state lines between states where marijuana is legal and those where it is not.

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

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

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

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

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

I don't think it is a good idea in most circumstances -- it may be in some -- but in most circumstances I don't think
it is a good idea to say the Senate won't take this bill, therefore, we shouldn't pass this bill -- we should pass only what the Senate will take, as if we know what the Senate will take after a process of negotiations.

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

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

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

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

Does the gentleman --

Mr. Buck. Would the gentleman yield?

Chairman Nadler. I will yield to the gentleman.

Mr. Buck. Thank you.

Mr. Chairman, as someone who has had bills pass the House by over 400 votes and not be considered in the Senate, I don't know how you wake the Senate up to do its job.
But when bills are more partisan and, certainly, in this case it is bipartisan but I don't believe a majority of Republicans will support this bill, it is even more -- it is even less likely that the Senate would take it up. And so, therefore, I would just suggest that we deal with other bills that we can get a much larger bipartisan support for.

Chairman Nadler. Reclaiming my time.

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

I yield back.

Who else seeks recognition on --

Mr. Collins. Mr. Chairman?

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

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

Chairman Nadler. The gentleman is recognized.

Mr. Collins. Thank you.

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

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

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

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

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

I mean, if Doug Collins and Elizabeth Warren can be on the same bill, something might be moving. Okay. This is something we need to think about here.
So that is what I am saying about negotiating.

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

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

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

And I think this is the discussion that is going on.

That is why this States Act amendment is so important for us to at least move the ball forward.

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

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

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

Mr. Buck. Thank you. I appreciate the gentleman from
And, Mr. Chairman, I just want to suggest in terms of the strategy for moving something positive on marijuana forward, the gentleman may want to read "The Art of the Deal." I understand it is a very helpful book in this regard.

[Laughter.]

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

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

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

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

Okay. It is growing because there has been education.

When Allen Peake, who is a dear friend of mine -- he and I came into the Georgia House at the same time -- started this
process of CBD oil and marijuana in the discussion in Georgia, he got very little support and very little votes. It took constant effort, general assembly session after general assembly session, to bring forward. This is fine. As I stated in my opening, we can come at it at a nonnegotiable point. We can make that $10,000 offer on a $25,000 car. And we can say to the Senate and we can beat and moan and beat our chest and say, Senate is not taking our bill up. Why don't we start with one that already has bipartisan support in both and make it better? And then we can come back to the social justice issues. Then we can come back to this, because we have a win under our belt. Momentum is built by wins, not statements. Momentum is built by having something that you can do and actually win and have the ball down the hill. Momentum is not simply yelling at the rock, saying move. Move. It doesn't move. A win will start that in motion. That is why I support this amendment. And I yield back. Chairman Nadler. For what purpose does the gentleman from Georgia seek recognition? Mr. Johnson of Georgia. Move to strike the last word. Chairman Nadler. The gentleman is recognized. Mr. Johnson of Georgia. In response to the comments
about minorities being excluded from the marijuana business,
it is a fact that fewer than one-fifth of cannabis business
owners identify as minorities and only 4 percent identify as
being black.

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

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

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

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

And with that I will yield back.
Chairman Nadler. The gentleman yields back.

Does anyone else seek recognition on this amendment?

In that case, the question occurs on the amendment.

All those in favor say aye.

Opposed, no.

The noes have it. The amendment is not adopted.

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

Ms. Jackson Lee. Mr. Chairman?

I have an amendment at the desk.

Chairman Nadler. For what purpose does the gentlelady from Texas seek recognition?

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

Chairman Nadler. Clerk will report the amendment.

Ms. Strasser. Amendment to the amendment in the nature of a substitute for H.R. 3884, offered by Ms. Jackson Lee of Texas. Page 35, insert after line 10 --

[The amendment of Ms. Jackson Lee follows:]
Chairman Nadler. Without objection, the amendment is considered as read. The gentlelady from Texas is recognized for the purpose of explaining her amendment.

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

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

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

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

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

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

And I just want to -- in case there is any confusion. The gentlelady may --

Ms. Jackson Lee. Right. They may have the right --
Chairman Nadler. Okay. The -- I have the wrong one?

Ms. Jackson Lee. It is one of the individuals -- this is just the term here in --

Chairman Nadler. Oh. The gentlelady -- the gentlelady may continue now.

Ms. Jackson Lee. There is one word change and that is individuals, and I hope we can find the right one.

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

[Pause.]

Chairman Nadler. The gentlelady may continue. The clock will resume.

Ms. Jackson Lee. I thank the gentleman.

So the real idea of what we are doing here today is to ensure that we do the right thing, and there is no doubt that there have been enormous disparate impact on minority communities and other communities.

Mr. Correa mentioned veterans and the inability to get research done as to whether this would be a better medical treatment or better use by the veterans medical system.

So I would hope that my amendment could be a parallel fact finder.

First of all, I think it is important that we remove marijuana, or cannabis, from the list of substances controlled in the Controlled Substances Act.
That has generated an increased population in the nation's federal prisons and others in the states and it has created a disparate impact as indicated through the long discussion we have heard on African Americans as well as Hispanics and others.

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

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

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

My amendment, again, is a fact finding amendment. The Comptroller General of the United States, in consultation with the National Institute on Drug Abuse, shall conduct a democratic study of individuals convicted of federal cannabis offenses.
Such study shall include information about the age, race, ethnicity, and gender of those individuals, the type of communities such users dwell in, and such other demographic information as the Comptroller General determines should be included.

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

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

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

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

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

It will deal with those individuals who will now be
coming out and be released under previous legislation that we
passed and it will provide funding for the reentry of those
trying to turn their lives around after incarceration, and
then it will be an opportunity for communities that have been
severely impacted by the business, the jobs, and otherwise
created.

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

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

Mr. Gaetz. Strike the last word.

Chairman Nadler. The gentleman is recognized.

Mr. Gaetz. Thank you, Mr. Chairman.

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

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

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

Mr. Gaetz. Reclaiming my time.

I thought I understood that people could have one sex
and then a different gender or one sex and then a different
gender identity. Is that not the gentlelady's understanding

Ms. Jackson Lee. No.

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

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

Mr. Gaetz. Okay. I am just trying to understand. Is there someone who can help me understand? Is gender and sex the same thing or are those different? Is there someone -- I know we had a number of people who were involved in the drafting of the Equality Act where these definitions were difficult for me.

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

Ms. Jackson Lee. Will the gentleman yield?

Mr. Gaetz. Oh, yes. Yes.

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

It seeks to list a number of these aspects. And then it concludes by saying, and such other demographic information as the Comptroller General determines should be included.
So if you have any doubt that the Comptroller General, if they view the necessity to separate gender and to view the word sex, they have every opportunity to likewise utilize that terminology as well, though we maintain that gender covers all.

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

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

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

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

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

Mr. Gaetz. Yes, I would.

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

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

Chairman Nadler. The gentleman -- the --

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

Chairman Nadler. Do you yield to the gentlelady?

Mr. Gaetz. Yes. Yes, certainly.

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

I -- we are grateful, Mr. Gaetz, that you are one of the co-sponsors and, certainly, as a Republican. I am a little bit taken aback by the minutiae that we are being engaged in. But I welcome your friendly amendment that I believe is already clarified by the language that says, and such other demographic information the Comptroller General determines should be.

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

Chairman Nadler. Gender identity.

Mr. Gaetz. Would the -- yeah, sex and gender identity
are the two I seek.

So, Mr. Chairman --

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

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

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

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

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

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

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

Chairman Nadler. Without objection --

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

Chairman Nadler. Without objection, the amendment is amended.

Mr. Gaetz. Thank you. But I --

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

Did you just say you support the Equality Act?

Mr. Gaetz. No, I didn't, and that is why I am --
Mr. Cicilline. I was like, wow, that is breaking news.

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

No, it is not, in fact.

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

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

Chairman Nadler. General order here.

Mr. Gaetz. Mr. Chairman, just to reclaim my final few seconds, I wanted to clarify I do not support the Equality Act because it is so confusing. But that doesn't mean we shouldn't try to make this less confusing.

And I would just take some exception with the gentlelady suggesting that my questions are about minutiae. These are -- these are questions that the majority has raised. I simply want to acknowledge, and I appreciate the acceptance of my amendment.

I yield back.

Chairman Nadler. The gentleman -- the amendment is accepted. The gentleman yields back.

Are there any further discussion -- any further discussion of this amendment?

Ms. Jackson Lee. On my amendment.

Chairman Nadler. The question occurs on the amendment.

All in favor say aye.

Oppose, no.

The amendment is adopted.
Are there any further amendments to the amendment in the nature of a substitute?
For what purpose does the gentleman from Colorado seek recognition?
Mr. Buck. I have an amendment at the desk, Mr. Chairman.
Chairman Nadler. The gentleman has an amendment at the desk. The clerk will report the amendment.
[Pause.]
Chairman Nadler. The gentleman has an amendment on the way to the desk. The clerk will report the amendment when it gets there.
[Pause.]
Ms. Strasser. Amendment to the amendment in the nature of a substitute to H.R. 3884, offered by Mr. Buck of Colorado. After Page 37 line 4, insert the following:
Section 15, societal impact of marijuana legalization study.
The Comptroller General of the United States shall not later than two years after the date enacted provide to Congress a study that addresses the societal impact of the legalization of recreational --
[The amendment of Mr. Buck follows:]

[The text continues further on the page.]
Chairman Nadler. Without objection, the bill will be considered as read.

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

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

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

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

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

Chairman Nadler. Very good. Thank you very much.

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

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

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

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

I think it is absolutely important. I recognize and acknowledge my colleagues that have discussed the fact that
Congress is far behind the states in this effort and I recognize that we should act quickly. But I also want to make sure that we act prudently. I think that more information is always better and especially in this situation where it could impact juveniles. It can impact public safety and the lives of so many. And so I would ask that many of the same issues I raised in my letter be addressed in this bill and ask for the support of the chairman and others to study the effects of marijuana and make sure that we are acting in -- if the Senate takes up this bill that they are acting with as much information as possible. And I yield back, Mr. Chairman.

Chairman Nadler. The gentleman yields back. Thank you. I yield -- the gentleman yields back. I yield myself -- I yield myself time to comment on the amendment. The underlying bill seeks to get the federal government out of the business of regulating marijuana and leave it to the states.

There is, of course, a large body of mythology about the effects of marijuana and a large body of questions, and we should not be prohibiting its use and jailing people and all sorts of things without adequate information, which we certainly don't have.
We should never have done that. But it is certainly useful, I think, to gather more information, and in that spirit I would support the amendment offered by the gentleman from Colorado. I think it is a reasonable amendment and I urge -- I support the amendment.

I yield back. Any further --

Ms. Jackson Lee. Mr. Chairman?

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

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

Chairman Nadler. The gentlelady is recognized.

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

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

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

This is going to change the thinking and the structure of dealing with those who use marijuana and those who may ultimately need to have additional services, which is -- was
the intent of the Jackson Lee amendment and my point was to ensure that we stayed focused on the main substance of the Jackson Lee amendment and I think we should stay focused on the main substance of the Buck amendment, which, again, has a number of issues in it.

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

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

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

Is there any further discussion of this amendment?

[No response.]

Chairman Nadler. The question occurs on the amendment.

All those in favor, say aye.

Opposed, no.

The amendment is adopted.

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

[No response.]

Chairman Nadler. No? The question then occurs on the amendment in the nature of a substitute as amended. This will be followed immediately by a vote and final passage of the bill.

All those in favor of the nature of the substitute, respond by saying aye.

Opposed, no.

In the opinion of the Chair, the ayes have it. The amendment in the nature of a substitute is agreed to.

The reporting court being present, the question is on the motion to report the bill, H.R. 3884, as amended, favorably to the House.

Those in favor, respond by saying aye.

Those opposed, no.

The ayes have it. The bill is accordingly reported
favorably.

Mr. Buck. Mr. Chairman, recorded vote.

Chairman Nadler. Recorded vote has been requested.

The Clerk will call the roll.

Ms. Strasser. Mr. Nadler?

Chairman Nadler. Aye.

Ms. Strasser. Mr. Nadler votes aye.

Ms. Lofgren?

Ms. Lofgren. Yes.

Ms. Strasser. Ms. Lofgren votes yes.

Ms. Jackson Lee?


Ms. Strasser. Ms. Jackson Lee votes aye.

Mr. Cohen?

Mr. Johnson of Georgia?

Mr. Deutch?

Ms. Bass?

Mr. Richmond?

Mr. Richmond. Aye.

Ms. Strasser. Mr. Richmond votes aye.

Mr. Jeffries?

Mr. Jeffries. Aye.

Ms. Strasser. Mr. Jeffries votes aye.

Mr. Cicilline?

Mr. Cicilline. Aye.
Ms. Strasser. Mr. Cicilline votes aye.

Mr. Swalwell?

Mr. Lee?

Mr. Lee: Aye.

Ms. Strasser. Mr. Lee votes aye.

Mr. Raskin?

Mr. Raskin. Aye.

Ms. Strasser. Mr. Raskin votes aye.

Ms. Jayapal?


Mrs. Demings?

Mr. Correa?

Mr. Correa. Aye.

Ms. Strasser. Mr. Correa votes aye.

Ms. Scanlon?

Ms. Scanlon. Aye.

Ms. Strasser. Ms. Scanlon votes aye.

Ms. Garcia?


Ms. Strasser. Ms. Garcia votes aye.

Mr. Neguse?

Mr. Neguse. Aye.

Ms. Strasser. Mr. Neguse votes aye.

Mrs. McBath?
Mrs. McBath. Aye.
Ms. Strasser. Mrs. McBath votes aye.
Mr. Stanton?
Ms. Dean?
Ms. Dean. Aye.
Ms. Strasser. Ms. Dean votes aye.
Ms. Mucarsel-Powell?
Ms. Escobar?
Ms. Escobar. Aye.
Ms. Strasser. Ms. Escobar votes aye.
Mr. Collins?
Mr. Collins. No.
Ms. Strasser. Mr. Collins votes no.
Mr. Sensenbrenner?
Mr. Chabot?
Mr. Chabot. No.
Ms. Strasser. Mr. Chabot votes no.
Mr. Gohmert?
Mr. Gohmert. No.
Ms. Strasser. Mr. Gohmert votes no.
Mr. Jordan?
Mr. Buck?
Mr. Buck. No.
Ms. Strasser. Mr. Buck votes no.
Mr. Ratcliffe?
Mrs. Roby?  No.
Ms. Strasser.  Mrs. Roby votes no.
Mr. Gaetz?
Mr. Gaetz.  Aye.
Ms. Strasser.  Mr. Gaetz votes aye.
Mr. Johnson of Louisiana?
Mr. Biggs?
Mr. McClintock?
Mr. McClintock.  Aye.
Ms. Strasser.  Mr. McClintock votes aye.
Mrs. Lesko?  No.
Ms. Strasser.  Mrs. Lesko votes no.
Mr. Reschenthaler?
Mr. Reschenthaler.  No.
Ms. Strasser.  Mr. Reschenthaler votes no.
Mr. Cline?
Mr. Cline.  No.
Ms. Strasser.  Mr. Cline votes no.
Mr. Armstrong?
Mr. Armstrong.  No.
Ms. Strasser.  Mr. Armstrong votes no.
Mr. Steube?
Mr. Steube.  No.
Ms. Strasser. Mr. Steube votes no.

Mr. Deutch. Aye.

Ms. Strasser. Mr. Deutch votes aye.

Chairman Nadler. All right. We have a member on the way from another committee. We will wait for her for the moment.

Is there anyone else in the room who wishes to vote who hasn't voted?

[No response.]

Chairman Nadler. Okay. The gentle lady from Florida?

Ms. Mucarsel-Powell. Aye.

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

Chairman Nadler. The gentleman from Arizona?

Mr. Stanton. Aye.

Ms. Strasser. Mr. Stanton votes aye.

Chairman Nadler. The gentleman from Georgia?

Mr. Johnson of Georgia. Aye.

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

Chairman Nadler. The gentleman from Tennessee?

Mr. Cohen. Aye.

Ms. Strasser. Mr. Cohen votes aye.

Chairman Nadler. The gentle lady from Florida?

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

Mrs. Demings. Yea.

Ms. Strasser. Mrs. Demings votes yea.
Chairman Nadler. The gentle lady from Florida votes aye.

Has everyone who wishes to vote voted?

The Clerk will report.

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

Chairman Nadler. 24 ayes and 10 noes.

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

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

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

The Clerk will report the bill.

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

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

[The bill follows:]
Chairman Nadler. I will begin by recognizing myself for an opening statement.

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

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

The Farm Workforce Modernization Act offers stability for American farmers by providing a temporary status to current farm workers with an absolute path to a green card. The bill also addresses the nation's future labor needs by modernizing an outdated system for temporary workers while ensuring fair wages and workplace conditions.

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

The number of self-employed and family farm workers has
declined significantly over the past several decades and fewer American workers are turning to agricultural work as their chosen pursuit. Because of this, most of today's hired farm laborers are foreign-born. Unfortunately, our immigration laws have not been updated to reflect the needs of our 21st Century economy. For example, our immigration laws provide only 10,000 green cards per year to people without Bachelor's degrees. That is 10,000 green cards not just for those working in agriculture but also for those working in hospitality, food processing, and many other areas where immigrants fill workforce gaps. Due in part to these outdated laws, undocumented workers now comprise about half of the farm workforce. Replacement workers, however, are dwindling due to increases in immigration enforcement and the improving economy in Mexico. As labor shortages have grown, employers have increasingly shifted to the H2A Temporary Agricultural Worker Program. In Fiscal Year 2018, nearly 200,000 H2A visas were issued where a triple amount were issued in 2012. But the H2A Program has been sharply criticized from all sides. Farmers with year-round needs are not eligible to participate and nearly all agree that the program is too burdensome and expensive. The program also fails to sufficiently prevent the abuse
and exploitation of foreign workers which indirectly harms
the wages and working conditions of U.S. workers. Clearly,
the H2A Program needs our attention.

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

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

We must find the courage to do what is right, to provide
a seat at the American table for those who have long grown
the food we serve and eat. H.R. 5038 is the right solution.
This legislation will provide security to current farm
workers and their employers while ensuring a future stable
workforce under fair and safe conditions.

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

I am pleased that we are now marking up this legislation
today and I urge all of my colleagues on this committee to support the Far Workforce Modernization Act.

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

Mr. Collins. Thank you, Mr. Chairman.

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

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

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

Growers are increasingly turning to the H2A Visa Program to get temporary labor that they need but the program needs reformed. The agricultural industry wants and deserves a streamlined program that provides more certainty as to the
temporary labor needed to sustain their businesses. H2A users have asked Congress for many reforms through the H2A Program. Unfortunately, despite those proposed by H.R. 5038 doesn't fix many of the issues with the program and in some cases the bill actually makes the problems worse. Growers have requested permanent long-term wage rate relief instead of the unpredictable adverse wage rate that H2A users are currently required to pay. This change would help farmers plan for the next growing season without facing increases of 6.2 percent like they did for Fiscal Year 2019. H.R. 5038 fails to provide long-term stability on wage determinations. This is something that has also been very -- something that we will discuss more, is wage rate, because what is deceptive of a cap and a freeze and then a promotion after that is actually not taking into account other issues that affect wage rate. We just choose not to talk about that, but it does affect other wage rate earners. This is something that needs to be out there. H2A users have asked for litigation reform that protects against frivolous lawsuits but provides an official way for workers to resolve legitimate issues. H.R. 5038 does exactly the opposite. It subjects H2A users to a private right of action in federal court. Those who use the H2A Program have requested the control of the program be placed with a Cabinet
agency that understands growers, their needs and their
processes. H.R. 5038 doesn't do that.

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

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

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

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

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

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

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

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

What are some of the highlights of H.R. 5038? The bill promotes fraudulent applications through its extremely low document standard and the ability to withdraw a knowingly
false application without prejudice.

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

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

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

There are many more provisions in this bill that concern me. At the outset of this Congress, I did express to the subcommittee chair my desire to work together on an agricultural labor reform bill but that has not happened. Unfortunately, we were not part of this and the bill is therefore something I cannot support.

