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4 MARKUP OF H.R. 1772, THE LEGAL WORKFORCE ACT; AND

5 H.R. 2131, THE SUPPLYING KNOWLEDGE-BASED IMMIGRANTS AND

6 LIFTING LEVELS OF STEM VISAS ACT (THE SKILLS VISA ACT).

7 Wednesday, June 26, 2013

8 House of Representatives

9 Committee on the Judiciary

10 Washington, D.C.

11 The committee met, pursuant to call, at 11:11 a.m., in

12 Room 2141, Rayburn Office Building, Hon. Bob Goodlate

13 [chairman of the committee] presiding.

14 Present: Representatives Goodlatte, Sensenbrenner,

15 Coble, Smith of Texas, Chabot, Bachus, Issa, Forbes, King,

16 Franks, Gohmert, Jordan, Poe, Chaffetz, Marino, Gowdy,

17 Amodei, Labrador, Farenthold, Holding, Collins, DeSantis,
18 Smith of Missouri, Conyers, Scott, Lofgren, Jackson Lee,
19 Cohen, Johnson, Pierluisi, Chu, Deutch, Gutierrez, Bass,
20 Richmond, DelBene, Garcia, and Jeffries.

21 Staff present: Shelley Husband, Staff Director; Branden
22 Ritchie, Deputy Chief of Staff/Chief Counsel; Allison
23 Halataei, Parliamentarian; Andrea Loving, Counsel; Kelsey
24 Deterding, Clerk; Perry Apelbaum, Minority Staff Director;
25 Danielle Brown, Minority Parliamentarian; and Tom Jawetz,
26 Counsel.

27

28 Chairman Goodlatte. Good morning. The Judiciary
29 Committee will come to order.

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

32 Before we begin, I would like again to welcome the
33 gentleman from Missouri, Jason Smith, and take a moment to
34 ratify his subcommittee assignments. A revised version of
35 the Judiciary Subcommittee roster is included in each
36 member's packet. Mr. Smith will be joining the Subcommittee
37 on Constitution and Civil Justice, the Subcommittee on
38 Courts, Intellectual Property, and the Internet, and the
39 Subcommittee on Regulatory Reform, Commercial Law, and
40 Antitrust Law.

41 Without objection, Mr. Smith's subcommittee appointments
42 are hereby ratified.

43 Pursuant to notice, I now call up H.R. 1772 for purposes
44 of markup and move that the committee report the bill
45 favorably to the House.

46 And the clerk will report the bill.

47 Ms. Deterding. H.R. 1772, to amend the Immigration and
48 Nationality Act to make mandatory and permanent requirements

49 relating to use of an electronic employment eligibility
50 verification --

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

53 [The information follows:]

54

55 Chairman Goodlatte. And I will begin by recognizing
56 myself for an opening statement.

57 The future of immigration reform hinges on assuring the
58 American people that our immigration laws will be enforced.
59 In the past, Americans were promised tougher enforcement in
60 exchange for the legalization of those unlawfully in the
61 U.S. Succeeding Administrations never kept these promises,
62 and today we are left with a broken immigration system.

63 One way to make sure we discourage illegal immigration
64 in the future is to prevent unlawful immigrants from getting
65 jobs in the U.S. Requiring the use of E-Verify by all
66 employers across the country will help do just that. The
67 web-based program is a reliable and fast way for employers
68 to electronically check the work eligibility of newly-hired
69 employees.

70 H.R. 1772, the Legal Workforce Act, builds on E-Verify's
71 success and helps ensure the strong enforcement that was
72 promised to the American people many years ago. The Legal
73 Workforce Act does not simply leave enforcement up to the
74 Federal government. In fact, it actually empowers States to
75 help enforce the law, ensuring that we do not continue the

76 enforcement mistakes of the past where a President can turn
77 off Federal enforcement efforts unilaterally.

78 Over 450,000 employers are currently signed up to use E-
79 Verify. It is easy for employers to use, and it is
80 effective. In fact, as USCIS testified in front of our
81 subcommittee this past February, E-Verify's accuracy rate
82 for confirmation of work eligibility is 99.7 percent.

83 But the system is not perfect. For instance, in cases
84 of identity theft when an individual submits stolen identity
85 documents and information, E-Verify may confirm the work
86 eligibility of that individual. This happened because E-
87 Verify uses a social security number or alien identification
88 number and certain other corresponding identifying
89 information, such as the name and date of birth of an
90 individual to determine if the SSN or alien identification
91 number associated with that corresponding information is
92 work eligible. Thus, if an individual uses a stolen social
93 security number and the real name corresponding with that
94 social security number, a false positive result could occur.