This is not, as it was said, a concern from past. I am not the former chairman and my staff works for me. We are
able to actually come to an agreement here because this is the Number 1 importer for Georgia because H2A Program, contrary to what many people think, Georgia is the Number 1 user of H2A Program. This is very important to me. It is something we can actually work on, but again as we saw in the first paragraph in the first section of this bill actually what this bill is more about.

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

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

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

So again I believe this is a missed opportunity. I congratulate the subcommittee Chair Lofgren. She and I have worked together well. We disagree on this and we have talked
about this and I think we have come to an understanding.

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

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

With that, I yield back.

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

Ms. Lofgren. Thank you, Madam Chairwoman.

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

So here we are today with a different approach. H.R.
5038, the Farm Workforce Modernization Act, is different. We pulled together stakeholders in a bipartisan group of members of Congress to see if we couldn't work through the issues that have divided the various parties over the years and this bill is a product of really almost nine months of meticulous negotiations. It is bipartisan, it's comprehensive, and I believe it is a balanced solution to a complex problem.

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

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

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

Over the past few weeks, I have had a lot of conversations about this bill. Many on both sides of the aisle have expressed optimism at the possibility of finally
tackling such a critical issue for our country and many on
both sides of the aisle have expressed delight that
bipartisan compromise is still possible, particularly on an
issue as contentious as immigration.

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

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

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

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

First, the bill implements the wage freeze for the year
2020. This is a very important matter for employers. The
The next USDA Wage Survey will be released tomorrow and early reports indicate that wages are expected to increase by another seven to eight percent next year. Under this bill, those wage increases won't happen.

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

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

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

These are significant wage reforms. A recent report by the Cato Institute found that the bill, if enacted, would have saved farmers $324 million in labor expenses in 2019 alone. That may be why more than 300 farm groups across the nation have endorsed this bill.
Let us be clear. I would prefer that these wage concessions weren't in the bill, but this bill is a compromise. It was a compromise to make sure that farm workers today who are looking over their shoulder in fear of deportation will no longer face that nightmare, and it is a compromise that allows additional people to come in to meet the growing needs of our agricultural sector.

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

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

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

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

Earlier, I know that Jim Costa was by and Jim Costa and his staff helped very much, and we have other members of this committee, Mr. Correa, so many others, Mr. Peterson, the Chair of the Agricultural Subcommittee, the Chairman of our own committee, in an effort to get us here today.
I would just like to note that we have for too long been diverted from finding solutions to the problems that face our country. I think the process that we used here, by listening to each other, by sorting through issues, by making sure that we understood the other person's point of view, and that a compromise was necessary in order to solve a big problem is one we can use for other issues that face our country. We know that we live in contentious times. I think this bill shows that members of good faith across the aisle can work together to find solutions to the big problems that face America and I am hopeful that we can pass this bill out of this committee, get it to the House Floor, and we do know we have been, in discussion with members of the Senate, there is strong interest in the Senate, and we can go through the process and end up with a good bill that serves our country, that is fair for our farm workers, that is fair to farmers, and makes our country stronger than it is today. So with that, Mr. Chairman, I thank you for recognizing me and yield back.

Chairman Nadler. [Presiding] Thank the gentle lady.

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

Mr. Buck. Thank you, Mr. Chairman.

We are discussing a topic that is of great importance to
me and my district in Eastern Colorado. Agriculture is the lifeblood of the region and the backbone of our economy. I support our farmers and ranchers who put food on our tables and give our nation a great sense of security. I am committed to crafting a solution that ensures our nation's agricultural employers have a stable labor supply, that the crops our farmers plant on time and the cows are milked every day.

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

To this end, I join my colleagues in voting for former Chairman Goodlatte's Agricultural Guest Worker Act last Congress which would have created a stable, reliable source of ag workers for our nation's agricultural employers. However, I have significant concerns with the bill before us today. The Farm Workforce Modernization Act fails to receive buy-in from a number of agricultural constituencies, including the American Farm Bureau. In fact, this bill fails to account for a number of important structural problems with the existing H2A Temporary Guest Worker Program and it creates a host of new problems.

First, this bill opens the door to a massive amnesty. We
are bringing a bill to markup without even the slightest idea of how many individuals this bill would put on a pathway to citizenship. H.R. 5038 allows individuals to apply for legal status and a work permit which is not limited to agricultural industries with little more than an affidavit claiming that the individual worked unlawfully in this country for 1,035 hours or a 180-day work days over the past two years. Furthermore, the alien who is petitioning for status under the bill can certify his or her own affidavit under a just and reasonable inference standard. Existing case law finds the just and reasonable inference standard essentially requires adjudicators to accept a petition based on nothing more than an individual's word.

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

Second, this bill fails our adjudicators at USCIS by preventing them from accessing the most comprehensive
background check databases when determining whether an
applicant for certified agricultural worker status poses a
public safety risk.

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

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

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

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

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

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

I appreciate that and I yield back.

Chairman Nadler. The gentleman yields back.

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

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

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

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

[The amendment in the nature of a substitute of Chairman Nadler follows:]
Chairman Nadler. I recognize myself to explain the amendment. The changes in this amendment are either technical in nature or are necessary to clarify the intent of the underlying legislation. Most of these changes reflect the advice of the Department of Labor which provided technical assistance on the bill.

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

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

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

I now recognize the Ranking Member, the gentleman from Georgia, Mr. Collins, for any comments he may have on the amendment.
Mr. Collins. Thank you, Mr. Chairman. I appreciate it.

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

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

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

Proponents claim H.R. 5038 will provide wage relief and wage certainty for growers who utilize the H2A Program, but
there is no guarantee of long-term wage rate relief in this bill.

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

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

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

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

In addition, the bill requires the Department of Labor
and Agriculture to eventually propagate a rule to come up with a new wage system, but the criteria required by the bill mirrors the adverse rate. There is no guarantee that the new wage system will be any different from the current system. It is possible that any new rule will be enjoined by the courts and will never go into effect, thereby reverting to the highest wage rates set out by the bill.

The Department of Labor has told us that there are so many variables related to wages in H.R. 5038 that for the most part they have no way of knowing whether wages will be reduced, increased, or will stay the same. Soon-to-be released data from the National Agricultural Statistics Service will be one indicator. For some agricultural occupations, no wage survey exists, such as that those employees will have to be paid by the OES or the Occupational Employment Survey wage rate under the disaggregation scheme under H.R. 5038. The OES wage rate is higher than the adverse rate.

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

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

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

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

So we can gloss over that, although I think some of us
have actually found a way -- and I told the subcommittee
chair I could find a way to help with that, but you have got
to have something in here that helps me get there and this
doesn't do it.
So as we go forward, let us continue this conversation,
but if we are going to have wage rate discussions, let us
have an overall wage rate discussion and actually get into
the minutia of this, as I just have, and say that there are
some problems and even DOL can't tell us what those will
actually be.
So as we move forward, again thank you for all we have.
I will yield hack.
Ms. Lofgren. Mr. Chairman?
Chairman Nadler. The gentleman yields back.
Are there any amendments to the amendment in the nature
of a substitute?
Ms. Lofgren. Mr. Chair?
Chairman Nadler. For what purpose does the gentle lady
from California seek recognition?
Ms. Lofgren. I wanted to strike the last word.
Chairman Nadler. The gentle lady is recognized.
Ms. Lofgren. First, I am sure that there will be an
amendment on wages. I think, although I do not question the
sincerity of the Ranking Member, I think there are some
incorrect provisions that we will deal with when an amendment
is offered.
I would like to say that this bill has tremendous
support across the country and I would like to ask unanimous
consent to put into the record letters in support from more
than 80 immigration and labor advocacy organizations, Farm
Worker Justice.
Chairman Nadler. Without objection.
[The information follows:]
Ms. Lofgren. Coalition for Humane Immigrant Rights, United States Conference of Catholic Bishops, Americans for Prosperity and the Libre Initiative, the Cato Institute, the Cliff Bar Company, and more than 300 agricultural organizations.

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

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

Chairman Nadler. Without objection.

[The information follows:]
Ms. Lofgren. I would just note further on the Manager’s amendment, I agree that it is technical in nature and should be supported, and I would just like to mention further the writing of a bill is not an easy process, but I will say we pulled together a very diverse group of members.

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

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

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

And with that, Mr. Chairman, I yield back with thanks that we can promptly reach a conclusion.
Mr. Collins. Would the gentle lady yield for conversation?

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

Mr. Collins. Thank you.

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

Ms. Lofgren. No, no.

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

There is an issue, but also the other thing is what I just heard from you concerns me because markups are designed for amendments to be worked out and if there is now another process for working out amendments other than a markup, then this letter that you sent four days before what we thought was the original markup of this bill, which has been delayed several times, I understand wanting to see them, but to tell me now that you are not going to accept amendments or be a party to the amendments because we didn't go through your process, this is the markup. This is what this is for.
Ms. Lofgren. Reclaiming my time, I wanted to go the extra mile to accommodate any suggestions that you had. In fact, the markup was delayed in part so that members could have this large bill, complex bill, everybody could know what we were working on, and I think we do.

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

I yield back.

Chairman Nadler. The gentle lady yields back.

Are there any --

Mrs. Lesko. Mr. Chair?

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

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

Chairman Nadler. The gentle lady is recognized.

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

I believe there is a great need to address the growing labor crisis impacting America's farms. I have been on several Yuma, Arizona, farm tours while I was in the state legislature and have seen firsthand the positive economic impact the industry has in our state and nation.
I voted for the Goodlatte Number 1 bill last year. That bill allowed temporary H2C visas instead of giving 40,000 green cards every year as this bill does. It also provided a generous visa allocation to ensure labor needs are met. It eliminated regulatory burdens by not requiring the employers to provide free housing and transportation or pay the adverse effect wage rate. It ensured accountability and compliance via effective enforcement provisions.

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

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

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

It prohibits any illegal alien who is assumed to be
eligible for CAW status to be removed from the United States. Therefore if an illegal alien simply says they work in agriculture and wants to apply for a CAW status, they have to be released and allowed to apply for as long as the open period for applying lasts.

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

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

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

We need to come up with ways to make much-needed reforms to this program that don't encourage frivolous claims so we
can support our hard-working employers in our respective
districts and states.

And with that, I yield back.

Chairman Nadler. The gentle lady yields back.

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

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

Chairman Nadler. The Clerk will report the amendment.

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

Ms. Lofgren. The amendment be considered as read?

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

[The amendment of Ms. Lofgren follows:]
Ms. Lofgren. These changes are entirely technical in nature. After posting the amendment in the nature of a substitute, we discovered various typographical errors, variances in the underlying bill that occurred during drafting by legislative counsel as well as by the GPO. This amendment addresses their errors. It does nothing to change the actual substance or meaning of the underlying bill. So I hope that it can be accepted even by those who disagree with the underlying bill.

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

Mr. Collins. Thank you.

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

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

All in favor, say aye.

Opposed, no.

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

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

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

For what purpose does the gentle lady from Texas wish to be recognized?
Ms. Jackson Lee. Mr. Chairman, I have an amendment at the desk.

Chairman Nadler. The Clerk will report the amendment.

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

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

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

[The amendment of Ms. Jackson Lee follows:]
Chairman Nadler. The gentle lady is recognized to explain her amendment.

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

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

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

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

I am reminded of listening to farmers, farm workers, and I know Mr. Panetta here in the room and I note the many other co-sponsors, we mentioned Mr. Newhouse, and I know those communities of farming, agricultural communities in the state of Texas. We are agricultural communities. Even my congressional district, which could be considered with incorporated and unincorporated areas, that we are bordering communities that farm.
And so what we are doing here is what I said we were doing with the marijuana bill. We are doing the right thing. We are attempting to reinforce the bread basket that the United States happens to be to the world, and I have heard the clamor for farm workers now for a very long time, but I have also heard the need for fairness. I have heard from farm workers and the conditions that they live in, the fear, compensation. In this bill, it is a regulizing of people who want to be regulized, who want to be included, to be of help, to contribute to this great nation, to focus on making the industry, the agriculture industry, small and large, the best in the nation. Let us take this offering to accept that.

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

The bill does not require workers to do or apply for anything else in order to stay and work in the United States. It is well known that TPS persons have been in the United
States for a period of time. They, too, seek access to a continued pathway of legalization. So do the VED persons who have been in for long period of time.

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

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

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

The very fact that the bill is bipartisan, uses the same language that I used earlier, it's important for us to do the
right thing. It is not whether you like a farm worker or you like an immigrant or non-immigrant. It is whether we should do the right thing.

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

With that, I yield back.

Chairman Nadler. The gentle lady yields back.

For what purpose does the gentleman from Georgia seek recognition?

Mr. Collins. To strike the last word.

Chairman Nadler. The gentleman is recognized.

Mr. Collins. Thank you.

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

But this amendment shows that we had a long conversation several months ago on TPS or Temporary Protective Status and my conversation then, as it is the conversation now, is that this committee has completely forgotten what temporary means. Temporary is never meant to be permanent, but this is what we did and I can understand why we made this amendment because when we passed that bill earlier, we took every TPS
and basically made them, you know, permanent at the time, but
this is a program that is taking temporary action into
permanent immigration programs as opposed to the temporary
relief that these were elected to provide.

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

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

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

Ms. Lofgren. To strike the last word.

Chairman Nadler. The gentlelady is recognized.

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

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

People responded to the help wanted sign, and we have roughly half the farmworkers in America respond to that help
wanted sign at the border, and are here making agriculture
work, but without documentation. This is going to allow them
to get their papers, and this amendment will allow people who
are working in ag now on a TPS status also to get their
papers. So I think it is a sensible one, and I know it is
one that the other authors of the bill also support for which
I am grateful, and I am happy to support as well. And I saw
Ms. Garcia was seeking time. I would be happy to yield to
you.

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

I, too, grew up working in the fields of South Texas,
and on my own family farm in Palito Blanco picking cotton.
And now as a member of the United States Congress, I can
testify firsthand about the difficult and dignified work
farmworkers are doing and are willing to do. These are hard jobs with inherent dignity in the work, and this bill honors that dignity with important worker protections as proposed. The State of Texas, as my colleague has mentioned, is home to almost 250,000 farms alone. The need for a strong agricultural workforce is vital. Farmworker immigrants have come to the United States seeking opportunity to provide an honest living for their families. This bill gives them just that opportunity. By creating a clear path to legalization through agricultural employment, this bill not only ensures a stable workforce, but allows for immigrants to continue contributing to the American economy in a way that is safe and legal. This bill streamlines the process of the H-2 visa, and workers can meet their needs more efficiently as well as working together with the employers. This provision addresses a labor shortage directly as it provides a faster legal process for employers to find workers.

Throughout our history, immigrants have helped build a stronger American economy. Why stop it now? Why change the course of this American legacy when it has helped in building our Nation into even more greatness? This bill simply adds to curb our country's growing agricultural labor shortage fairly and justly to all parties involved. I urge my colleagues to honor the work of these workers and to support the delicate balance of interests achieved in this bill.
Quite frankly, Mr. Chairman, I thought I would never see the day that there would be a bill that farmworkers and growers would agree to. And I say if they can agree to it, then so can I.

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

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

Mr. Gohmert. To strike the last word.

Chairman Nadler. The gentleman is recognized.

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

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

Well, we have a chance to fix that, and a proper way and a
good way, and, in fact, I was one of the ones who voted for every bill last year that we brought out on the guest worker program, even when most of my colleagues abandoned this. The issue here, though, goes back to, you know, how do we fix this for the farmer who needs it? In Georgia, my wife grew up and they grew peaches. We have in northeast Georgia one of my good friends that still has a large peach orchard. They have diversified to strawberries and everything else. They can't find workers, and he uses the H-2A Program, but finds the H-2A Program very difficult and cumbersome to use. And they are simply saying we will take more people to come to work and help them come here, and be in good to work with this, but find us a simpler, easier path. I think the problem we are coming into, and this amendment sort of hits at that, is that we are dealing more with status than we are with the worker situation. And we are dealing more with other issues that sort of countermand that.

So, again, I just want to say let's have this debate. Let's get this in there. But also I have to say it is not only in addition to the gentleman who grows peaches and strawberries. I have poultry processors, beef processors, and meat processors all over this country. Last year we actually had agreed that they needed the help, too. At any given day in my district, the poultry processing plants run at 50 to 75 workers down every day, and I am supposed to tell
them this is going to help them? That they need workers,
they are getting refugees and others to work?

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

Ms. Jackson Lee. Would the gentleman yield?
Chairman Nadler. The gentleman yielded.
Mr. Gohmert. Yeah, that was Richard Land that made that
coment --
Chairman Nadler. The gentleman yielded back to the
gentleman from Texas. The gentleman from Texas has the time.
Mr. Gohmert. Yeah, just to clarify. That was Richard
Land. He was also ashamed of Republicans apparently when
Romney was our candidate. So anyway, he has never been
president of the Southern Baptist Convention, but he has had
an office there. I think he is now with a seminary. But
anyway with that, I will be glad to yield --
Ms. Lofgren. Would the gentleman yield?

Mr. Gohmert. Sure, yeah.

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

[Laughter.]

Ms. Lofgren. And I yield back.

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

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

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

Chairman Nadler. The gentleman is recognized.

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

In my home State of Arizona, especially in Yuma County,
the H-2A Program has been the difference between leaving crops in the ground and farmers making ends meet. Farming in Arizona is hard work. Utilizing automation technology during harvest is not always an option because of the labor-intensive crops grown there. This bill rewards these farmers and workers for their hard work by modernizing the H-2A Program. This bill boosts efficiency while lowering legal fees. It creates certainty by streamlining the H-2A filing process. It creates a single online portal for employers so farmers can focus on what they do best, feeding Arizonans.

There is no question that the United States grows the best agricultural products in the world. We are in a time when farmers are facing difficulties in all fronts from climate change to the ongoing trade war with China, and crops should not have to rot in the ground because farmers are unable to access the workforce they need. Today we are taking a good step forward in tackling the needs of Arizona farmers. This bill is example of true bipartisan cooperation, and we will continue to address the immigration challenges facing this country. We must continue this approach.

I support this bill because it is good for Arizona's economy where agribusiness contributes upwards of $23.3 billion to the State's economy. And I hope my colleagues on this committee will join me in supporting this important
Chairman Nadler. The gentleman yields back. For what purpose does the gentleman from Virginia seek recognition?

Mr. Cline. I move to strike the last word, Mr. Chairman.

Chairman Nadler. The gentleman is recognized.

Mr. Cline. Thank you, Mr. Chairman. I want to join in the support on both sides of the aisle for America's farmers and ranchers. They are essential to our Nation's economic success and prosperity. Agriculture is by far the largest industry in the district that I represent in Virginia. In 2017, my district produced nearly $1.5 billion worth of agriculture goods, which accounted for 37 percent of Virginia's agriculture sales alone.

Earlier this fall, I spent time touring farms and agribusinesses across my district, in addition to hosting an agricultural listening session with Secretary of Agriculture Purdue. I was able to meet and hear from farmers firsthand about the many issues they face on a daily basis. While passage of the USMCA, rural broadband access, and rolling back burdensome Federal regulations were among the many issues we discussed, access to a robust and reliable workforce was also a top priority for many. Any change in Federal policy impacting agriculture has a direct and dramatic effect on the families and businesses that I
represent. So I want to thank the gentlelady from California, Ms. Lofgren, for her work on this legislation, bringing forward a bill intended to address the workforce issues that our farmers and producers are facing. Unfortunately, I cannot support the bill in its current form. Although there are provisions that will benefit certain commodities, the legislation continues to overcomplicate the H-2A process and creates red tape that our farmers would have to navigate. Furthermore, it subjects farmers to increased Federal oversight and additional financial burdens to meet the new criteria created under this new H-2A Program. One of the major oversights in the legislation is that meat and poultry processors are unable to access year-round labor. These businesses depend on a stable workforce, and with today's low unemployment rates, often jobs remain unfilled. We must find a solution that meets the many year-round labor needs of agriculture and food manufacturing industries in addition to streamlining the cumbersome H-2A Program that seasonal operations depend on. Additionally the bill fails to address the overly-complicated wage system the farmers must use to pay workers. We need to have a market-based cost structure so farmers and workers are both getting a fair deal. It also concerns me that the bill includes provisions that will subject H-2A employers to increased risk of unnecessary litigation when
there are already robust and adequate measures in place for H-2A workers to resolve claims administratively. Finally, this legislation fails to include strong enforcement measures, and, as a result, creates a program that will lead to a continued flow of illegal immigration across our border. We need to have an immigration system that works for all of agriculture. And while I am ready and willing to work with my colleagues to find a solution, I cannot support the bill in its current form.

I want to thank again the chairwoman for her hard work to find a solution and for reaching out to both sides of the aisle. I look forward to continuing the conversation. And with that, I yield back.

Chairman Nadler. The gentleman yields back.

The question occurs on the amendment.

All in favor of the amendment will say aye.

Opposed, no.

The ayes have it. The ayes have it. The amendment is adopted.

Are there any further amendments? For what purpose does the gentleman from Georgia seek recognition.

Mr. Collins. I have an amendment at the desk, Mr. Chairman.

Chairman Nadler. The clerk will report the amendment.

Ms. Lofgren. I reserve a point of order.
Chairman Nadler. The gentlelady from California reserves a point of order.

Ms. Strasser. Amendment to the amendment in the nature of a substitute to H.R. 5038, offered by Mr. Collins of Georgia. Page 108, strike line 5 and all that follows through page 111, line 7, and re-designate --

Chairman Nadler. Without objection, the amendment is considered as read.

[The amendment of Mr. Collins follows:]
Chairman Nadler. The gentleman from Georgia is recognized to explain his amendment.

Mr. Collins. Thank you, Mr. Chairman. And this is one of those amendments that I think was discussed, and we talk about how can things help knowledge to farmers. But unlike others, I think this is one that could. This amendment strike Section 204(a) and (b) of the bill. As designed, the H-2A Program is heavily regulated by the Department of Labor, Homeland Security, State, and Justice. These agencies investigate alleged program violations, award back pay to employees, and otherwise penalize employers who breached program requirements. The agencies engage in robust enforcement, and Fair Labor Standard Act claims are also filed, litigated, and resolved.

H-2A workers are not, however, provided a Federal private right of action under the Migrant and Seasonal Agricultural Workers Protection Act, MSPA. In fact, as defined by MSPA, "migrant agricultural worker" does not include any temporary non-immigrant alien who is authorized to work in agricultural employment in the U.S. But H.R. 5038 changes that by specifically stating H-2A workers are agricultural workers for the purposes of MSPA. And coincidentally, MSPA contains what is clearly titled "Private Right of Action in Federal Court."

The only reason to call great workers "agricultural
workers" for the purposes of MSPA is to allow the workers to sue employers in Federal court. This removes many years of legal safeguards protecting H-2A growers from frivolous lawsuits, which are costly to defend and, of course, principally benefit the trial lawyers. And it is not as if the private right of action will be the only avenue available to workers for relief from H-2A violations. In fact, the contractual claims would be in addition to fair standard labor claims and claims pursuant to Section 218 of the Immigration and Nationality Act, and it in would addition to any criminal or administrative sanctions placed on the employers by MSPA.

Under H.R. 5038, H-2A workers will be covered under these MSPA protections and able to sue growers for any allegation of violation of standards or regulations no matter how minor. Proponents claim the bill contains mandatory mediation for MSPA claims. In reality, the bill offers mediation as an option as long as one party requests it, but the parties aren't required to resolve the claims through mediation. In fact, the bill places a 90-day limit on mediation attempts, so one party could simply delay mediation for 90 days in order to get into court.

Proponents also claim that if an H-2A user employs a domestic worker, they are covered under MSPA. While that is true, H-2A workers are not currently able to use that claim,
and I have heard no examples where H-2A employees have joined a domestic MSPA lawsuit. That assertion is specious. Others will point out that damages are only at $500, but in reality, damages include actual damages and statutory damages of up to $500 per plaintiff per violation where the violation constitutes distinct provisions.

Most claims involve multiple plaintiffs in class actions, and could involve many plaintiffs who did not even want to be a part of the claim. For class actions, the court is authorized to award the lesser of up to $500 per plaintiff per violation, or up to $500,000. So, in fact, liability under MSPA could be a half million dollars.

In short, this is a new Federal private right of action imposed on H-2A employers. No grower or group that represents growers has ever come to me asking for extended or additional legal exposure. No H-2A employer has requested that H-2A workers be subject to MSPA. I suspect that the union farmworker advocacy groups asked for it in order to be a tool against the growers. If this provision truly had no effect on growers or exposed them to additional liability, it wouldn't be in the bill. I repeat. If this did not expose them to further exposure, it wouldn't be in the bill. It is in the bill for a purpose.

Additional procedures, burdens, costs, and litigation are risks non-consistent was streamlining reform intended to
promote U.S. agriculture as has been said by the proponents of this bill. They will never help U.S. farmers grow fruits and vegetables and other agricultural products. They will, however, result in farms going out of business and U.S. grown crops becoming a thing of the past. Accordingly, my amendment strikes Section 204(a) and (b), which are burdensome to employers and incentivize frivolous claims in hopes that the employer will settle quickly to avoid a protracted suit.

Again, why this into H-2A when our idea is simply to get more workers here to be able to work when they are already covered under a lot of regulatory provisions? Why? Look at the bill. With that, I yield back.

Ms. Lofgren. Mr. Chairman?

Chairman Nadler. The gentleman yields back. The gentlelady from California is recognized.

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

Chairman Nadler. Without objection.

Ms. Lofgren. I oppose this amendment, and I would like to explain why. It is true that the bill does eliminate the exemption in MSPA for H-2A workers, which ensures that all farmworkers will have the same workplace rights and benefits. That is the only part I agree with the ranking member's statement, because H-2A workers, although they are not currently protected by MSPA, they are covered by the Fair
Labor Standards Act and the protections in the H-2A Program itself. That means that H-2A workers can already sue farmers in State court under the Fair Labor Standards Act. They can sue in State court for violations of the H-2A contract. To suggest that they are without legal remedies is not correct.

Now, a lot of people don't know what the Migrant and Seasonal Agricultural Worker Protection Act, otherwise known as MSPA, is. It was enacted in 1983 with the American Farm Bureau. It is short and simple and lays out basic protections for farmworkers. The bill effectively requires the following: farm labor contractors register with the Department of Labor; employers accurately disclose in writing at the time of recruitment the terms and conditions of employment; employers pay the wages that are due; worker housing meets safety and health requirements; and the vehicles for transporting workers have to be safe and properly insured.

Now, MSPA does not really significantly increase the litigation exposure. As I mentioned earlier, the H-2A workers can already sue their employers in Federal court for FLSA or in State court for H-2A contract violations. Second, MSPA covers many of the same issues covered by the Fair Labor Standards Act and the H-2A Program. For example, MSPA requires that workers be paid the wages that are due. That would be true under the H-2A contracts as well. MSPA doesn't
add anything except the ability to sue in Federal court rather than State court, and the ability to collect $500 in statutory damages per plaintiff. Now, technically the bill provides for $5,500 per plaintiff per violation, but MSPA also states that multiple violations of the same statutory provision count as only one violation.

So under MSPA, an employer who illegally withholds pay to the same worker multiple times is only liable to that worker for one violation. That, honestly, is something I think we should revisit, but the concern about it that has been expressed, I think, is misplaced. Third, MSPA does not provide for attorney's fees. Therefore, it does not provide for an attorney fee windfall as some might be concerned about. Like the H-2A contract claims, MSPA provides a way for workers to get the wages and benefits that they were contractually due to get.

Now, I think that the mediation requirements actually will reduce litigation. This bill largely adopts the agreement from the 2013 comprehensive immigration reform bill, the bipartisan bill from the Senate, which both expanded that MSPA protection, but also added the mediation. And the American Farm Bureau, I would add, supported that bill at that time. This bill, however, is actually even more favorable to farmers than the Senate bill was because the mediation provision is not just limited to MSPA claims. It
also would expand mediation to claims that were filed under H-2A contract claims or under the FLSA. So the mediation provisions are greatly expanded as compared to current law, and I think that will allow an opportunity for mediation to occur and for problems to be solved before you go to court.

A lot of farmers have told us, being the authors of the bill, that if they are given a real opportunity to discuss and settle claims, there really would be no need for lawsuits in most cases, and this actually takes them up on this offer. Under 5038, if an H2 a worker files a suit for employment-related violation, whether it is under MSPA, FLSA, or the contract, the farmer would now have the option of ordering mandatory mediation to settle the case. This should reduce, rather than increase, litigation. And, therefore, I think this amendment should be rejected, and I yield back the balance of my time.

Chairman Nadler. The gentlelady yields back. Are there any others on this amendment?

Ms. Lofgren. And I withdraw my point of order.

Chairman Nadler. The point of order is withdrawn. For what purpose does the gentleman from Texas seek recognition?

Mr. Gohmert. I move to strike the last word.

Chairman Nadler. The gentleman is recognized.

Mr. Gohmert. I yield to my friend from Georgia.

Mr. Collins. Thank you. This is one of the biggest
areas of disagreement with the Farm Bureau and others on why this is a problem. It is in the bill because it does something. Make no mistake about it. It is in the bill because it does something, and it actually expands this. I am not sure, and I missed this, and I apologize to the gentlelady, but it was an understanding that I said that there was no protection. I read off the protections that were already there under the worker and different regulators. They have plenty of protection. What I said was they don't need extra. And when we look at this here --

Ms. Lofgren. If the gentleman would yield, I was not characterizing your comments.

Mr. Collins. That is what I thought. Thank you. I thought so. But also to say that this doesn't impact the farmer, a $500,000 possible liability here? I mean, I am not sure where most farmers are, but I just don't think they can write off $500,000 as being something they could live with.

Also the other part about this is, and the gentlelady keeps coming back to mediation, and I may offer this. If the gentlelady believes that the mediation here is mandatory, then I will offer a friendly amendment right now to add the word "mandatory mediation" instead of the "90 days" in here, because you know that she won't accept it because 90 days, I have done this in litigation. You have probably done it in litigation. You work it out. You work it out. You are
trying, you are trying, you are trying, but your end result is to get to Federal court. So it is not mandatory mediation here. It is you do the process of mediation. You can use it if you want to, but it is not required and it is not mandatory.

So, again, all I will say to this is, if there is genuine concern on this committee about actually putting a bill that could actually help get it forward, this is a great place to start because it is one of the main drawbacks to the American Farm Bureau and others, including myself, on actually adding cost into this process. Again, it is amazing here. Why add this into cost when we are trying to make sure that it is streamlined and get an active workforce and everything else? This was simply thrown in here as a provision that, again, puts H-2A under MSPA. It should never have been put under MSPA.

And, like I said, if mediation is supposedly required here, then add it into the language. We are not going to because we know that that is not what happens because we also know that there are plenty of provisions in here in which they can sue, which there are other are remedies as we go forward. So I was offering this as a chance to take away one of the biggest complaints you have about the bill from outside farm groups. But if we are not going to do it, I understand it, but at least everybody knows this is a
provision in here, and it is not in there by mistake. There
is a reason you expanded it under MSPA. That is why I
properly put this amendment, and I yield back to the
gentleman from Texas.

Chairman Nadler. The gentleman yields back.
All in favor of the amendment will say aye.
Opposed, no.
In the opinion of the chair, the noes have it, and the
amendment is not adopted.
Mr. Collins. Roll call vote.
Chairman Nadler. A roll call vote has been requested.
The clerk will call the roll.
Ms. Strasser. Mr. Nadler?
Chairman Nadler. No.
Ms. Strasser. Mr. Nadler votes no.
Ms. Lofgren?
Ms. Lofgren. No.
Ms. Strasser. Ms. Lofgren votes no.
Ms. Jackson Lee?
Mr. Cohen?
Mr. Johnson of Georgia?
Mr. Deutch?
Ms. Bass?
Mr. Richmond?
Mr. Jeffries?
Mr. Cicilline?
Mr. Cicilline. No.
Ms. Strasser. Mr. Cicilline votes no.
Mr. Swalwell?
Mr. Lieu?
Mr. Raskin?
Mr. Raskin. No.
Ms. Strasser. Mr. Raskin votes no.
Ms. Jayapal?
Mrs. Demings?
Mr. Correa?
Mr. Correa. No.
Ms. Strasser. Mr. Correa votes no.
Ms. Scanlon?
Ms. Scanlon. No.
Ms. Strasser. Ms. Scanlon votes no.
Ms. Garcia?
Ms. Garcia. No.
Ms. Strasser. Ms. Garcia votes no.
Mr. Neguse?
Mrs. McBath?
Mrs. McBath. No.
Ms. Strasser. Mrs. McBath votes no.
Mr. Stanton?
Ms. Dean?
Ms. Dean. No.

Ms. Strasser. Ms. Dean votes no.

Ms. Mucarsel-Powell?

Ms. Escobar?

Ms. Escobar. No.

Ms. Strasser. Ms. Escobar votes no.

Mr. Collins?

Mr. Collins. Yes.

Ms. Strasser. Mr. Collins votes yes.

Mr. Sensenbrenner?

Mr. Chabot?

Mr. Gohmert?

Mr. Gohmert. Yes.

Ms. Strasser. Mr. Gohmert votes yes.

Mr. Jordan?

Mr. Buck?

Mr. Ratcliffe?

Mrs. Roby?

Mrs. Roby. Yes.

Ms. Strasser. Mrs. Roby votes yes.

Mr. Gaetz?

Mr. Johnson of Louisiana?

Mr. Biggs?

Mr. McClintock?

Mrs. Lesko?
Mr. Reschenthaler?
Mr. Reschenthaler. Yes.
Ms. Strasser. Mr. Reschenthaler votes yes.
Mr. Cline?
Mr. Cline. Aye.
Ms. Strasser. Mr. Cline votes aye.
Mr. Armstrong?
Mr. Armstrong. Yes.
Ms. Strasser. Mr. Armstrong votes yes.
Mr. Steube?
Mr. Steube. Yes.
Ms. Strasser. Mr. Steube votes yes.
Chairman Nadler. The gentleman from Arizona?
Mr. Stanton. No.
Ms. Strasser. Mr. Stanton votes no.
Chairman Nadler. The gentlelady from Texas?
Ms. Jackson Lee. No.
Ms. Strasser. Ms. Jackson Lee votes no.
Mr. Lieu votes no.
Mr. Johnson of Georgia votes no.
Ms. Mucarsel-Powell votes no.
Mr. Chabot, you are not recorded.
Mr. Chabot. Yes.
Ms. Strasser. Mr. Chabot votes yes.
Chairman Nadler. Has everyone who wishes to vote voted?
Chairman Nadler. The clerk will report.

Ms. Strasser. Mr. Chairman, there are 8 ayes and 16 noes.

Chairman Nadler. The amendment is not adopted.

Ms. Jayapal. Thank you, Mr. Chairman. I have an amendment at the desk.

Chairman Nadler. The clerk will report the amendment.

Ms. Strasser. Amendment to the amendment in the nature of a substitute to H.R. 5038, offered by Ms. Jayapal of Washington. Page 14, line 6 --

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

[The amendment of Ms. Jayapal follows:]
Chairman Nadler. The gentlelady from Washington --

Mr. Collins. Mr. Chairman, I reserve a point of order.

Chairman Nadler. The gentlelady from Washington is recognized for the purpose of explaining her amendment. The gentleman from Georgia reserves a point of order.

Mr. Collins. Thank you.

Ms. Jayapal. Thank you, Mr. Chairman. First, I want to express my gratitude to Representative Lofgren and to my colleague from Washington State, Mr. Newhouse, as well as the many parties that have been a part of putting this together, including the United Farm Workers, for their work to bring forward a bill to provide a roadmap to citizenship for agricultural workers.

While the legislation does a lot of incredible things to advance the rights of ag workers, there are some pieces that still do give me pause. For example, as of now, for those who obtain legal status through this bill, they still would not be able to access the healthcare insurance exchange for 4 to 8 years, and so that is why I am offering this amendment to ensure that workers are able to access healthcare insurance. Under this bill, people who obtain legal status would be considered lawfully present, consistent with current policy and practice. In general, anyone who is lawfully present has access to healthcare insurance. One exception to this is the DACA recipients, and this bill would expand the
carve-out to include ag workers.

For 2 decades, immigrants, even those here lawfully, have had a limited ability to access affordable health insurance. Right now, a person who moves to the United States with authorization to work or to reunite with family must wait for 5 years to access Medicaid or CHIP in addition to many other safety net programs, leaving them to navigate a complicated system and pay skyrocketing out-of-pocket costs for the most basic healthcare services.

Immigrant women and children in particular are left most vulnerable by these restrictions. One-third of non-citizen immigrant women between the ages of 15 and 44 are uninsured. The Affordable Care Act, which widely expanded access for the uninsured, still left out 23 million immigrants, solidifying their exclusion for many public health benefits. The disparity in access to healthcare between U.S. citizens and immigrants is widening, and it is past time that we undo the harmful restrictions that politicians have enacted on immigrants' access to affordable health insurance coverage.

Lack of access to healthcare coverage increases the incidence of negative health outcomes and has profound impacts on families and communities across this country. By denying immigrants access to care, we are delaying treatment for preventable diseases, which means more visits to the emergency room, increasing costs for our healthcare system,
and increased financial instability for their families. Beyond the economic impact, lack of healthcare access has a human cost. A delayed cancer treatment could lead to a parent's premature death, or a child may miss out on an intervention in their critical early years of development. Immigrants are taxpayers. They contribute to our communities, and they should be treated fairly by the system into which they pay. That is why I introduced the Health Equity Access Under the Law for Immigrant Women and Families Act, also known as the HEAL Act, to correct these injustices. That bill would eliminate the 5-year waiting period for lawfully present immigrants, and allow those granted deferred action to buy into Medicaid and the Children's Health Insurance Program. That bill also ensures that all individuals granted federally-authorized presence as well as those who have been granted deferred action and undocumented individuals can participate in the marketplaces and access the cost-sharing reductions and premium tax credits provided by the Affordable Care Act. By restoring access to health coverage for immigrant women and families, including those who are lawfully present, that act would help foster healthier communities and a stronger economy. Today, every American is dependent on the labor of millions of immigrant farmworkers and dairy workers. These incredibly hardworking people do back-breaking and skilled
labor, waking up before dawn to pick our fruits and our vegetables, to care for our livestock, to milk our cows, and so much more. They put food on our tables every single day. And I believe that the least we should be doing is making sure that they have healthcare to keep them healthy as they do the work that sustains our lies.

Now, I know that many of my Democratic colleagues would support this amendment, including the author of this bill, Ms. Lofgren. However, I also understand that we still need to further educate and create consensus around this amendment. And I hope that as we continue the process of this bill to the final markup, that we will actually move this concept of healthcare for farmworkers forward. And so in the strong hopes that we can do that and come to some agreement on the importance of healthcare, I will withdraw this amendment and continue my work to ensure that we are providing healthcare for our farmworkers and for all immigrants who are in this country. And with that, I withdraw my amendment, and I yield back the balance of my time.

Chairman Nadler. The gentlelady yields back. The amendment is withdrawn, and I want to thank the gentlelady for her work on this important topic and for greater equity. Are there any further amendments to the amendment in the nature of a substitute?
Mr. Collins. Mr. Chairman, I have an amendment at the desk.

Chairman Nadler. The gentleman from Georgia has an amendment at the desk. The clerk will report the amendment.

Ms. Lofgren. I reserve a point of order.

Chairman Nadler. The gentlelady from California reserves a point of order.

The clerk will report the amendment.

Mr. Collins. By the way, I withdraw my other point of order.

Ms. Strasser. Amendment to the amendment in the nature of a substitute to H.R. 5038, offered by Mr. Collins of Georgia. Page 111, after line 7, insert the following.

Chairman Nadler. Without objection the amendment is considered as read.

[The amendment of Mr. Collins follows:]
Chairman Nadler. The gentleman from Georgia is recognized for the purpose of explaining his amendment.

Mr. Collins. Thank you, Mr. Chairman. Continuing this process that we discussed just a few moments ago, let's take this down a step further. And I had hoped my arguments in favor of striking the entire provisions would have worked that subjecting H-2A users to the MSPA would be persuasive, and that my Democratic colleagues would have supported my amendment. But that didn't happen, so I am going to offer another reasonable alternative here. Let's see if we can.