95 The Legal Workforce Act addresses identity theft in
96 several ways. First, it requires notification to all

97 employees who submit for E-Verify a social security number
98 that shows a pattern of unusual multiple use so the rightful
99 owner of the social security number will know that their
100 social security number may have been compromised. And once
101 they confirm this, the Department of Homeland Security and
102 the Social Security Administration must lock that social
103 security number so no one else can use it for employment
104 eligibility purposes.

105 The bill also creates a program through which parents or
106 legal guardians can lock the social security numbers of
107 their minor children for work eligibility purposes. This is
108 to combat the rise in the number of thefts of children's
109 identities.

110 But there are other changes that should also be made,
111 and I look forward to working with my colleagues to make
112 some of those changes today. The bill also phases in E-
113 Verify use in 6-month increments beginning with the largest
114 U.S. businesses, raises penalties for employers who do not
115 use E-Verify according to the requirements, allow employers
116 to use E-Verify prior to the date they hired an employee,
117 and provides meaningful safe harbors for employers who use

118 the system in good faith.

119 H.R. 1772 balances the needs of the American people
120 regarding immigration enforcement with the needs of the
121 business community regarding a fair and workable electronic
122 employment verification system. While I want to continue
123 working with the business community, my colleagues, and
124 other stakeholders to address any additional concerns with
125 the bill, I urge my colleagues to support the bill today.

126 And I yield back the balance of my time.

127 I now recognize the ranking member, the gentleman from
128 Michigan, Mr. Conyers, for his opening statement.

129 Mr. Conyers. Thank you, Chairman Goodlatte. This is
130 the third immigration bill that we are examining as we have
131 apparently decided not to work on one comprehensive piece of
132 legislation. And so, the Legal Workforce Act would make E-
133 Verify, the electronic employment verification system,
134 mandatory for all employers.

135 Although E-Verify is generally considered to be an
136 important tool, it cannot be made mandatory for all
137 employers without comprehensive reforms to our Nation's
138 broken immigration system and without additional reforms to

139 E-Verify itself. Let me explain.

140 It is critical that we strike the right balance for if
141 we get this wrong, it will hurt our Nation's economy,
142 devastate farmers across the United States, and spur
143 unemployment. Most importantly, it makes no sense to
144 mandate E-Verify without also implementing comprehensive
145 reform that would have a pathway to citizenship, I might
146 add.

147 We are very likely to hear today, as we have before,
148 that E-Verify will help America workers because every time
149 an undocumented immigration is denied a job, an unemployed
150 American can get hired, but that is wrong. Unfortunately,
151 that is not how it works. Immigrants fill major gaps in our
152 workforce. This is obvious in agriculture where up to 75
153 percent of on-the-field farm workers lack immigration
154 status.

155 If E-Verify was mandated without also providing a
156 feasible means for these farm workers to fill essential
157 jobs, here is what we would see: farms across the Nation
158 would be forced out of business, the United States would
159 turn to foreign markets to import our fruits and vegetables,

160 and millions of upstream and downstream American jobs
161 supported by agriculture would be lost. These are
162 consequences of the legislation that we must avoid.

163 Now, we must also ensure that this legislation includes
164 sufficient protections so that American workers are not
165 inappropriately prohibited from working. Admittedly, the
166 Legal Workforce Act contains several requirements that are
167 intended to protect American workers. For example, the bill
168 prohibits employers from using E-Verify until after they
169 have extended a job offer, and they must inform workers when
170 the system deems them to be ineligible to work. In
171 addition, employers cannot rescind job offers or fire
172 workers until they get a chance to fix any errors. That is
173 a good start. But it is not nearly enough.

174 For instance, the bill lacks any penalties for failing
175 to follow these guidelines, but we already know from
176 governmental and independent studies that employers who
177 currently use the system already fail to comply with current
178 requirements. So why should this be any different should E-
179 Verify become mandatory? We have got work to do.

180 And finally, the bill offers no real protections for

181 American citizens and other work authorized individuals who
182 are incorrectly identified by E-Verify as unauthorized to
183 work. Under this bill, such workers will be fired, and
184 their only remedy is through the Federal Tort Claims Act.
185 Now, we all know how many procedural hurdles are involved in
186 pursuing such a claim.