The amendment would simply provide that when the employer faces an H-2A-related claim under MSPA, the employer is provided a right to cure before the claim can proceed. Specifically, the amendment allows the employer to, within 5 days of receipt of the complaint, attempt to cure the alleged violation. The employer must also file with the court documentation demonstrating that the action giving rise to the complaint has been remedied. After that, the court may dismiss the complaint if it is satisfied that the complaint has been resolved.

As I noted when discussing my previous amendment, MSPA private right of action damages can include actual damages or statutory damages up to $500 per plaintiff per violation, where the violations constitute distinct provisions. Most claims involve many multiple plaintiffs, and in class actions
could involve the many plaintiffs who don't even want to be a part of the claim, thus setting up the $500,000 that we spoke of earlier. Costs like these to employers, on top of the court fees and other things added pursuant to the claims avenue, should not be taken lightly, and they can represent significant burdens on employers who did not knowingly and purposely violate H-2A requirements.

The least we can do is provide our growers, who are trying to do the right thing by utilizing the H-2A Program, the opportunity to remedy a violation. If the purpose of filing a complaint is to seek redress, then this amendment provides a reasonable path forward. And I am sure, however, that those whose purpose is to subject employers to additional frivolous claims will oppose my amendment. But they should do so knowing what the likely negative effects of MSPA's Federal right of action could be. My amendment would retain the ability of H-2A workers to obtain redress, but would provide protection for growers.

I ask the committee to discuss this. If you have a problem or if an H-2A worker has a problem, which do you prefer, a pound of flesh or a fix? This provides a fix. They have got to fix it. It is in the court. They got to go within 5 days to get it fixed. This is a reasonable alternative moving forward. If it is punitive against the grower, then that is out there for everybody to see you as we
move forward on this bill. But if there is a legitimate
concern about a situation of an H-2A worker needing a fix,
this is a legitimate fix.

And for my farmers who actually, you know, some of them
for many years have had the same H-2A workers over and over.
They are part of their extended family. If they are doing
something wrong, they want to fix it. They don't have a
desire in my area, and maybe in other areas, and if there is
we will talk about it. But in my area, they simply want to
have the workers to do the job, and they are willing to fix
any problem that they have. But why do this?

So let's just have an honest fix. My last amendment
failed, but let's at least try this. Have an opportunity to
fix the problem. Have an opportunity to say this is
something that has come up, we agree, but let's give a right
to cure. I bet you that most, most, most every farmer -- I
will never say all -- but most every farmer will say, okay,
yes, I see you have a problem with housing. I see you have a
problem. I will fix it. If they don't, then the system is
failing them and not helping the worker. And at the end of
the day, you are going to lose this. If we continue this
path, you will lose H-2A employers because they are not going
to go through the process here. And then we have less
opportunity for people to come from other places to help us
in ag.
So I am just asking, this is a reasonable alternative. I would ask that it be accepted. But, you know, I will just have to leave that there, but I was I think this is something we can actually work on, on a bill that is very difficult for many of us. Maybe this will actually help following up our previous conversation. And with that, I yield back.

Ms. Lofgren. [Presiding.] The gentleman yields back. I recognize myself in opposition to the amendment, but I will note that I would look forward to further discussions with the gentleman between this committee markup and action on the floor so that we might further explore this idea. This is the first I have heard of this suggestion today. I do think that it may be unnecessary, and I will tell you why, but I am happy to discuss it further.

In order to hit the $500,000 maximum under MSPA, you would need to have 1,000 violations. That is not a small farmer. To have 1,000 violations, you would have to be fairly big for a class action. I do think that the mediation that is provided for in the bill essentially will resolve what the gentleman is trying to accomplish here, which is to fix problems instead of have litigation.

I do think that, to some extent, the right to cure is a little bit one-sided as compared to there are two parties in a court proceeding. But as I said, this is the first I have heard of this suggestion today. If the gentleman would like
to withdraw it so that we can continue to work on it between
now and the floor, I would be happy to entertain that, or we
can go to a vote. But in either case, I am not able to
accept the amendment here on the spot.

Mr. Chabot. I move to strike the last word.

Ms. Lofgren. Well, I still have got the time. Would
the gentleman like to be yielded to for the comment? No? If
not, then I urge, unless there is an effort to withdraw the
amendment, that we defeat it for today and continue our
discussions between now and the floor. And with that, I
would yield back. And the gentleman from Ohio is now
recognized.

Mr. Chabot. Thank you, Madam Chairwoman, and I yield to
the gentleman from Georgia, the ranking member.

Mr. Collins. Thank you, and I appreciate that. It is
sort of interesting the comments here. Again, I have always
assumed in a court case the object is to fix the problem.
Well, I am giving the opportunity to fix the problem here.
That is the purpose of two-part, and I am not sure how fixing
an opportunity to cure is a one-sided deal. I complain. The
farmer fixes it. We are done. That is the same thing as a
court case, except under your plan, you get to actually file
under Federal court and actually get money. That is a whole
different thing.

I am also not sure, again, I now see that there is a
different standard for amendments here today. If you give it to a process beforehand, you get better consideration because what I just heard was is I just heard about this. Well, that is sort of news to me because it has been the Farm Bureau's ask for the last 2 months. I mean, a right to cure has been something that has been discussed for a long time. This is not new today. I didn't pluck this out of the hat last night. This has been an ask for a while. So to say that this is new is, again, not a problem.

The other issue, 1,000 violations. I am not sure that the gentlelady knows the work of a farm and the costs that are in many of our smaller farms. Any cost extra here for many of our farms that are struggling is a problem, so it doesn't matter if it is 500,000 or 50,000. It is a cost problem. And if you don't believe it, just go live and work on farms, especially in my communities where this is happening.

So mediation, again, we brought it mediation again. If it is so good in this, make it mandatory. It is not mandatory in this bill, so don't use it as an excuse to say this would not really happen. So, again, I see what's happening here, and I am not going to drop this. I am not going to work on it before we get to the floor because it is not going to get added in because of the very arguments that the gentlelady has made, and I appreciate her stance on this.
She had made it very clear. This is a non-negotiable for her. I don't understand why because, especially the right to sue, putting it under MSPA, and others was from the Farm Bureau for a second, and it could have actually help get us further and closer along to maybe trying to find more bipartisan support of this.

But undoubtedly, this is the stick that we are not going to change on. I respect the gentlelady for that. I applaud her decision to not move. It is sad, though, when we look at this bill that, one, our members are being held to a different standard, and number two, this is not a new fix. This is not a new ask. And at the end of the day, my question is simply, what are you trying to accomplish here? Do you want the problem fixed or do you want to gripe about the problem? That is the problem and get money for it. That is the bottom line in this situation. With that, I yield back to the gentleman from Ohio.

Mr. Chabot. I yield back my time.

Ms. Lofgren. The gentleman yields back. Are there further requests for time?

[No response.]

Ms. Lofgren. If not, I withdraw my point of order.

Does the gentleman from Maryland wish to be heard on the amendment? The gentleman is recognized.

Mr. Raskin. I move to strike the last word. Thank you,
Mr. Chair. I rise in opposition to the Collins amendment. I appreciate the fact that the gentleman seems to want to support some legislation in the field. But this legislation already bends over backwards to give additional rights to the growers that don't exist in other places. As I understand it, there is a guaranteed right to 90 days of mediation that you don't get for any other domain within the Federal Labor Standards Act or within the MSPA. But suddenly we are saying we are going to have guaranteed mediation because the growers want it. So this would take us further --

Mr. Collins. Would the gentleman just yield on that point, and this is very respectful. I know you weren't here when we had this discussion on the mediation issue. The problem I had with mediation and the challenge that I made with sort of the make it guaranteed is the fact that the mediation is not guaranteed. It is thrown in there that one party can ask for it, but there is no desire to actually engage in the mediation process here. And I understand what the gentleman saying. That was my point all along. It was not just simply throwing out guaranteed mediation.

Again, my challenge to the gentleman is are we wanting a fix for the problem, or are we just wanting to carry this out? That is the only problem that I see, and I yield back. And I appreciate the gentleman.

Mr. Raskin. Okay. Well, here, I guess I would just say
I have never quite seen a provision like the one this amendment would add. Essentially, it is creating a new provision within the Rules of Civil Procedure to have an additional motion in addition to all of the other motions that exist, is the way I understand it. I mean, we already have a full panoply of motions to dismiss, summary judgment and so on, and you would just be creating a new one under this statute.

So, I don't know. I am a little puzzled about why we would want to do that, and so I just wanted raise -- Ms. Lofgren. Would the gentleman yield?

Mr. Raskin. By all means.

Ms. Lofgren. I had the same question in terms of the point of order because this really is a change to the Code of Civil Procedure. But since MSPA is in the bill, I decided to withdraw my point of order.

Mr. Raskin. Yeah.

Ms. Lofgren. But I do think it is one of the questions that deserves further discussion and thought, which I hoped to be able to do between now and the floor. But I have some skepticism that this will accomplish what it is purported to do. And with that I yield back to the gentleman from Maryland.

Mr. Raskin. Well, I thank the chair for confirming my impulses about this. Essentially, I mean, if it creates a
new procedural motion on the grounds that the action giving
rise to the complaint has already been remedied, that is
duplicative of a motion to dismiss for failure to state a
cause of action, or simply a summary judgment. In other
words, there are already a full panoply of civil procedural
motions that can be engaged in order to get at that
particular set of facts.

Mr. Collins. Would the gentleman yield?
Mr. Raskin. By all means.
Mr. Collins. I have no idea what we just went into in
this commercial, okay? We went into civil rights and
procedure. This is a right to cure. This is a regulatory
issue that we can say is a right to cure, to fix the problem.
We are not talking about a motion in court, but you have a
right to cure. To say that this is a new civil procedure or
anything else is simply, and I am going to help the
gentleman. I am going to yield back. I made the point here.
We obviously know this is not going to be a part of it, but
to go far afield with civil procedure and everything else
here. This is simply providing a remedy to the H-2A worker
to get the problem fixed, and that is all we are asking here
as we go forward. And I appreciate the gentleman, and I
yield back.

Mr. Raskin. Okay, and I appreciate that. You know, I
am just reading from the gentleman's amendment. "If an H-2A
worker files a civil lawsuit alleging a violation under MSPA, the employer may not later than 5 days after receiving service of the complaint filed with the court documentation,"
et cetera. So, I mean, I am sorry to bring civil procedure into it, but I think that the whole amendment is about creating a new right under the Federal Rules of Civil Procedure as it relates to this act. But I suppose I have said enough, Madam Chair. I will yield back to you.

Ms. Lofgren. The gentleman yields back that. If there are no further requests for time. The gentleman from California, Mr. Correa.

Mr. Correa. Madam Chair, I move to strike the last word on the --

Ms. Lofgren. The gentleman is recognized for 5 minutes.

Mr. Correa. -- the amendment and the underlying bill.

I also rise to oppose the Collins amendment. I think it is going to bring down this bill that strikes a delicate balance among a lot of interested parties here, and I hope Mr. Collins and the author, Ms. Lofgren, can address this issue, this amendment before the bill reaches the floor. With that being said, I want to thank my colleague, Ms. Lofgren, chairman of the Immigration and Citizenship Subcommittee for her leadership and work on this critical bill related to farm labor shortage.

And by the way, I want to take a moment to welcome all
the folks here, farmworkers that have come from California.

California, as you know, is the home to the largest ag
economy in the United States. In California and across the
country, the ag economy depends on hardworking immigrant
workers. They feed this country. They are the breadbasket
of the world. They feed the world. And both farmworkers and
the farmers agree that we need to reform to the current
system. And I would ask my colleagues to consider supporting
this measure and, in a very important, significant way, bring
decency and respect to these farmworkers, who right now are
working and toiling on farms across the country without
documents. This legislation is supported by, again, farmers,
farmworkers, and a set of other interested parties. And with
that, I yield back.

Ms. Lofgren. The gentleman yields back.
The question is on the amendment.
Those who are in favor of the amendment will say aye.
Those who are opposed will say no.
Mr. Collins. Roll call.
Ms. Lofgren. A roll call is requested. The clerk will
call the roll.
Ms. Strasser. Mr. Nadler?
Ms. Lofgren?
Ms. Lofgren. No.
Ms. Strasser. Ms. Lofgren votes no.

Ms. Jackson Lee?

Mr. Cohen?

Mr. Johnson of Georgia?

Mr. Deutch?

Ms. Bass?

Mr. Richmond?

Mr. Jeffries?

Mr. Cicilline?

Mr. Swalwell?

Mr. Lieu?

Mr. Raskin?

Mr. Raskin. No.

Ms. Strasser. Mr. Raskin votes no.

Ms. Jayapal?

Mrs. Demings?

Mr. Correa?

Mr. Correa. No.

Ms. Strasser. Mr. Correa votes no.

Ms. Scanlon?

Ms. Garcia?

Ms. Garcia. No.

Ms. Strasser. Ms. Garcia votes no.

Mr. Neguse?

Mrs. McBath?
Mrs. McBath. No.

Ms. Strasser. Mrs. McBath votes no.

Mr. Stanton?

Ms. Dean?

Ms. Dean. No.

Ms. Strasser. Ms. Dean votes no.

Ms. Mucarsel-Powell?

Ms. Escobar?

Ms. Escobar. No.

Ms. Strasser. Ms. Escobar votes no.

Mr. Collins?

Mr. Collins. Aye.

Ms. Strasser. Mr. Collins votes aye.

Mr. Sensenbrenner?

Mr. Chabot?

Mr. Chabot. Yes.

Ms. Strasser. Mr. Chabot votes yes.

Mr. Gohmert?

Mr. Gohmert. Yes.

Ms. Strasser. Mr. Gohmert votes yes.

Mr. Jordan?

Mr. Buck?

Mr. Buck. Aye.

Ms. Strasser. Mr. Buck votes aye.

Mr. Ratcliffe?
Mrs. Roby?

Mrs. Roby. Aye.

Ms. Strasser. Mrs. Roby votes aye.

Mr. Gaetz?

Mr. Johnson of Louisiana?

Mr. Biggs?

Mr. McClintock?

Mrs. Lesko?

Mr. Reschenthaler?

Mr. Reschenthaler. Aye.

Ms. Strasser. Mr. Reschenthaler votes aye.

Mr. Cline?

Mr. Cline. Aye.

Ms. Strasser. Mr. Cline votes aye.

Mr. Armstrong?

Mr. Armstrong. Yes.

Ms. Strasser. Mr. Armstrong votes yes.

Mr. Steube?

Mr. Steube. Yes.

Ms. Strasser. Mr. Steube votes yes.

Ms. Lofgren. The gentleman from New York?

Chairman Nadler. No.

Ms. Strasser. Mr. Nadler votes no.

Ms. Lofgren. The gentlelady from Texas?

Ms. Jackson Lee. How am I recorded?
Ms. Strasser. Ms. Jackson Lee, you are not recorded.

Ms. Jackson Lee. No.

Ms. Strasser. Ms. Jackson Lee votes no.

Ms. Lofgren. The gentleman from Rhode Island?

Mr. Cicilline. No.

Ms. Strasser. Mr. Cicilline votes no.

Ms. Lofgren. The gentleman from California?

Mr. Lieu. No.

Ms. Strasser. Mr. Lieu votes no.

Ms. Lofgren. The gentlelady from Washington?

Ms. Jayapal. No.

Ms. Strasser. Ms. Jayapal votes no.

Ms. Lofgren. The gentleman from Arizona?

Mr. Stanton. No.

Ms. Strasser. Mr. Stanton votes no.

Ms. Lofgren. The gentlelady from Florida?

Ms. Mucarsel-Powell. No.

Ms. Strasser. Ms. Mucarsel-Powell votes no.

Ms. Lofgren. The gentleman from Georgia?

Mr. Johnson of Georgia. No.

Ms. Strasser. Mr. Johnson of Georgia votes no.

Ms. Lofgren. The gentleman from Tennessee?

Mr. Cohen. No.

Ms. Strasser. Mr. Cohen votes no.

Ms. Lofgren. Any other member wishing to vote or to
change their vote?

[No response.]

Ms. Lofgren. If not, the clerk will report.

Ms. Strasser. Madam Chair, there are 9 ayes and 16 noes.

Ms. Lofgren. And the amendment is not agreed to.

Are there additional amendments? The gentleman from Texas is recognized.

Mr. Gohmert. Thank you, Madam Chair. I have an amendment at the desk.

Ms. Lofgren. The clerk will distribute the amendment.

I reserve a point of order.

Ms. Strasser. Amendment to the amendment in the nature of a substitute to H.R. 5038, offered by Mr. Gohmert of Texas. Page 43, beginning on line 9, strike Section 1 through 4, and re-designate succeeding sections, and conform the table of contents accordingly.

[The amendment of Mr. Gohmert follows:]
Ms. Lofgren. The gentleman is recognized for 5 minutes in support of his amendment, and I withdraw my point of order.

Mr. Gohmert. Thank you, Madam Chair. My amendment, as it says, simply would strike Section 134 from the bill. As written, Section 134 creates grant programs that will fund taxpayer dollars to nonprofit groups who will help aliens illegally here file for legal status under the bill.

As some of us have been saying for years and, unfortunately, not as successful as we would have liked, even during years Republicans were in the majority, but the best thing we could do to help people that want to come legally would be to so simplify the filing for visas, for citizenship, for work visas, that nobody ever feels the need to hire a lawyer, a paralegal or anything. They can just file it. Just way too many people, I find out, have paid thousands of dollars to lawyers because we have not properly simplified the process.

But whether or not you agree with legalizing millions of people who are here illegally, certainly, it would seem like most of us should agree the U.S. taxpayer shouldn't have to foot the bill including and especially those who have paid the price without any help from U.S. taxpayers to come legally.

Other individuals who want to apply for an immigration
benefit through the normal process must find and pay for their own legal fees and technical assistance. Yet, this bill treats millions of aliens who came here illegally better than they. In addition to an unspecified amount of, quote, "any funds appropriated to carry out this section," unquote, H.R. 5038 also authorizes the DHS secretary to basically loot the Immigration Examinations Fee account to the tune of $10 million. That account is comprised of fees received by Homeland Security Department from those going through the legal process the legal way to apply for immigration benefits, so people seeking to naturalize, U.S. citizens seeking a green card for their spouse, and families adopting a child from abroad will be paying that price. For people who have not done as they but have come in illegally -- in other words, those immigrants who are paying to do things the right way will end up paying for aliens to come in that came in illegally to get status through this special process. There is no reason that the U.S. taxpayer should have to shoulder the burden for that special certified agricultural worker status, which leads to a green card path to citizenship, nor should legal immigrants have to subsidize the applications by directing the fees they paid out of their
own pockets to these nonprofit organizations. It simply isn't fair to U.S. taxpayers or to legal immigrants doing things the right way.

And it really is a slap to every immigrant who did everything legally and it wasn't paid for by taxpayers or by others who were coming in.

But it just seems, once again, we are seeing this effort that is not taking people who consider and work through things legally appropriate -- appropriately considered.

Anyway, this amendment removes the wasteful and unnecessary grant program and I would ask that my colleagues support this, and I understand, from what the chairman said earlier -- not the sitting chairman but the committee chairman, that gee, we don't have to do what we think the Senate might pass. I understand that. I have been an advocate of doing what we think is right.

However, let us be real. If there are Republican senators and some Democratic senators, were they to vote to require people who came in legally to help fund people who are coming in illegally or came in illegally, they are going to have problems getting reelected.

So I would hope that we can strike this provision. I think it makes the bill more passable.

And with that, I would yield back.

Ms. Lofgren. The gentleman yields back.
I recognize myself in opposition to the amendment.

First, I think it is important to clarify, as the gentleman did in some of his comments, that the funding for this is not from the taxpayer. It comes from fees in the administration of the Immigration Act, not from taxpayer money.

And I think that the program in the bill is meritorious and here is why. If you fill out an application properly when you are eligible, that streamlines the system.

We have written a bill that we think is clear in terms of eligibility but not everyone is going to necessarily have the legal background. That is why we have lawyers to help people fill out the application so it is done properly.

Just a further note. This bill provides for a way for farm workers to comply with the law. They are not doing something wrong.

They are complying with the law that we wrote. And it is not outside of the law. It is within the law. We retain the right to determine and to devise the immigration laws of the United States and if we are to enact this bill, which I hope we do, what we are saying is that people who have worked here for many, many years in agriculture are going to have the capacity to have a agricultural worker visa to be right with the law pursuant to the law, and that we are going to provide nonprofits some funding so that we can make sure that
applicants are, indeed, complying with what we wrote in the immigration laws as part of this bill. 

I do think that when you think about the role the farm workers have played in our country and in our economy, we wouldn't have an agricultural industry without agricultural workers. And for them to be living in fear and for their employers to be living in fear is not a good thing to the agricultural sector.

We are providing in this bill not only a way for agricultural workers to get an agricultural worker visa but also help in filling out the application to do that.

As has been mentioned in my opening statement, a person who gets an agricultural worker visa can continue to renew that visa. They can stay in that status the rest of their lives if they want.

However, they have an opportunity, if they go through some more hoops, to someday apply to become a legal resident if they choose, or they can stay in the agricultural worker visa program, whichever they wish.

I would just note that this bill is a compromise because it is not just for the workers. It is also for the employers.

We have got a program on immigration enforcement that is underway now called the No Match system where the Social Security Administration tries to match up the Social Security
numbers with the employees in a particular workforce.

Those letters have been going out to farmers all across the United States and what they are discovering is that there are anomalies between the Social Security records and the employee records, and in some cases these farmers, who saw a document, are looking at half their workforce being gone and their businesses being destroyed.

So we need to take action to change the laws for the benefit of the farm workers but also for the benefit of the farmers, which is why this bill has the support it has from both the employer section and the farm worker section, and why we have got the broad bipartisan support in terms of original co-sponsors on the bill.

I know that the gentleman's amendment is well intentioned. I don't agree that it would be an improvement in the bill and I would urge its defeat.

And with that, I would yield back.

Are there additional members?

The gentlelady from Washington is recognized to strike the last word.

Ms. Jayapal. Thank you, Madam Chair.

Thank you for your comments. I agree completely and I think that I oppose this amendment.

I was thinking as I was reading this and also as I have been listening to some of the comments throughout the
discussion of the bill that sometimes we make legislation and we almost make it sound like it is divorced from real people that are out there.

And one of the things that we get to do as legislators is look out into the audience at all of the people in the room and recognize that there are some very special people in the room, and I wanted to just bring into this conversation a couple of the stories of the people from Washington State who are in this room.

And so I will start with Jorge Ramirez, who is 34 years old from Sunnyside, Washington. Worked 10 years in dairy, and here is what he says.

"I believe that undocumented farm workers deserve the opportunity to legalize because they need to have a better life without the constant fear of abuses that most of them receive from their employers.

If you don't have papers, you are more prone to mistreatment because they know that you are vulnerable. When I worked in dairy, my supervisor would always scream at us and knew that none would do anything because most of my co-workers did not have papers.

Every day the abuse was the same -- constant yelling and negative talks."

Or how about this from Paula Hernandez -- because when we talk about these grant programs and who they are helping,
when we talk about this bill and who it is helping, employers
and workers, we have to remember these are real people who
have suffered severe physical harm in many instances.
But, really, the lack of dignity that has been afforded
to our undocumented work force across this country while
people benefit from the fruits -- literal fruits of their
labor.
So here is the story of Paula Hernandez, 54 years old
from Sunnyside, Washington. Worked in agriculture for 22
years, specifically, apples, pears, beer hop, and grapes.
Also worked in apples and corn-packing houses.
"This legislation would positively impact several of my
friends and family. For example, some of my brothers are
undocumented. They are good people with no criminal record
but have not been given the opportunity to legalize and they
have been living in limbo.
I have worked with H-2A workers. What happens is they
don't get to speak up when they are being abused. When we
have legal status, it is easy for us to speak out. We feed
America and we all need the opportunity to legalize for the
hard work that we do.
All we ask is for that opportunity to legalize to be
given to undocumented workers. I now have legal status and I
am able to grow as a person without allowing anyone to step
over me. We all want to remain together."
And then a last one from Ana Cruz from Prosser, Washington, 40 years old. Has worked in ag and dairy for 13 years, including apples, grapes, cherries, beer hop. "During harvesting," Ana says, "we wake up at 3:00 a.m. and take our kids to the day care, and then we work until 5:00 or 6:00 p.m., and we do this every single day. We work on weekends, too, and all farm workers deserve to be in peace. We would have more safety at work if we all had legal status. We would not be afraid to speak out. When they leave their homes, undocumented workers would not be afraid of coming back home to their kids."

That is from Ana Cruz.

So, Madam Chair, I am grateful for your work on this bill. But more than anything, I am just grateful to this industry and the workers that have sustained this country for so long.

Sometimes I think, having worked on immigration for 20 years, that there is actually incentive to leave this situation -- to leave this situation broken, to not fix this system that is, literally, utilizing the labor of people without -- not just without giving any reward but actually then criminalizing those same immigrant workers who are doing this work.

And so I don't believe that the people that -- on both
sides of the aisle that put this bill together want that
situation to continue and that is a great day for our country
that we can have a bipartisan agreement on it.

Let us bring the people that we are talking about into
the room and I hope that when we pass this bill we do it
thinking about the millions of workers that have given so
much for us to be able to eat, to be able to live, and to
have healthy lives.

Thank you, Madam Chair.

Ms. Lofgren. The gentlelady yields back.

The gentleman from Colorado is recognized to strike the
last word.

Mr. Buck. Thank you, Madam Chair.

I yield to my friend from Texas, Mr. Gohmert.

Mr. Gohmert. Thank you. I appreciate yielding.

Addressing a couple of things, as the chairman
indicated, basically, whatever we say is legal is legal. But
as people in responsible positions on the border have told me
repeatedly, when you guys talk about legalizing anybody who
is here illegally, we get another huge wave.

As I have said numerous times, if we could get help from
the majority to secure the border, you would be surprised
what some of us will agree to. Otherwise, we are just
sending a red flag -- waving a green flag, I guess. Come on
in, help wanted, and someday there will be a legalization.
But the trouble is in addition to really hardworking fine folks that come in, you have some people that are not good for America.

So and with regard to the documentation required in this bill, I will point out, since it will be drawing funds from both taxpayers and from people who come in legally, documentation can be just sworn affidavits -- individual have direct knowledge.

That could be the individual. It could be friends, and so that is an issue when you are going to take the funds to enact this bill.

And I know the chair indicated that the funds actually will just come from the fees that are paid in by people coming in legally.

On Page 44, it is part of Section 134 this amendment would strike, it says in addition to any funds appropriated to carry out this section, the secretary may use up to $10 million from the Immigration Examinations Fee account.

So there will be this account from people who are paying fees to come in legally. That will be up to $10 million there.

But as Section 134 points out, that is in addition to other funds that will be appropriated. So it will be both, as I said earlier, and I did want to make that clear.

Ms. Lofgren. Would the gentleman yield on that point?
Mr. Gohmert. Yes.

Ms. Lofgren. You are correct in reading this. However, we can't know what the Appropriations Committee would do. I just would note that the entire immigration system, USCIS, is 100 percent supported by fees.

There are no appropriated funds and I would expect that this would be the same as the entire rest of the USCIS system. There is no appropriated funds to run it. It is all fee driven.

And I thank the gentleman for yielding.

Mr. Gohmert. Certainly, and I appreciate that point.

Exactly right. We don't know what amount may be appropriated. But it is anticipated there will be some amount and it should be noted that once you start pulling off funds from those CIS fees, then you can turn that fund upside down from where it is currently being effective.

So I would encourage my colleagues, please support this amendment. It will make the bill better and it will make it more palatable for so many, including those who came in legally.

And with that, I would yield back to my friend from Colorado.

Mr. Buck. And I yield back, Madam Chair.

Ms. Lofgren. The gentleman yields back.

The question is on the amendment.
All those in favor of the amendment will signify by saying aye.

All those who are opposed will say no.

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

The gentleman from Ohio is recognized for purposes of -- Mr. Chabot. I have an amendment at the desk.

Ms. Lofgren. Amendment at the desk.

Clerk will report the amendment and I reserve a point of order.

Ms. Strasser. Amendment to the amendment in the nature of a substitute to H.R. 5038.

[The amendment of Mr. Chabot follows:]
Mr. Chabot. I ask unanimous consent the amendment be considered as read.

Ms. Lofgren. So ordered. Yeah.

Mr. Chabot. Thank you.

Madam Chair, my amendment recognizes the danger that driving under the influence of alcohol or drugs presents to all our communities.

It makes individuals ineligible for amnesty under this bill if they have a conviction for a misdemeanor DUI, if their impaired driving led to the serious bodily injury or death of another person, or if they have been convicted of multiple DUI offenses.

According to MADD, Mothers Against Drunk Driving, the average drunk driver by the time that they are arrested for a DUI has driven 80 times drunk before they actually get picked up.

Further, MADD estimates that drunk drivers injure hundreds of thousands of innocent individuals every year and kill thousands more each and every year in this country.

Individuals who demonstrably have repeatedly put themselves and others at risk by driving under the influence should be removed and not given the generous amnesty provided in this bill.

As currently drafted, unless an applicant has been 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
A special path to citizenship that this bill provides is a significant immigration benefit that should not be given lightly and certainly should not be given to individuals who have proven themselves dangerous to our communities with repeated DUI offenses or a DUI offense that caused injury or death to another person.

I hope that my colleagues from across the aisle will support my amendment to help keep impaired drivers off our roads. We should not be passing laws which shield drunk drivers from removal or reward them for their dangerous conduct by fast tracking them to get a green card. By voting against my amendment you will be doing just that.

And I yield back.

Ms. Lofgren. Gentleman yields back.

I recognize myself for five minutes in opposition to the amendment.

First, I would note that last year we had an ag labor bill introduced by Chairman Goodlatte that passed this committee with only Republican votes and that bill had no provision such as being offered by the gentleman from Ohio today. In fact, that bill was exactly the same as the current
Second, the reason why the amendment wasn't in the Goodlatte bill and shouldn't be included here is that it is unnecessary. DUI is a serious issue. No one wants to give benefits to individuals who are true threats to public safety and this bill accomplishes that by, first, categorically barring applicants for serious or repeat offenses, and two, providing DHS with significant discretion to otherwise deny individuals for other reasons, including because of DUI convictions.

Let us go through all the ways in which the bill authorizes DHS to deny benefits to individuals with DUIs. First, the bill bars anyone with a felony conviction, including felony DUI. Most states will charge a person with a felony on their second or third DUI. Second, the bill bars persons with crimes involving moral turpitude, which includes a DUI with a suspended license and a DUI involving serious harm. Third, the bill bars anyone with more than two misdemeanors of any kind. Finally, the bill does not force the secretary to grant status to anyone just because they lack such convictions, as with current law in other categories of immigration. The bill provides discretion to deny cases when other factors are present and this could include lesser DUI.
convictions or even arrests without convictions.

Now, I have heard the claim over and over through the years that even one DUI is too many, and we all believe that this is a serious matter.

But if a single DUI conviction automatically makes an individual a threat to public safety, then perhaps we should change the rules of this House because we have members who serve with us who have been convicted of DUIs.

Are they a threat to public safety? Should we change the rules and boot them from the House of Representatives?

I, for one, do not think we should paint with such a broad brush. People make mistakes and laws and policy decisions we make should reflect that.

The bill provides ample protection for DUIs. The amendment is not only unnecessary but it is novel because it was not offered to Mr. Goodlatte's bill last year.

With that, I would yield back.

Are there additional speakers to this amendment?

If not, the question is on the amendment.

All those who are in favor will say aye.

Those who are opposed will say no.

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

Mr. Chabot. I would request a recorded vote.

Ms. Lofgren. The gentleman from Ohio asks for a recorded vote.
The clerk will call the roll, please.

Ms. Strasser. Mr. Nadler?

Ms. Lofgren?

Ms. Lofgren. No.

Ms. Strasser. Ms. Lofgren votes no.

Ms. Jackson Lee?

Mr. Cohen?

Mr. Johnson of Georgia?

Mr. Deutch?

Ms. Bass?

Mr. Richmond?

Mr. Jeffries?

Mr. Cicilline?

Mr. Swalwell?

Mr. Lieu?

Mr. Lieu. No.

Ms. Strasser. Mr. Lieu votes no.

Mr. Raskin?

Ms. Jayapal?

Ms. Jayapal. No.

Ms. Strasser. Ms. Jayapal votes no.

Mrs. Demings?

Mr. Correa?

Mr. Correa. No.

Ms. Strasser. Mr. Correa votes no.
Ms. Scanlon?

Ms. Garcia?

Ms. Garcia. Yes.

Ms. Strasser. Ms. Garcia votes yes.

Mr. Neguse?

Mrs. McBath?

Mrs. McBath. No.

Ms. Strasser. Mrs. McBath votes no.

Mr. Stanton?

Ms. Dean?

Ms. Mucarsel-Powell?

Ms. Mucarsel-Powell. No.

Ms. Strasser. Ms. Mucarsel-Powell votes no.

Ms. Escobar?

Ms. Escobar. No.

Ms. Strasser. Ms. Escobar votes no.

Mr. Collins?

Mr. Sensenbrenner?

Mr. Chabot?

Mr. Chabot. Aye.

Ms. Strasser. Mr. Chabot votes aye.

Mr. Gohmert?

Mr. Gohmert. Aye.

Ms. Strasser. Mr. Gohmert votes aye.

Mr. Jordan?
Mr. Buck?
Mr. Buck. Aye.
Ms. Strasser. Mr. Buck votes aye.
Mr. Ratcliffe?
Mrs. Roby?
Mrs. Roby. Aye.
Ms. Strasser. Mrs. Roby votes aye.
Mr. Gaetz?
Mr. Johnson of Louisiana?
Mr. Biggs?
Mr. McClintock?
Mrs. Lesko?
Mr. Reschenthaler?
Mr. Cline?
Mr. Cline. Aye.
Ms. Strasser. Mr. Cline votes aye.
Mr. Armstrong?
Mr. Steube?
Mr. Steube. Yes.
Ms. Strasser. Mr. Steube votes yes.
Mr. Cohen, you are not recorded.
Chairman Nadler. How am I recorded?
Ms. Strasser. Mr. Nadler, you are not recorded.
Chairman Nadler. No.
Ms. Strasser. Mr. Nadler votes no.
Ms. Garcia. How am I recorded?

Ms. Strasser. Ms. Garcia, you are recorded as yes.

Ms. Garcia. I am sorry. That is a no.

Ms. Strasser. Ms. Garcia votes no.

Mr. Cohen. And no.

Ms. Strasser. Mr. Cohen votes no.

Chairman Nadler. One at a time.

Mr. Johnson?

Mr. Johnson of Georgia. No.

Ms. Strasser. Mr. Johnson of Georgia, you are not recorded.

Chairman Nadler. The other gentleman from Georgia.

Ms. Strasser. Mr. Johnson of Georgia votes no.

Mr. Collins votes yes?

Mr. Collins. Yes.

Ms. Jackson Lee. How is Ms. Jackson Lee recorded?

Ms. Strasser. Ms. Jackson Lee, you are not recorded.

Ms. Jackson Lee. No.

Ms. Strasser. Ms. Jackson Lee votes no.

Ms. Dean, you are not recorded.

Ms. Dean. No.

Ms. Strasser. Ms. Dean votes no.

Mr. Stanton. Am I recorded?

Ms. Strasser. Mr. Stanton, you are not recorded.

Mr. Stanton. I will vote no.
Ms. Strasser. Mr. Stanton votes no.

Mr. Cicilline. How am I recorded?

Ms. Strasser. Mr. Cicilline, you are not recorded.

Mr. Cicilline votes no.

Chairman Nadler. Does anyone wish to vote who hasn't voted?

Mr. Cicilline, you are not recorded.

Chairman Nadler. Does anyone wish to vote who hasn't voted?

The clerk will report.

[Pause.]

Chairman Nadler. [Presiding.] The gentleman from Maryland.

Mr. Raskin. No.

Mr. Raskin votes no.

Chairman Nadler. Let me ask the question again. Has everyone voted who wishes to vote?

The clerk will report.

Ms. Strasser. Mr. Chairman, there are seven ayes and 16 noes.

Chairman Nadler. The amendment is not recorded. I am sorry, the amendment is not adopted.

Before we go on to the next amendment, I want to make an announcement.

We will recess the committee at approximately 3:00 p.m. so that our Democratic Caucus members may attend an important caucus meeting. We expect a series of votes on the House
floor at approximately 4:30 or 5:00 o'clock.

As I do not expect, unfortunately, that we will have finished all of our committee business by 3:00 o'clock, which is in 20 minutes, I would ask all members to return to the committee immediately after votes to continue our business.

So we will be recessing at about 3:00. We will reconvene immediately after the series of votes that we expect at 4:30 or 5:00 o'clock. Please return as soon as those votes are over so we can continue.

I should say that we will go somewhat into the evening and if we don't finish we will have to reconvene tomorrow morning.

Mr. Gohmert. Will the chairman yield?

Chairman Nadler. Obviously, I don't know if we will finish tonight.

Yes, go ahead.

Mr. Gohmert. Would the chair find it helpful for Republican members to go to your caucus with you?

[Laughter.]

Chairman Nadler. You might find it interesting. But probably not.

It wouldn't speed things up.

[Laughter.]

Chairman Nadler. Okay. Is there -- are there any further amendments to the amendment in the nature of a
substitute?

The gentleman from Maryland?

Mr. Raskin. Mr. Chairman, just a point of order about your last point. Are we to return after the Democratic Caucus just after --

Chairman Nadler. No. No. No.

After the Democrat -- that is not a point of order. It is a point of information.

Mr. Raskin. Okay.

Chairman Nadler. After the point -- after the point of order, after the Democratic Caucus there will be votes on the floor. We should return here as soon as the votes on the floor are over.

That is the answer to your question.

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

The gentleman from Colorado?

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

Chairman Nadler. The clerk will report the amendment.

Ms. Lofgren. I reserve a point of order.

Chairman Nadler. The gentlelady reserves a point of order.

The clerk will report the amendment.

Ms. Strasser. Amendment to the amendment in the nature
of a substitute to H.R. 5038, offered by Mr. Buck of Colorado. Page 24 beginning on line one, strike "as a matter of just and reasonable inference" and insert "by clear and convincing evidence."

[The amendment of Mr. Buck follows:]
Chairman Nadler. The gentleman is recognized for the purpose of explaining his amendment.

Mr. Buck. Thank you, Mr. Chairman.

This amendment is simple. It requires an individual applying for status as a certified agricultural worker to meet a clear and convincing evidence standard when producing documentation to show their agricultural employment history.

As currently written, the bill requires an extremely low standard -- just and reasonable inference, which equates to nothing more than accepting a petitioner's affidavit claiming work history on a wink and a promise.

In fact, this evidence standard is most often used in unpaid wage claims and was also unsuccessfully utilized in the 1986 special agricultural worker legalization bill. That legislation led to widespread fraud and even amnesty for one of the World Trade Center bombers, who wasn't an agricultural worker at all but a taxi driver in New York City.

Merely requiring an applicant to produce evidence showing the extent of his or her employment as a matter of just and reasonable inference is too low a standard to confer a status that will put certified agricultural workers on a path to a green card and, eventually, citizenship.

In unpaid wage claims suits, courts have ruled that a just and reasonable inference standard merely requires testimonial evidence which may then be rebutted by the
But in this context when Congress is offering the opportunity to become a U.S. citizen, how can we know for sure that the individual's statement of work history is true? Furthermore, even though the bill includes the possibility that an applicant can submit verifiable employment records, that isn't required. This standard will only result in DHS having to take the applicants, quite literally, at their word. This is in addition to the fact that one of the forms of evidence an applicant may submit to prove farm work history is a sworn affidavit from an individual who has direct knowledge of the alien's work history. Nothing precludes the alien from submitting his or her own sworn affidavit. This creates perverse incentives which an alien only has to say they worked in agriculture, submit his or her own affidavit, and wait for DHS to rubber stamp a pathway to citizenship. If it wasn't so ridiculous, it would be laughable. It is necessary to raise the evidentiary standard to prevent fraud and properly verify that applicants have actually worked the required time in an agricultural job. Clear and convincing is a higher standard than just and reasonable inference. But it is not insurmountable. In fact, Chairperson Lofgren uses the clear and convincing
standard when requiring the secretary of Homeland Security to show that an employer is not complying with E-verify requirements.