187 How many Americans can afford to be out of work for 6
188 months while waiting for a decision on their administrative
189 Federal Tort Claims Act? How many will bring a lawsuit
190 after that administrative claim goes unanswered for 6
191 months? And how many will actually be compensated for lost
192 wages by proving that their unconfirmed, erroneous, non-
193 confirmation resulted from a negligent or wrongful act or
194 omission of any employee of the government? I do not think
195 any of my colleagues intends to bar an American citizen from
196 working because Congress failed to provide sufficient due
197 process when mandating the use of E-Verify by all employers.
198 But this may well be the outcome.

199 And so, I close on this note. There is a broad
200 bipartisan agreement that our Nation's laws are broken. But
201 piecemeal legislation, ladies and gentleman, particularly

202 legislation that focuses only on enforcement, is not the
203 solution we need. Increased enforcement fails to address
204 the 11 million undocumented individuals already here living
205 and working in the United States, and hurts our Nation's
206 economy and American workers. And it does nothing to fix
207 our broken immigration system. And so, I look forward to
208 working with the members of this committee and the chairman
209 in addressing these concerns.

210 And I return the balance of my time. Thank you.

211 Chairman Goodlatte. The chair thanks the ranking
212 member, and is now pleased to recognize the former chairman
213 of this committee and the sponsor of this legislation, the
214 gentleman from Texas, Mr. Smith, for his opening statement.

215 Mr. Smith of Texas. Thank you, Mr. Chairman. And, Mr.
216 Chairman, thank you, too, for bringing up this legislation
217 today.

218 Twenty-three million Americans are unemployed or under
219 employed. Meanwhile, 7 million people are working in the
220 United States illegally. These jobs should go to American
221 citizens and legal immigrants. The Legal Workforce Act
222 shuts off the jobs magnet that attracts so many illegal

223 immigrants to the United States. The bill expands the E-
224 Verify system and applies it to all U.S. employers.

225 Illegal workers depress the wages of hardworking
226 Americans according to nearly all studies on the subject.
227 For example, the Center for Immigration Studies has found
228 that illegal immigration reduces the wages of American
229 workers by about \$100 billion each year. So we need to do
230 all we can to protect the wages of American workers.

231 The Legal Workforce Act also could open up millions of
232 jobs for unemployed Americans by requiring employers to use
233 E-Verify. The E-Verify system is quick and effective,
234 confirming 99.7 percent of work eligible employees. Recent
235 data shows that approximately 455,000 American employers
236 voluntarily use E-Verify, and an average of 1,500 new
237 business sign up for it each week.

238 The program is free, quick, and easy to use. In fact,
239 E-Verify can now be used with smartphones. Individuals
240 provide their social security number when they visit the
241 doctor, go to a bank, or buy a home. It makes sense that
242 businesses would use the same identification to ensure they
243 have a legal workforce by checking the status of prospective

244 employees.

245 The Legal Workforce Act requires that all U.S. employers
246 use E-Verify to check the work eligibility of new hires in
247 the U.S. The verification period is phased in and depends
248 on the size of the employer's business. Small businesses
249 and agriculture have up to 2 years to implement E-Verify.

250 H.R. 1772 balances immigration enforcement priorities
251 and legitimate employer concerns. It gives employers a
252 workable system under which they cannot be held liable if
253 they use the system in good faith. The bill prevents a
254 patchwork of State E-Verify laws, but retains the ability of
255 States and localities to condition business licenses on the
256 use of E-Verify. In addition, the bill allows States to
257 enforce the Federal E-Verify requirement if the Federal
258 government fails to do so.

259 The Legal Workforce Act increases penalties on employers
260 who knowingly violate the requirements of E-Verify, and
261 imposes criminal penalties on employers and employees who
262 engage in or facilitate identity theft. The bill allows a
263 fully electronic employment eligibility verification system,
264 and it allows employers to voluntarily check their current

265 workforce if done in a non-discriminatory manner.

266 Furthermore, the Legal Workforce Act gives USCIS the
267 ability to prevent identity theft. For example, the bill
268 allows individuals to lock their own social security number
269 so that it cannot be used by others to verify work
270 eligibility. The legislation allows parents to lock the
271 social security number of their minor child to prevent
272 identity theft. And if a social security number shows
273 unusual multiple uses, the Social Security Administration
274 locks the number for employment verification purposes and
275 notifies the owner that their personal information may be
276 compromised.

277 In regard to cost, many studies have shown that three-
278 quarters of employers stated that cost of using E-Verify is
279 zero. Equally important, the American people support E-
280 Verify. A recent Gallup poll found that 85 percent of
281 Americans support a law that "requires employers to verify
282 that all new hires are living in the U.S. legally" -- 85
283 percent.