I urge my colleagues not to make the same mistakes that Congress made in 1986, special agricultural work amnesty program, and to instead raise the evidentiary standard to ensure integrity of this extraordinary benefit.

I urge my colleagues to support the amendment and I yield back.

Chairman Nadler. Before I yield to -- the gentleman yields back.

Before I yield to the gentlelady from California, I would point out the amendment erroneously says Page 24. That should be Page 34, Page 34, beginning on line one, et cetera. So everyone should make that correction.

I now yield to the gentlelady from California.

Ms. Lofgren. Mr. Chairman?

Chairman Nadler. Rather, I recognize the gentlelady.

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

Chairman Nadler. The gentlelady strikes the last word.

Ms. Lofgren. I oppose the amendment and here is why.

Secretary still has substantial discretion in the bill.

But these are farm workers who have been undocumented, who may have -- may not have the most orderly records in the world.
Every other immigration benefit in the whole Immigration and Nationality Act is preponderance of the evidence. It is not clear and convincing, which is a very high standard. We would be making the standard for this higher than any other standard in the Act, which is unreasonable.

But I do think the annual record of certified agricultural worker employment, employment records from employers, collective bargainers, these are going to be hard for people to get, which is why the sworn affidavits, which is under penalty of perjury -- a pretty big deal -- is one of the things that is permitted.

The secretary has broad discretion in whether or not to accept the documents that are advanced. I do think, obviously, the gentleman doesn't want fraud in the program and neither do I. I don't think the amendment will accomplish that.

But if the gentleman has other ideas between now and the floor for anti-fraud provisions, I would be very interested in discussing it with him to see if there is some further issues that could be dealt with.

I don't think this will accomplish what you are hoping to accomplish and I would yield to the chairman.

Chairman Nadler. Gentlelady yield?

Thank you. I thank the gentlelady for yielding.

I would also point out in law there are different
standards of proof, obviously. If you want to convict someone of a crime you have to prove it beyond a reasonable doubt. That is the highest standard.

In most civil suits, I sue you for a thousand dollars because you owe me the money and you never paid it, you need -- the standard is preponderance of the evidence, meaning more likely than not.

Clear and convincing evidence is higher than you would need in most civil lawsuits, less than a criminal conviction but higher, substantially higher, than most civil lawsuits and especially in light of what the gentlelady pointed out about the, who we are talking about, people who are not in a position to have the most clear cut records, et cetera, it is entirely unreasonable to request -- to require clear and convincing evidence, which is a very, very high and difficult standard of proof to meet.

So I would join the gentlelady in opposing this amendment.

I yield back to you.

Mr. Buck. Would the gentlelady yield?

Chairman Nadler. I yield back to the gentlelady.

Ms. Lofgren. In just one second.

I would just note that for the, in some cases, I am led to believe, that women sometimes work under their spouses' time sheet and may lack independent documentation, which is
an additional complication for -- in addition to the clear
and convincing evidence, which I think would be
extraordinarily high.

So I don't -- I can't support this amendment today. But
I -- if there are other ways to address the issue you are
raising, which is to prevent fraud, I would be eager to hear
them between now and the floor, and I do think a fail-safe
provision is the discretion given to the secretary.

And I will be happy to yield to the gentleman from
Colorado.

Mr. Buck. I appreciate that, and I would note two
things.

One, the clear and convincing standard is used on the E-
verify portion of this bill. And secondly, if the gentlelady
would propose an amendment to my amendment for stating that
it is a preponderance of the evidence, I would accept that as
a friendly amendment.

Ms. Lofgren. Let us do this. I can't do that at this
time. But I would be happy to discuss it further with you
and also to involve the bipartisan co-authors of this bill
because this has been a collaboration from day one.

So I would be happy to have a further discussion on the
latter point, and the E-verify, you know, and Mr. Gohmert
made this point on an earlier amendment, it is in a different
status than some of the other provisions.
It is taxpayer funded because it is enforcement and there are certain other provisions. It is separated out from the rest of the Immigration and Nationality Act. So with that, I am looking forward to further discussions. But I can't support the amendment today. Mr. Buck. When this is defeated I look forward to having those discussions.

Ms. Lofgren. I yield back, Mr. Chairman.

Chairman Nadler. The gentlelady yields back.

The question occurs on the amendment.

All in favor say aye.

Opposed, no.

The noes have it. The amendment is defeated.

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

The gentleman from Florida?

For what purpose does the gentleman from Florida seek recognition?

Mr. Steube. I have an amendment at the desk.

Chairman Nadler. The clerk will report the amendment.

Ms. Lofgren. I reserve a point of order.

Chairman Nadler. The gentlelady reserves a point of order.

Ms. Strasser. Amendment to the amendment in the nature of a substitute to H.R. 5038, offered by Mr. Steube of
Florida. In Section 218 of the Immigration and Nationality Act, as proposed to be amended by Section 202, strike Secretary of Labor each place it appears and insert Secretary of Agriculture. In Section 203, strike Secretary of Labor each place it appears and insert Secretary of Agriculture.

[The amendment of Mr. Steube follows:]

5455
Chairman Nadler. The gentleman is recognized for the purpose of explaining his amendment. Mr. Steube. Thank you, Mr. Chairman.

In 1962, President Abraham Lincoln created the Department of Agriculture, recognizing the importance of agriculture to the American economy and the need for the federal agency dedicated to the requirements and needs of America’s farmers.

Today, the USDA still provides leadership on food, agriculture, natural resources, rural development, nutrition, and related issues based on public policy, the best available science, and effective management.

They are the expert when it comes to agriculture and, therefore, are the best people to determine the needs of the agriculture community when it comes to labor.

That is why I am proposing this amendment to move the H-2A program from the jurisdiction of the Department of Labor to the jurisdiction of the Department of Agriculture.

I will give you a little bit of history and knowledge about my particular district and why I think this is important.

My congressional district is the number-one citrus-producing district in the entire country. So if you are drinking orange juice, pretty good chance it came from my district.
And talking to the citrus growers, the dairy ranchers, the cattle ranchers, and the -- all the farmers that we have in my district, one of the big frustrations that they have had in dealing with the Department of Labor -- and I have got a couple of other amendments later that are going to discuss some of these more specific issues -- is the challenges that they face in discussing their agricultural-related issues to the Department of Labor, who doesn't have an understanding of the issues that they face in agriculture.

So this bill would take it back to where it previously was. The H-2A program used to be administered by the Department of Ag and at some point in time Congress decided to move it to the Department of Labor. So I think it is appropriate that the Department of Agriculture oversee -- be the agency overseeing agricultural workforce and agricultural labor.

So this amendment would move the H-2A program from the Department of Labor to the Department of Agriculture.

Chairman Nadler. Gentleman yield back?

Mr. Steube. I yield back.

Chairman Nadler. Gentleman yields back. I would point out that in 1862, Congress, perhaps at the recommendation of President Lincoln, established the Department of Agriculture.

Mr. Steube. Noted.

[Laughter.]
Chairman Nadler. We have to stick up for the prerogatives of our branch.

For what purpose does the gentlelady from California seek recognition?

Ms. Lofgren. To strike the last word.

Chairman Nadler. The gentlelady is recognized.

Ms. Lofgren. And to speak in opposition to the amendment and I also withdraw my point of order.

I think the amendment is outdated to some extent. It is true that growers were once frustrated with the Department of Labor and there was a big effort to transfer processing to an agency that was perceived as friendlier to their interests.

But I think time has passed us by. Most growers are relatively happy with the DOL processing and in discussing with us over these past many months opposed the involvement of another government agency, particularly the Department of Agriculture, which has no experience in making labor certifications.

The Department of Labor is the only agency that possesses the high level of technical expertise and experience that is required to properly administer the labor certification component of the H-2A program.

That means that the Department of Labor is best equipped to determine when workers are needed and to ensure that wages and working conditions of U.S. workers are not compromised as
a result of the employment of H-2A workers.

The USDA has no experience administering or enforcing such programs, and it is not only that they lack expertise in the area; they also actually lack the infrastructure to carry out the responsibility.

If the USDA were to assume all or a portion of the labor certification process, the agency would be required to invest a massive amount of money and time to acquire the necessary resources to train their staff.

It would delay the H-2A program. In fact, there wouldn't be any H-2A workers coming into the United States for quite some time because the Department of Agriculture would be unable to actually meet the requirements, even under the current law, let alone the changes proposed in this bill.

So the Department of Labor, once not loved by the agricultural community, has actually been working with growers to improve the H-2A processing.

I think most growers prefer keeping the labor certification process with the Department of Labor. Since 2013, the Department of Labor has improved the processing times, which currently average 26 days.

And, of course, with the streamlining procedures in this bill -- one portal, no advertising in the newspaper, being able to do rolling approvals -- that whole process is going to be further improved for employers.
And so although I am sure that the gentleman offers this amendment in good faith, I think it would weaken the bill and it would be disruptive to the program. And so I urge opposition to the amendment with thanks to his input. And yield back, Mr. Chairman.

Chairman Nadler. Gentl e lady yields back. The question occurs on the amendment. All in favor of the amendment will say aye. Opposed, no. The ayes have it. The amendment is not adopted. It is now 3:00 o'clock. We will recess the committee at this point, but we will return as soon -- as I said before, we are expecting a vote series at about 4:30 or 5:00. As soon as that vote series is over, please return here promptly so we can get as much done as possible and we don't have to work too late tomorrow. Thank you very much. The committee is recessed. [Recess.]

Chairman Nadler. The committee will come to order, please.

We are resuming consideration of the amendment in the nature of a substitute on H.R. 5038, the Farm Workforce Modernization Act of 2019. What is before us is the amendment in the nature of a substitute. Are there any further amendments to the amendment in the nature of a
Chairman Nadler. If there are no further amendments.

Chairman Nadler. For what purpose does the gentlelady from Arizona seek recognition?

Mrs. Lesko. Thank you, Mr. Chair. Yeah, almost. We lucked out, huh?

Mrs. Lesko. Thank you, Mr. Chairman. I have an amendment at the desk.

Chairman Nadler. There is an amendment at the desk. The clerk will report the amendment.

Ms. Lofgren. I reserve a point of order.

Chairman Nadler. The gentlelady reserves a point of order.

Ms. Strasser. Amendment to the amendment in the nature of a substitute to H.R. 5038, offered by Mrs. Lesko of Arizona. Strike Section 111(a)(2)(B)(2) and insert the following.

Chairman Nadler. Without objection, the amendment is considered as read.

[The amendment of Mrs. Lesko follows:]
Chairman Nadler. The gentlelady from Arizona is recognized for the purpose of explaining her amendment.

Mrs. Lesko. Thank you, Mr. Chairman. Under H.R. 5038, dependent spouses and children of a certified agricultural worker can self-petition for adjustment of status to obtain a green card if they have been battered or subjected to extreme cruelty by the certified agricultural worker. My amendment makes sure there is accountability for individuals who would batter their spouses and children or subject them to extreme cruelty by requiring the Secretary of Homeland Security to deny any pending adjustment application and revoke certified agricultural worker status for the principal alien who commits the battery or extreme cruelty.

Under the bill as written, the spouse and children can self-petition to receive green cards, but there is no consequence for the certified agricultural worker who battered or subjected their family members to extreme cruelty. Self-petitioning is an extraordinary remedy and should not be taken lightly, but should always be supported with adequate evidence. And where that evidence shows that a certified agricultural worker committed battery or extreme cruelty of his or her spouse or child, that certified agricultural worker should not be permitted to receive a green card nor to remain in certified agricultural status.

And I urge my colleagues to support my amendment.
Chairman Nadler. Would the gentlelady yield for a question?

Mrs. Lesko. I will.

Chairman Nadler. My question is the following. It is one thing to, if someone is subjected to violence, still get a green card. It is another thing to say that there should be a penalty assessed against someone who commits violence. That has to be proven. Under your amendment, before this person was denied a green card or admission or whatever, what kind of proceeding would there be to determine whether, in fact, the allegation is true? What standard of proof? In other words, someone says that Joe committed violence and the Secretary should deny the green card, but who would determine whether it is true that Joe committed violence?

Mrs. Lesko. Thank you, Mr. Chairman. I would assume that when this whole evidence is being done, for instance, on the green card, if the spouse or child when they are petitioning saying that they have been violated against or abused or, you know, whatever, that then it would be determined then that that actually happened, that there was concrete evidence that that happened. And if that does happen, my concern is under the bill, there is no avenue to then say, okay, the person that actually did the abuse shouldn't have the green card.

And so, you know, if the language is not clear, I am
open to amending it by a voice amendment. But that is the
goal of my amendment, just to say that, listen, if we have
evidence that an agricultural worker that has this status is
abusing their child, their spouse, they shouldn't have the
privilege of keeping the green card.

Chairman Nadler. Do you yield back?

Mrs. Lesko. Yes, I yield back.

Chairman Nadler. I recognize myself. You raise an
interesting problem, and arguably we should do something
about it. But the amendment as written, you might have one
standard for saying we are going to grant the green card to
someone who seems to be a victim of violence and who presents
a good case that they are victims of violence. But you can't
just leave it to the Secretary to determine penalty for what
amounts to a criminal violation.

So it seems to me we have to figure out some way of
having some sort of proceeding of a more judicial nature, not
necessarily, I don't know, in front of a court. It seems to
me that you raise a question which we can look at it, but the
amendment in its current form cannot be supported.

Mrs. Lesko. Well, thank you, Mr. Chairman. I will
point out --

Chairman Nadler. I yield to the gentlelady.

Mrs. Lesko. Oh, thank you. Thank you, Mr. Chairman. I
will point out that apparently there is enough evidence that
you are going to grant the spouse or child a green card based
on the abuse. So, you know, I think the standard should be
the same because the Secretary is determining that.

Chairman Nadler. I will reclaim my time. That is the
disagreement. I don't think the standard should be the same.
You can be okay with granting someone relief to stay in the
country, you know, get a green card because you are a victim
of violence. The standard of proof before you penalize
someone for doing the violence, which is a criminal act, has
got to be maybe somewhat different and maybe a different
proceeding. So as I said, you raise an interesting question,
but I would have to oppose the amendment, and I urge that the
amendment --

Ms. Lofgren. Would the gentleman --

Chairman Nadler. -- in its present form not be
supported. I yield to the gentlelady.

Ms. Lofgren. I thank the chairman for yielding. I
think the point that you are making here is not an
unreasonable one. I am not prepared to accept this amendment
as written today, but I do think that the logic of dealing
with it is there. And I am hopeful that we can work together
between now and the floor and come up with something that
really addresses the issue that you have raised, and I would
promise to do that with you.

Chairman Nadler. I yield.
Mrs. Lesko. Would the chairman yield? And thank you,
Ms. Lofgren. And I serve on the Rules Committee, so I guess
I could always do an amendment in the Rules Committee if we
get to an agreement. Thank you. But obviously I still
support my amendment.
Chairman Nadler. Okay. The question occurs on the
amendment.
All in favor of the amendment, say aye.
Opposed, no.
The noes have it. The amendment is not agreed to.
Mrs. Lesko. Mr. Chair, I call for a recorded vote.
Chairman Nadler. A recorded vote is requested. The
clerk will call the roll.
Ms. Strasser. Mr. Nadler?
Chairman Nadler. No.
Ms. Strasser. Mr. Nadler votes no.
Ms. Lofgren?
Ms. Lofgren. No.
Ms. Strasser. Ms. Lofgren votes no.
Ms. Jackson Lee?
Mr. Cohen?
Mr. Johnson of Georgia?
Mr. Deutch?
Ms. Bass?
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?
Mrs. McBath?
Mrs. McBath. No.
Ms. Strasser. Mrs. McBath votes no.
Mr. Stanton?
Mr. Stanton. No.
Ms. Strasser. Mr. Stanton votes no.
Ms. Dean?
Ms. Mucarsel-Powell?
Ms. Escobar?
Mr. Collins?
Mr. Sensenbrenner?
Mr. Chabot?
Mr. Gohmert?
Mr. Gohmert. Yes.
Ms. Strasser. Mr. Gohmert votes yes.
Mr. Jordan?
Mr. Buck?
Mr. Ratcliffe?
Mrs. Roby?
Mr. Gaetz?
Mr. Johnson of Louisiana?
Mr. Biggs?
Mr. McClintock?
Mrs. Lesko?
Mrs. Lesko. Aye.
Ms. Strasser. Mrs. Lesko votes aye.

Mr. Reschenthaler?

Mr. Cline?

Mr. Cline. Aye.

Ms. Strasser. Mr. Cline votes aye.

Mr. Armstrong?

Mr. Steube?

Mr. Steube. Yes.

Ms. Strasser. Mr. Steube votes yes.

Chairman Nadler. Are there any members who wish to vote who haven't voted yet?

[No response.]

Chairman Nadler. The clerk will report.

The gentleman from Colorado? I am sorry. The gentleman from Arizona?

[Laughter.]

Chairman Nadler. The gentleman from Georgia?

Mr. Johnson of Georgia. No.

Ms. Strasser. Mr. Biggs votes yes.

Mr. Johnson of Georgia votes no.

Chairman Nadler. Is there anybody else who wants to vote who hasn't voted?

[No response.]

Chairman Nadler. The clerk will report.

Ms. Strasser. Mr. Chairman, there are 5 ayes --
Chairman Nadler. One second. The gentleman from California?

Mr. McClintock. Aye.

Ms. Strasser. Mr. McClintock votes aye.

Chairman Nadler. The gentleman from Ohio?

Mr. Chabot. How am I recorded?

Chairman Nadler. You are not.

Mr. Chabot. Yes.

Ms. Strasser. Mr. Chabot votes yes.

Chairman Nadler. Now the clerk will report if no one else shows up.

Ms. Strasser. Mr. Chairman, there are 7 ayes and 12 noes.

Chairman Nadler. The amendment is not agreed to. Are there any further amendments? For what purpose does the gentleman from Florida seek recognition?

Mr. Steube. I have an amendment at the desk, Mr. Chair.

Chairman Nadler. The gentleman has an amendment. The clerk will report the amendment.

Ms. Strasser. Amendment to the amendment in the nature of a substitute --

Ms. Lofgren. I reserve a point of order.

Chairman Nadler. The gentlelady reserves a point of order.

Ms. Strasser. Amendment to the amendment in the nature
of a substitute to H.R. 5038, offered by Mr. Steube of Florida. Page 103, line 12, insert after "under this section" --

Mr. Steube. Waive the reading.

Ms. Strasser. -- the following.

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

[The amendment of Mr. Steube follows:]
Chairman Nadler. The gentleman from Florida is recognized for the purpose of explaining his amendment.

Mr. Steube. Thank you, Mr. Chairman. For decades, farmers in my district and across America have relied upon the H-2A Visa Program for laborers that are vital to their operations. These workers assist with critical harvesting and other agricultural operations to help feed our country and other countries in the world. Some of these workers fill the essential positions of driving agricultural, horticulture, and Florida culture commodities. This is a very big issue in my district as we sit here right now.

The Department of Labor has changed their interpretation of how they interpret H-2A labor to drive and haul produce, citrus, sugar cane, sugar beets, cotton from the fields to the processing facilities. And I will just give the example in my district, citrus growers who for decades have relied upon H-2A drivers to drive commodities from the citrus groves to the citrus processing facilities are currently being denied applications for those drivers at H-2A. I have worked through the Department of Labor on the issue. I have worked through the Administration on the issue. The Department of Labor has been unwilling to change their interpretation of the rule. The Florida Department of Citrus has actually filed a lawsuit against the Department of Labor as it relates to this issue, and I have basically been told that it needs
to be fixed legislatively.

So what this amendment would do is allow those H-2A workers, who for decades under previous interpretations of the rule would be allowed to be hired to drive the produce, or the citrus, or the cotton, or the sugar cane from the fields to the harvesting and processing facilities. This would make it very clear in the law that those individuals would be eligible for H-2A. That is the amendment, Mr. Chair.

Chairman Nadler. Does the gentlelady insist on her point of order?

Ms. Lofgren. No, I don't, Mr. Chairman.

Chairman Nadler. The gentlelady does not insist on her point of order. The gentlelady is recognized.

Ms. Lofgren. I would like to strike the last word. And I oppose the amendment, although I am sympathetic to where the gentleman is coming from. The current H-2A Program adopts an expansive definition of "agriculture." The definition includes "any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations." So it also includes "delivery to storage, or to market, or to a carrier for transportation to market in its unmanufactured state any agricultural or horticultural commodity, but only if such labor is performed by an individual employed by the operator of a farm."
Now, for years, labor contractors were approved for use of the H-2A, the trucking of ag products, under that definition. However, the Department of Labor has begun to deny applications filed by the labor contractors because it doesn't fit into the H-2A definition. Farmers and ag associations can continue to use the H-2A workers for these services, but not the contractors.

Now, as I said, we have had 9 months of discussion. This was discussed among the bipartisan drafters of the bill, which issue, which industries, and positions should be in the program. Earlier today the ranking member was talking about chicken processing plants where there is a labor shortage and other things. But what we decided to do was just to focus on ag, not try and deal with every issue that exists in the immigration arena. Just focus on ag. And accordingly, the decision was made that we should not try and expand the scope of this bill, that we should leave the definitions as is. And it is part of the delicate compromise that was reached.

I would note that we can run the specific amendment through the various bipartisan co-sponsors and see if there is any wiggle room on it in terms of the delicate negotiations. But in addition to the need that has been raised by the gentleman, which is not wrong, there is going to be quite a large number of newly-legalized individuals who will be able to take these jobs. For example, if you were
adding 40,000 other worker visas for the non-college degree
visa category, there is a preference for agriculture, but
those individuals will be available to take jobs such as this
one. Additionally, for those who get their LPR status
following their ag worker visa, they are then free to move in
whatever industry that we want.

We know from the farmers who are here who could move
into another industry as well as the historical practices
from the 1986 act, that people who have been in ag for 10 or
15 years tend not to leave ag. But for an ag-related job,
that is inside and not outside in the field, there are going
to be additional individuals who will be able to take these
important functions for hire.

So at this point I am not able to accept this amendment
at this moment here in this markup, but I would like to think
about it and see if there is any way to accommodate what has
been expressed without blowing up the finely-tuned compromise
that was reached after 9 months. And with that, I would
yield back, Mr. Chairman.

Chairman Nadler. For what purpose does the gentleman
from Virginia seek recognition?

Mr. Cline. I move to strike the last word.

Chairman Nadler. The gentleman is recognized.

Mr. Cline. Thank you, Mr. Chairman. I would yield to
the gentleman from Florida.
Mr. Steube. Thank you. I just want to respond, and I will even be willing to take out, because you talk about it being agriculture, and the language in my amendment says "agriculture, horticulture, and Florida culture," I would be even willing to take out "horticulture and Florida culture." I don't think, even if this bill were to pass without this amendment, that my growers in my district, the cotton growers in the southeast United States, the sugar cane and sugar beet growers all across the eastern seaboard, would be able to utilize the way they have utilized it in the last decades, because the Department of Labor is still going to interpret the rule as they are interpreting it right now. So they are not going to allow individuals who are filing applications for H-2A labor specifically to transport agricultural products, and that is all we are talking about, that is all that is in this amendment, from the point of the field to the processing facility. And I don't think if this issue is addressed that it is going to change.

I mean, people in my district are filing lawsuits against the Department of Labor based on this single issue. So if it is not addressed specifically in this bill, our agriculture producers all across this country are going to be in the same scenario if we are not allowing these employers to file applications for H-2A labor specifically to drive agricultural products from the field to the processing
facilities because they are going to interpret it the way
they are interpreting it now where they are drivers and not
agricultural workers.

Ms. Lofgren. Would the gentleman yield?

Mr. Steube. I would be happy to.

Ms. Lofgren. I think it is important. You are making
an accurate point as to labor contractors. However, farmers
and farm associations can still use H-2A workers for this
task --

Mr. Steube. That is not the way the DOL is interpreting
the --

Ms. Lofgren. No, I think it is.

Mr. Steube. If you would yield back. I would be happy
to share with you letters from my office, responses from DOL,
letters from Florida Citrus Mutual, letters from the cotton
industry, letters from sugar cane, because that is not what
is happening on the ground right now.

Ms. Lofgren. Well, if the gentleman would further
yield.

Mr. Steube. Yeah, it is your time.

Ms. Lofgren. I would look forward to talking with you
after the markup on this because if that is what the DOL is
saying, that is contrary to what the DOL position here is in
Washington. So let's work through that. I don't know if we
can take this amendment, but let's work through that problem
because if that is what they are doing in Florida, that is not what the law provides. So let's see if we can help resolve it.

Mr. Cline. It is not just Florida. It is Florida. It is the southeast United States, anywhere where cotton is produced. It is anywhere where sugar beets are produced, Minnesota.

Ms. Lofgren. That the farmers themselves cannot do this because that is not what this --

Mr. Steube. Yeah.

Ms. Lofgren. Well, I look forward to talking with you about that further.

Mr. Steube. Yeah, if you would be willing to meet with me to discuss this issue, I will withdraw the amendment.

Ms. Lofgren. I would be happy to do that.

Mr. Steube. All right. I will withdraw the amendment.

Chairman Nadler. Without objection, the amendment is withdrawn. Are there any further amendments? For what purpose does the gentleman from --

Mr. Armstrong. North Dakota.

Chairman Nadler. -- from North Dakota seek recognition?

Mr. Armstrong. I have an amendment at the desk.

Chairman Nadler. The gentleman has an amendment at the desk, and the clerk will report the amendment.

Ms. Strasser. Amendment to the amendment in the nature
of a substitute to H.R. 5038, offered by Mr. Armstrong of North Dakota.

Ms. Lofgren. I reserve a point of order.

Chairman Nadler. The gentlelady reserves a point of order. Without objection, the amendment will be considered as read.

[The amendment of Mr. Armstrong follows:]
Chairman Nadler. The gentleman from North Dakota is recognized for the purpose of explaining his amendment.

Mr. Armstrong. Thank you, Mr. Chairman, and I appreciate the debate today. I wish we would have taken the approach with this amendment that we have taken in antitrust. And at the risk of saying something complimentary about my friend from Rhode Island, this is a grind. Yeah, this is a grind. We are working through things. This is an incredibly important issue to North Dakota.

Immigration is the number one call I get in my office. Ag labor immigration is far and away the biggest part of that conversation. And as we continue to have inputs go up, commodity prices stay stagnant. Currently, right now in North Dakota, 47 out of 52 counties are under a disaster declaration. And at a detriment to the ag labor market, but a really good thing for the rest of our State is we have 20,000-plus open jobs, and those jobs are in the oil patch. They are in construction. They are in the service industry. They are in a lot of these different niches, all of which can pay over-market prices, causing North Dakota farmers, North Dakota ranchers to run into situations where they can't compete in a true labor market, which is where the H-2A Visa Program and legal ag labor immigration comes into play.

And, I mean, I have said it before in this committee, but we suffer from geography and weather, but we can compete
in the ag labor market. What we cannot do is compete against
both the other States and other industries for that ag labor.
And people who go through the process of complying with this
H-2A process and traveling all the way to North Dakota have
no trouble traveling another 15 miles to go somewhere where
they can work part time in the ag labor market, also part
time in the construction market.
So we need a simplified, streamlined process, and this
amendment simply ensures that anybody getting an ag H-2A
immigration pass has to work in the ag labor market. And I
recognize our ranking member's concerns about dairy and
different issues where I am not entirely sure how this works.
But I don't think the way the bill is currently written
actually helps the farmers and ranchers in North Dakota right
now, so that is why I offer this amendment. And with that, I
yield back.
Chairman Nadler. The gentleman yields back. For what
purpose does the gentlelady from California seek recognition?
Ms. Lofgren. To strike the last word.
Chairman Nadler. The gentlelady is recognized.

Ms. Lofgren. This is a complicated amendment, but the point you are making is not an unreasonable one. And what I would like to do is reach out to the bipartisan authors of this bill and see if we can get some consensus on it. But my inclination is that what you are suggesting is accurate, and so I promise, and you may want to vote on it now. I can't support it today, but I do promise to work on this and see if we can't accommodate the issue that you have raised.

Mr. Armstrong. Would the gentlelady yield, and I appreciate that, and I would like a vote on it. And I would also point out through all the other things that go on this, as this continues to move through the process, if these work through, I tend to go with my ranking member on this. I am a no, but I am a really soft no. I think there is movement here. And I think in the immigration space, if we are ever going to get to a place, which is an issue that has slogged down this town for way longer than I have been here for 10 months, this is the place we can do it. So thank you.

Ms. Lofgren. I yield back.

Chairman Nadler. The gentlelady --

Ms. Lofgren. I would just note I can't support it today, but I think that we might have some promise later.

Chairman Nadler. The question occurs on the amendment.
All those in favor, say aye.
Opposed, no.
The noes have it, although we will look at the issue.
The noes have it.
Are there any further amendments? The gentleman from Florida?
Mr. Steube. I have an amendment at the desk, Mr. Chairman.
Chairman Nadler. The gentleman has an amendment at the desk. The clerk will report the amendment.
Ms. Lofgren. I reserve a point of order.
Ms. Strasser. Amendment to the amendment in the nature of a --
Chairman Nadler. The gentlelady reserves a point of order.
Ms. Strasser. -- substitute to H.R. 5038, offered by Mr. Steube of Florida. Beginning on page 55, strike line 21 and all that follows through page 65, line 23, and insert the following.
Chairman Nadler. Without objection, the amendment will be considered as read.

[The amendment of Mr. Steube follows:]
Chairman Nadler. The gentleman is recognized for the purpose of explaining his amendment.

Mr. Steube. Thank you, Mr. Chairman. The wage structure proposed in this bill is extremely complicated and overly burdensome for farmers across America. Without a human resources department and a team of payroll managers, there is way the average American farmer, the people who rely on the H-2A Program, will be able to keep up with its requirements. Instead, I am proposing a streamlined system that would simply ask employers to offer the greatest of, one, the State or local minimum wage; two, 115 percent of the Federal minimum wage; or three, the actual wage level paid by the employer to all other individuals in the job. This amendment will ensure workers are paid a fair wage while farmers can better plan for the year ahead, knowing their wages and livelihood are not subject to the whims of a poorly-designed system. That is the amendment. I yield back.

Chairman Nadler. The gentleman yields back. Does the gentlelady insist on her point of order?

Ms. Lofgren. No, I do not.

Chairman Nadler. The gentlelady does not insist on her point of order, and she is recognized.

Ms. Lofgren. Well, one of the things that took the very longest as we worked through the issues was how to deal with
wages moving forward, and I think this suggestion actually disrupts something that we think is quite workable in the bill. The minimum wage is not really a workable standard. The adverse wage level currently is a little bit higher than the minimum wage in some States. We have accommodated those few States where the minimum wage is higher, for example, my own State of California, in a way that works. But we don't think, and we all agreed, not only the representatives of the workers, but also the employers, that was not workable. We also in the bill, we have got the prevailing wage, the Federal or State, the 1-year wage freeze, the disaggregated wages. We have got wage caps and something that we think will actually work very well to protect employers.

There has been concern expressed, I don't know if it is helping to fuel this amendment, that the bill does not cap prevailing wages. However, the prevailing wage operates in a very different way. It is a non-factor for most employers. And, in fact, most States don't report any prevailing wage findings because of peculiarities of how they are conducted. For example, there were no surveys conducted at all in most States. There were surveys conducted in some other States that were insufficient. Only 8 States actually did surveys that met the standards for prevailing wage. So I do think this this amendment cannot be accommodated to keep faith with all of the negotiations that have been undertaken over the
last 9 months, and the agreements made from all of the authors of the bill.

I would be happy, maybe not here, but to go through, if the gentleman wishes later, how the portal is going to work and how it is going to be streamlined so that employers will not have a very tough time in figuring out what the wage rate is going to be. This is going to be a very simple process for employers, much improved over the current process. And with that, Mr. Chairman, I urge a no vote and yield back.

Chairman Nadler. The gentlelady yields back. The question occurs on the amendment.

All those in favor, say aye.

Opposed, no.

The noes have it. The amendment is not adopted.

Are there any further amendments? Who seeks recognition?

Mr. Steube. Could I ask for a recorded vote on that?

Chairman Nadler. Yeah, you should have done it earlier, but, yes. The clerk will call the roll on the amendment we are dealing with.

Ms. Strasser. Mr. Nadler?

Chairman Nadler. No.

Ms. Strasser. Mr. Nadler votes no.

Ms. Lofgren?

Ms. Lofgren. No.
Ms. Strasser. Ms. Lofgren votes no.

Ms. Jackson Lee?

Ms. Jackson Lee. No.

Ms. Strasser. Ms. Jackson Lee votes no.

Mr. Cohen?

Mr. Johnson of Georgia?

Mr. Deutch?

Ms. Bass?


Ms. Strasser. Ms. Bass votes no.

Mr. Richmond?

Mr. Jeffries?

Mr. Cicilline?

Mr. Cicilline. No.

Ms. Strasser. Mr. Cicilline votes no.

Mr. Swalwell?

Mr. Lieu?

Mr. Raskin?

Mr. Raskin. No.

Ms. Strasser. Mr. Raskin votes no.

Ms. Jayapal?

Ms. Jayapal. No.

Ms. Strasser. Ms. Jayapal votes no.

Mrs. Demings?

Mr. Correa?
Mr. Correa. No.
Ms. Strasser. Mr. Correa votes no.
Ms. Scanlon?
Ms. Scanlon. No.
Ms. Strasser. Ms. Scanlon votes no.
Ms. Garcia?
Ms. Garcia. No.
Ms. Strasser. Ms. Garcia votes no.
Mr. Neguse?
Mrs. McBath?
Mrs. McBath. No.
Ms. Strasser. Mrs. McBath votes no.
Mr. Stanton?
Mr. Stanton. No.
Ms. Strasser. Mr. Stanton votes no.
Ms. Dean?
Ms. Dean. No.
Ms. Strasser. Ms. Dean votes no.
Ms. Mucarsel-Powell?
Ms. Mucarsel-Powell. No.
Ms. Strasser. Ms. Mucarsel-Powell votes no.
Ms. Escobar?
Mr. Collins?
Mr. Sensenbrenner?
Mr. Chabot?
Mr. Chabot. Aye.

Ms. Strasser. Mr. Chabot votes aye.

Mr. Gohmert?

Mr. Gohmert. Aye.

Ms. Strasser. Mr. Gohmert votes aye.

Mr. Jordan?

Mr. Buck?

Mr. Ratcliffe?

Mrs. Roby?

Mr. Gaetz?

Mr. Johnson of Louisiana?

Mr. Biggs?

Mr. McClintock?

Mr. McClintock. Aye.

Ms. Strasser. Mr. McClintock votes aye.

Mrs. Lesko?

Mrs. Lesko. Aye.

Ms. Strasser. Mrs. Lesko votes aye.

Mr. Reschenthaler?

Mr. Reschenthaler. Aye.

Ms. Strasser. Mr. Reschenthaler votes aye.

Mr. Cline?

Mr. Cline. Aye.

Ms. Strasser. Mr. Cline votes aye.

Mr. Armstrong?
Mr. Armstrong. Yes.

Ms. Strasser. Mr. Armstrong votes yes.

Mr. Steube?

Mr. Steube. Yes.

Ms. Strasser. Mr. Steube votes yes.

Chairman Nadler. Has everyone who wishes to vote voted?

The gentleman from Georgia?

Mr. Johnson of Georgia. How am I recorded?

Ms. Strasser. Mr. Johnson, you are not recorded.

Mr. Johnson of Georgia. I vote no.

Ms. Strasser. Mr. Johnson of Georgia votes no.

Chairman Nadler. Has everyone who wishes to vote voted?

[No response.]

Chairman Nadler. How is Ms. Bass recorded?

Ms. Strasser. Ms. Bass, you are recorded as no.

Chairman Nadler. Okay. The clerk will report.

Ms. Strasser. Mr. Chairman, there are 8 ayes and 15 noes.

Ms. Strasser. The amendment is not agreed to. Are there any further amendments? For what purpose does the gentleman from California seek recognition?

Mr. McClintock. I have an amendment, Mr. Chairman.

Chairman Nadler. The gentleman from California has an amendment. The clerk will report the amendment.

Ms. Lofgren. I reserve a point of order.
Chairman Nadler. The point of order is reserved.

Ms. Strasser. Substitute for the amendment in the nature of a substitute to H.R. 5038, offered by Mr. McClintock of California. Strike all that follows after the enacting clause and insert the following.

Chairman Nadler. Without objection, the amendment is considered as read.

[The amendment of Mr. McClintock follows:]
Chairman Nadler. The gentleman is recognized for the purpose of explaining his amendment.

Mr. McClintock. And per our discussions, I would ask unanimous consent to waive the printing requirement.

Chairman Nadler. I am sorry. I couldn't hear you.

Mr. McClintock. And per our staff discussions, I would ask unanimous consent to waive the printing requirement on this amendment.

Chairman Nadler. Without objection.

Mr. McClintock. Thank you.

Chairman Nadler. We are saving a few forests.

Mr. McClintock. Yeah, and I promise to be as brief as the amendment is long. It simply adds to the bill the provisions of H.R. 4760 from the last session of this Congress authored by the chairman of this committee, Congressman Goodlatte. Members will remember it as Goodlatte 1. I do so because it brought us closest to a comprehensive solution to our immigration crisis by assuring that legalizing the status of young people brought to our country through the illegal acts of their parents and legalizing seasonal workers who are here illegally, was accompanied by restoring border security in the enforcement of our immigration laws. The two have to go together. Otherwise, we will simply encourage illegal immigration to continue, secure in the expectation that ever-widening amnesty bills
will legitimize their illegal acts in the future. We keep hearing that we need to make an exception for this or that, just this one little portion. But each of these exceptions weakens our ability to enforce our existing laws, and each of these exceptions encourages more illegal acts, and it has to stop. While I am sympathetic with the need for additional labor, time of record, low unemployment, just as I am sympathetic with the needs of those brought here as children with no ties to the country of their birth, we make the problem worse by addressing it piecemeal.

The amendment I offer includes a lot of provisions I don't like and many other provisions that many other people don't like. But Goodlatte's work in trying to reach a middle ground should be the starting point to address this issue if we are really serious about resolving it. I would yield back.

Ms. Lofgren. Mr. Chairman?

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

Ms. Lofgren. This actually is not germane. It goes far beyond the underlying bill. It goes into family immigration, unaccompanied, asylum and the like, border security. It is not germane, and so I do insist on my point of order.

Chairman Nadler. The gentlelady insists on her point of order. Does the gentleman want to be heard on the point of
order?

Mr. McClintock. I will simply point out that all the provisions of the bill are under the jurisdiction of this committee, which passed it out during the last session of the Congress with no objections on it.

Chairman Nadler. I am prepared to rule on the point of order. The gentleman is correct, as far as I know, that all the provisions of this bill are within the jurisdiction of the committee. However, that is not why it is not germane. The amendment is not germane because it goes far beyond the scope the bill it seeks to amend. If it were a separate bill, it is within the jurisdiction of the committee, which is why we could consider it last year. As an amendment to this bill, it goes well beyond the subject matter of the bill, and, therefore, is not germane, and, therefore, is out of order. So the amendment is out of order. Are there any further amendments?
[No response.]

Chairman Nadler. If there being no further amendments, the question occurs on the amendment in the nature of a substitute, as amended. This will be followed immediately by vote on final passage of the bill.

All those in favor of the amendment in the nature of a substitute, respond by saying aye.

Opposed, no.
In the opinion of the chair, the ayes have it, and the amendment in the nature of a substitute is agreed to. A reporting quorum being present, the question is on the motion to report the bill, H.R. 5038, as amended, favorably to the House.

Those in favor, respond by saying aye. Those opposed, no. The ayes have it. The bill is ordered reported favorably. No one requests a recorded vote? A recorded vote is requested. Under Rule II(j)(1) of the committee's rules, we are going to postpone the recorded vote to report H.R. 5038 until tomorrow morning. That means when we reconvene tomorrow morning, the first order of business will be the recorded vote. Nothing else is permitted, no amendment, no discussion. We have already taken the voice vote, but as soon as we reconvene tomorrow morning, we will take the recorded vote.

We will now go on. Just to explain that to everybody. We have taken the voice vote on this bill because for a number of reasons, the majority and the minority have agreed to postpone the recorded vote to the first item of business tomorrow morning. Nothing else is in order before that vote. We will, however, now go on to other bills.

Ms. Jackson Lee. Mr. Chairman? Would you yield for a moment?
Chairman Nadler. Who seeks recognition?


Chairman Nadler. Yes?

Ms. Jackson Lee. I may be speaker pro tem on the floor, so I ask unanimous consent to record my prospective vote as an aye on the agricultural bill, which is 5038. I would just like to ask unanimous consent to be recorded in the record that if I was present in the morning --

Chairman Nadler. Without objection, it will be noted in the record.

Ms. Jackson Lee. Thank you.

Chairman Nadler. Pursuant to notice, I now call up H.R. 5133, the Affordable Prescriptions for Patient Through Promoting Competition Act of 2019, for purposes of markup, and move that the committee report the bill favorably to the House.

The clerk will report the bill.

Ms. Strasser. H.R. 5133, to amend the Federal Trade Commission Act prohibit anticompetitive behaviors by drug product manufacturers, and for other purposes.

Chairman Nadler. Without objection. The bill is considered as read and open for amendment at any point.

[The bill follows:]
Chairman Nadler. I will begin by recognizing myself an opening statement.

H.R. 5133, the Affordable Prescriptions for Patient Through Promoting Competition Act of 2019, is one of two bipartisan measures that we are considering today as part of the committee's efforts to lower the soaring cost of prescription drugs and deliver more affordable healthcare for consumers. This legislation addresses a practice known as product hopping, which occurs when a company makes a nominal change to a product that is facing the end of patent exclusivity, such as a change to its dosage or delivery mechanism. The company then either removes the old product from the market or makes the old product seem much less attractive than the new product. Doctors and patients, therefore, have essentially no choice but to switch to the new, but not improved, drug, for which the drug company can continue to charge monopoly prices.

This conduct focuses on the delivery of profits to big pharma rather than meaningful innovation for sick patients. For example, in a recent case, a drug manufacturer with a lifesaving medication for opioid addiction changed the form of the treatment from tablets to a film, even though it was more expensive to manufacture and was no more safe or effective, just so it could continue its stranglehold on the market. As chairman Joseph Simons of the Federal Trade
Commission testified earlier this month before the Antitrust Subcommittee, this anticompetitive scheme shifted existing patients away from the product about to face generic competition, and onto another more lucrative product that enjoyed patent protection and provided no legitimate incremental benefits. Unfortunately courts have struggled to consistently apply the antitrust laws to this conduct. Moreover, antitrust litigation to address anticompetitive behavior in pharmaceutical markets is costly and slow, often taking years, if not decades, to stop the abusive behavior.

To address these concerns, H.R. 5133 would prohibit product hopping by establishing that it is an unfair method of competition in violation of the Federal Trade Commission Act. In doing so, not only would this legislation help deter such conduct in the first place through the FTC's ability to obtain equitable monetary relief, it would also expedite traditional proceedings by providing much-needed clarity to the law. This bill is companion legislation to part of S. 1426, the Affordable Prescription for Patients Act, which was favorably reported by the Senate Judiciary Committee by a unanimous vote in June. According to the nonpartisan Congressional Budget Office, this legislation will save American taxpayers more than half a billion dollars over a 10-year period. This legislation builds on the committee strong record of bipartisan legislation to lower the price of
prescription drugs to patients.

Earlier this year, the committee unanimously reported a series of bills to confront one of the leading drivers of high prescription drug costs: competition-blocking efforts by branded drug companies to keep generic drugs off the market so that they can preserve their monopoly profits. This outrageous behavior, which puts profits before patients, thwarts the competition that is essential to lowering prescription drug prices. According to a study by the Federal Trade Commission, having a single generic competitor in the market can lower the price of a branded drug product by as much as 20 to 30 percent off the branded product's price, while the entry of additional competitors can lower the price by 85 percent or more. H.R. 5133 would address similarly anticompetitive conduct by drug makers to help reduce the cost of prescription drugs for consumers.

I thank the sponsor of this legislation, Mr. Cicilline, the chairman of the Antitrust, Commercial, and Administrative Law, as well as Ranking Member Collins and Subcommittee Ranking Member Sensenbrenner, for their leadership on this bipartisan measure, and I urge my colleagues to support this legislation.

The statement of the ranking member will be made a part of the record.

[The information follows:]
Chairman Nadler. I now recognize the chair of the Subcommittee on Antitrust, Commercial, and Administrative Law, the sponsor of this legislation, the gentleman from Rhode Island, Mr. Cicilline, for his opening statement.

Mr. Cicilline. Thank you, Mr. Chairman, and thank you for including this important piece of legislation in our markup today. Across the country, the outrageous costs of prescription drugs is ruining lives. According to Kaiser Health, a quarter of Americans cannot afford their medicine, and many cancer patients are delaying care, cutting their pills, or skipping drug treatment entirely. Prices are skyrocketing, and people are going bankrupt and even dying because they can't afford the prescription medicine, and despite decades of rising costs, the United States ranks dead last in health outcomes among similarly-developed countries.

Ending the crisis of skyrocketing healthcare costs has been a top priority of mine as chair of the Antitrust Subcommittee, and it is essential that House Democrats keep our promise to work for the people by taking on drug profiteering and other barriers to affordable healthcare.

Today's markup of H.R. 5133, Affordable Prescriptions for Patient Through Promoting Competition Act of 2019, is our latest bipartisan effort to lower drug prices through the full benefits of competition.

This legislation addresses product hopping, a
particularly abusive form of conduct used by drug manufacturers to protect their profits by artificially extending their monopolies on certain prescription drugs. As described in a 2016 study by the National Institutes of Health, product hopping involves a brand name company switching the market for a drug prior to its patent expiration date to a reformulated version that has a later expiring patent, but which offers little or no therapeutic advantage.

Professor Aaron Kesselheim of Harvard Medical School testified last Congress that this conduct is especially problematic when the manufacturer removes the original drug from the market before its patent term expires, ensuring that generic versions of that drug cannot be marketed. This practice allows big pharma to preserve their profits at the expense of everyday Americans.

For example, several years ago, as the pharmaceutical company, Actavis, attempted to remove its blockbuster treatment for Alzheimer's disease and replace it with a new and improved version in order to extend its patent monopoly until 2029. The only problem, the new version was simply a once-daily dosage instead of a twice-daily dosage, not a significant improvement to the treatment. This is not true innovation, and it is costing hardworking Americans. Based on the pharmaceutical company's own data, this behavior, if
it had been successful, would have resulted in health insurers paying $1.4 billion dollars more for the therapy.

And according to a report by the Department of Health and Human Services, blocking generic entry alone would have cost American taxpayers $6 billion over a 10-year period.

Hardworking Americans have had enough of these games, and that is why I have introduced the Affordable Prescriptions for Patient Through Promoting Competition Act. This bipartisan legislation will end this abusive delay tactic by expressly prohibiting product hopping as an unfair method of competition on the Federal Trade Commission Act, subject to all equitable remedies, including restitution and discouragement of profits.

I want to thank you, Chairman Nadler, for your leadership on this issue. I want to thank the ranking member, Doug Collins, and Ranking Member Sensenbrenner for their bipartisan leadership and support, and urge all of my colleagues to support this legislation. And I yield back.

Chairman Nadler. The gentleman yields back. Are there any amendments to H.R. 5133?

[No response.]

Chairman Nadler. A reporting quorum being present, the question is on the motion to report the bill, H.R. 5133, favorably to the House.

Those in favor say aye.
Opposed, no.
The ayes have it, and the bill is ordered reported favorably to the House. Members will have 2 days to submit views.
[The information follows:]
Chairman Nadler. We will have another bill in a moment.
Pursuant to notice, I now call up H.R. 3991, the Affordable Prescription for Patients Through Improvements to Patent Litigation Act of 2019, for purposes of markup and move that the committee report the bill favorably to the house.
The clerk will report the bill.
Ms. Strasser. H.R. 3991, to amend Title 35, United States Code, to clarify and improve the process for Subsection K -- Chairman Nadler. Without objection, the bill is considered as read and open for amendment at any point.
[The bill follows:]
Chairman Nadler. I will begin by recognizing myself for an opening statement.

H.R. 3991, the Affordable Prescription for Patients Through Improvements to Patent Litigation Act of 2019, is the second bipartisan measure we are considering today that aims to stem the tide of rising medical costs and make healthcare more affordable. This legislation concerns consumer alternatives to brand-name biologics, which are complex large molecule drugs, such as genetically-modified proteins, that have to be grown and extracted from cell cultures. Biologics are expensive to develop and bring to market, and these dynamics are reflected in their high costs and spending totals.

In 2018, spending on biologics suppressed $125 billion dollars in the United States, and the cost for some biologics can reach hundreds of thousands of dollars per patient per year. In 2010, the Biologics Price Competition and Innovation Act established an important mechanism for getting biosimilars to the market. However, that process is not working as effectively as it could be to streamline the patent litigation process and get biosimilars on the market more quickly, part of which is hampered by what is known as patent thickening.

Patent thickening is when a manufacturer prolongs its exclusive rights to market a drug by filing numerous patent
claims to fend off biosimilars attempting to enter the market. For example, years after a brand-name biologics release, the manufacturer may file claims to the subject biologic that do not incorporate significant changes or claims to a method that the manufacturer does not itself use. These claims tie up biosimilars in litigation and keep them off the market. H.R. 3991 takes an important step toward addressing these tactics and ultimately lowering drug prices for this particularly costly class of drugs.

The legislation limits the number of patents that the brand name manufacturer can assert in litigation, which forces the manufacturer to focus on its key patents and streamline the litigation process. When biosimilars can get to the market quickly, consumers get to see those savings more quickly.

I applaud Mr. Johnson and Mrs. Roby, the chairman and ranking member of the Subcommittee on Courts, Intellectual Property, and the Internet, for their bipartisan work on this issue. I likewise applaud Senators Blumenthal and Cornyn for leading on companion legislation in the Senate, which has passed out of the Senate Judiciary Committee unanimously. I urge my colleagues to support this legislation.

The ranking member's statement will be inserted in the record.

[The information follows:]
Chairman Nadler. I now recognize the chairman of the Subcommittee on Courts, Intellectual Property, and the Internet, and the sponsor of this legislation, the gentleman from Georgia, Mr. Johnson, for his opening statement.

Mr. Johnson of Georgia. Thank you, Mr. Chairman. There is no question that the cost of brand-name prescription drugs have soared too high and put affordable healthcare out of reach for many Americans. H.R. 3991, the Affordable Prescription for Patients Through Improvements to Patent Litigation Act of 2019, seeks to bring down these costs by streamlining the pathway for alternatives to expensive brand-name biological drugs, known as biologics, to get to consumers. Improving access to these alternatives, which are called biosimilars, is critical to lowering medical costs.

In 2010, Congress created a streamlined application process for biosimilars to reach the market through the Biologics Price Competition and Innovation Act, or BPCIA. The benefit of having more biosimilars available is tangible. For example, one report estimates that over the next 5 years, global pharmaceutical spending will be approximately $160 billion lower than it would have been had biosimilars not reached the market. Although BPCIA created a robust application process for biosimilars to get to the market quickly, it has not been able to reach its full potential. H.R. 3991 addresses one clog in the current system, patent
thickening. Brand-name biologics have kept their exclusive hold on the market by using the patent system to fend off their biosimilar competition for far longer than contemplated, and at no benefit to American consumers. These efforts include building up a portfolio of late-filed patents, some of which may have only minor or inconsequential innovations. These filings are often timed to keep the brand-name drugs' exclusivity alive just as the drugs more critical patents begin to expire. The manufacturer of the branded biologic will assert these patents in litigation against the biosimilar applicant, and, in the meantime, get to retain their exclusive hold on the market, and consequently their hold on Americans' wallets.

H.R. 3991 strengthens the BPCIA by encouraging both the brand-name manufacturer and the biosimilar applicant to engage more completely in the BPCIA's process, and by addressing manufacturers' patent-thickening tactics. Specifically, this legislation limits the number of patents that the manufacturer of the brand-name biologic can assert against the biosimilar applicant only when the parties have engaged in the BPCIA's process. Patents that are filed after the biosimilar applicant taken some of the first steps under the BPCIA process are further limited. By streamlining and simplifying the patent litigation process, we hope to help
make these important and lifesaving biologics more affordable for American consumers and more accessible to the marketplace.

I am glad to have worked with Mrs. Roby, my counterpart on the Subcommittee on Courts, Intellectual Property, and the Internet, in introducing this measure, and it is another bold step in the committee's efforts to lower the cost of staying healthy. I urge my colleagues to support this bill, and with that I yield back.

Chairman Nadler. The gentleman yields back. We will insert the statement of the ranking member of the subcommittee in the record.

[The information follows:]
Chairman Nadler. Without objection, all other opening statements will be included in the record.

[The information follows:]
Chairman Nadler. I now recognize myself for purposes of offering an amendment in the nature of a substitute.

The clerk will report the amendment.

Ms. Strasser. Amendment in the nature of a substitute to H.R. 3991, offered by Mr. Nadler.

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

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

Chairman Nadler follows:
Chairman Nadler. I will recognize myself to explain the amendment. This amendment makes minor technical clarifications to the bill, but makes no substantive changes, and I urge my colleagues to support the amendment. The statement from the ranking member of the committee on the amendment in the nature of a substitute will be inserted in the record. [The information follows:]
Chairman Nadler. Are there any amendments to the amendment in the nature of a substitute? The gentlelady from Georgia, for what purpose does she seek recognition?

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

Chairman Nadler. The gentlelady is recognized.

Mrs. McBath. Thank you. I am very proud that the Judiciary Committee is continuing to make progress in lowering the price of prescription drugs. I am a 2-time breast cancer survivor, so I know all too well, you know, the stress and the heartache of having a life-changing diagnosis and treatment. It was exhausting both physically and emotionally, and I was truly blessed to be able to afford my medications. Unfortunately that is not the reality of a lot of Americans here in the country, and time and time again, my constituents continue to tell me that affordable healthcare and prescription drug prices are their top priority. It should be my top priority. And can you really blame them? Americans are basically drowning in the high cost of their healthcare. So there are life-changing and lifesaving medications that we are talking about here, and they just simply are not optional for people like me and people that have preexisting conditions. And people should never have to make the unthinkable decision about whether or not they are going to purchase their medications or put food on the table.
and put gas in their car. The American people are sick and
tired of seeing endless price increases on their medications,
while pharmaceutical executive give out big bonuses and buy
lots and lots of stock.

We need to find a different way, and I came to Congress
to protect lower prescription drug costs for Georgians and to
truly make healthcare more affordable and accessible for
everyone. And this Congress simply has to act and deliver on
these promises, both Republicans and Democrats working on
behalf of our communities. So today, I am really excited
that we are taking action to lower the cost of prescription
drugs by addressing patent and competition issues that have
driven up the cost of our healthcare. And I am proud to
support these bipartisan bills, and I urge my colleagues to
join me in supporting them today and making sure that we have
swift passage this evening. I yield back the balance of my
time.

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

Mr. Correa. Mr. Chair, I move to strike the last word
with reference --

Chairman Nadler. The gentleman is recognized.

Mr. Correa. Thank you, with reference to H.R. 5133. I
want to thank my colleague, Representative Cicilline, for his
hard work on H.R. 5133, the Affordable Prescription for
Patients Through Promoting Competition Act. It is important that Congress address high drug prices and provide immediate relief for patients. This bipartisan bill is an important step in that direction, and that is why I support this legislation.

And I am pleased that this bill includes language that differentiates bad behavior from true innovation so that we continue to incentivize what is seen as good behavior, meaning research on new chemical entities and new molecular entities from the definition of follow-on products. The development of truly novel products is exactly the type of behavior we want to incentivize, and this legislation ensures that these important advancements aren't inadvertently misclassified as anticompetitive.

I thank my colleague again and his staff for all their good work, and I yield back the remainder of my time.

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

Ms. Jackson Lee. To strike the last word.

Ms. Garcia. Mr. Chairman, I move to strike the last word.

Chairman Nadler. The gentlelady from Texas is recognized. This gentlelady from Texas.

Ms. Garcia. I yield to the other gentlelady from Texas.

Chairman Nadler. She has the time.
Ms. Jackson Lee. I will be judicious. Mr. Chairman, it is my privilege to indicate my support for this legislation, and thank the proponents, and thank Mr. Johnson and others, Mr. Cicilline and others, working on this very important issue, the chairman. Texas has been and continues unfortunately to be the poster child for the uninsured, and, as well, many seniors and others who need access to pharmaceuticals for good health and to live. Any time that we can spend providing a relief to the extensive cost that families have to pay on pharmaceuticals, on life-saving drugs is crucial.

Anticompetitive conduct in the pharmaceutical industry harms American consumers through higher drug prices and, worse, healthcare outcomes. We know it well in Texas. Delaying entry of generic and biosimilar competition deprives consumers of the lower prices that competition brings to the market. We are filled in Houston with large medical facilities, small clinics, doctors' offices, federally-qualified health clinics, but all of them require, if you will, the use and prescription of drugs. It is difficult for families to be able to provide for their sick loved ones, some with chronic illnesses, when the competition is decreased and the cost of pharmaceuticals go up.

For life-saving reasons, I rise to support H.R. 3991, H.R. 3991, that takes into consideration two forms of
anticompetitive practices by branded drug manufacturers. It is time that we put the consumer and the family first. And as I close, let me particularly say the disparities in healthcare as it relates to minorities not only in Texas, but in the Nation is stark still, even with now a few years of the Affordable Care Act behind us. We need to find ways to immediately address this question. Reducing prescription drug costs coming from the Judiciary Committee is an important moment, and I ask my colleagues to support enthusiastically the legislation. And I yield back my time.

Chairman Nadler. The gentlelady yields back. For what purpose does the gentlelady seek recognition?

Ms. Garcia. I move to strike the last word.

Chairman Nadler. The gentlelady is recognized.

Ms. Garcia. Thank you, Mr. Chairman. And before I start, I just wanted to say that I have done countless town hall meetings, and, in fact, a tele-town hall on healthcare, and there is no one issue that people care more about in my district, quite frankly, than this one. Prescription drug prices are just totally out of control because, quite frankly, the system is fundamentally broken. Anticompetitive behavior in the pharmaceutical industry and a lack of oversight has led to higher drug prices in the United States compared to anywhere else in the world. Our hardworking families are having to choose between buying medically-
necessary prescription drugs and paying rent or buying groceries. That is just flat wrong. Brand-name manufacturers are fortifying their monopolies with patents for nominal changes for drugs to keep competition out. These medications treat conditions like opioid addiction and cancer, and without them patients die. We can use words like "product hopping" and "evergreen," but let's be clear about what this really is: anticompetitive tactics to secure and retain a monopoly. As a committee and a Congress, we have worked hard to address the issues of soaring prescription drug prices, and we must continue to do more.

I am proud to support Mr. Johnson's bill that we have in front of us today and the bill that we just voted for, and I urge all my colleagues to do the same. I thank you, and I yield back the remainder of my time.

Chairman Nadler. The gentlelady yields back.

The question occurs on the amendment in the nature of a substitute. This will be followed immediately by vote on final passage of the bill.

All those in favor, respond by saying aye.

Opposed, no.

In the opinion of the chair, the ayes have it. The amendment in the nature of a substitute is agreed to.

A reporting quorum being present, the question is on the
motion to report the bill, H.R. 3991 favorably to the House.

Those in favor, respond by saying aye.

Opposed, no.

The ayes have it, and the bill is ordered reported favorably.

Members will have 2 days to submit views.

This bill will be reported as a single amendment in the nature of a substitute incorporating all adopted amendments.

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

The members will be, I assume, pleased to hear that the committee will now stand in recess until 9:00 a.m. tomorrow morning, 9:00 a.m. sharp, at which time we will do two things. Tomorrow morning we will take a final recorded vote on H.R. 5038, the agriculture immigration bill, and we will consider H.R. 5140, the Satellite Television Communication Protection and Promotion Act of 2019. Please be here promptly at 9:00 a.m. so we can do the recorded vote on the immigration bill and consider STELA, and finish at a reasonable hour. With that, I thank the members.

The committee will stand in recess.

[Whereupon, at 6:43 p.m., the committee recessed, to reconvene at 9:00 a.m., Thursday, November 21, 2019.]