284 Unfortunately, many States do not enforce their own E-
285 Verify laws, and others only apply E-Verify in a more

286 limited way. The Legal Workforce Act helps ensure that
287 employers from every State have the same standard when it
288 comes to hiring employees. The bill is a common sense
289 approach to reduce illegal immigration and save jobs for
290 American workers and legal immigrants. It deserves the
291 support of everyone who wants to help U.S. workers and put
292 their interests first.

293 Thank you, Mr. Chairman. I yield back.

294 Chairman Goodlatte. The chair thanks the gentleman, and
295 is pleased now to recognize the ranking member of the
296 Subcommittee on Immigration and Border Security, the
297 gentlewoman from California, Ms. Lofgren, for her opening
298 statement.

299 Ms. Lofgren. Thank you, Mr. Chairman. The bill that we
300 are considering today is not unfamiliar to many of us on the
301 committee. The Immigration Subcommittee has held many
302 hearings over the years about E-Verify, and the committee
303 marked up the Legal Workforce Act 2 years ago, although it
304 was never taken up in the House.

305 As I noted last month when we held a legislative hearing
306 on this bill, the version we are considering contains

307 several improvements over the version offered in the last
308 Congress. For instance, when we marked up the bill in the
309 last Congress, the bill exempted returning seasonal farm
310 workers from having to be verified upon hire. This gigantic
311 loophole came under attack from all sides. From the right,
312 it was attacked as amnesty; from the left it was attacked as
313 an admission that E-Verify alone would destroy our
314 agricultural industry and the millions of jobs held by U.S.
315 workers that are supported by that industry. The committee
316 struck this provision from the bill during markup, and I am
317 glad to see it is omitted from this version.

318 The bill in the last Congress also created new criminal
319 penalties for unlawful conduct that were both excessive and
320 wasteful. In addition to imposing multiple mandatory
321 minimum prison terms, the bill made it a felony, punishable
322 by up to 15 years in prison, for a person to use a social
323 security number that did not belong to him or her during the
324 employment verification process.

325 The version of the bill before us improves a number of
326 the criminal provisions pertaining to fraud and misuse of
327 documents, but still creates one mandatory minimum prison

328 term. I am pleased to see that the chairman's manager's
329 amendment would actually remove this last inefficient and
330 unfair provision.

331 Finally, this version contains some changes designed to
332 make E-Verify a bit more workable for the Social Security
333 Administration, which obviously serves a number of other
334 critically important functions.

335 Having said that, today's bill contains several of the
336 greatest flaws of the bill we considered in the last
337 Congress. The first and most important is it continues to
338 provide no meaningful due process protections for authorized
339 workers, including American citizens, who lose their jobs
340 because of erroneous final non-confirmations by the
341 government. The idea that Americans and legal immigrants
342 could lose their jobs as a result of this bill is not simply
343 theoretical.

344 Although we know that the government continues to work
345 hard to reduce error rates in E-Verify, errors absolutely
346 still exist. Under this bill, people would lose their jobs
347 and become effectively unemployable for an indeterminate
348 length of time because of such government errors, and they

349 would have no meaningful recourse.

350 The bill also provides no penalties at all for employers
351 who violate the requirement that they inform an employee
352 about a tentative non-confirmation, and give that employee
353 an opportunity to contest the TNC. The absence of any
354 consequences renders the notice requirement completely
355 toothless. And I think today's markup provides an
356 opportunity for members to discuss how to design an
357 effective and fair E-Verify system.

358 I think, as Mr. Conyers has said, however, we can be
359 clear that we can only do E-Verify together with other
360 necessary reforms of our broken system. You could design a
361 E-Verify system that was perfect, 100 percent easy to use,
362 100 percent accurate, at virtually no cost to big or small
363 businesses. But if we impose that system nationwide, did
364 nothing to fix our broken immigration system, the
365 consequences would be a disaster.

366 I am not going to belabor this point because we have
367 gone over it so many times. But I will simply say that
368 without top to bottom reform of our immigration laws,
369 expanding E-Verify would devastate the ag industry, result

370 in closed farms, a less secure America, and the mass
371 offshoring of millions and millions of U.S. jobs, including
372 all the upstream and downstream jobs created and supported
373 by our agricultural industry.

374 And finally, I would like to point out the financial
375 consequences. Expanding E-Verify without doing more about
376 fixing our immigration laws would cost the government
377 significant tax revenues. In 2008, the Congressional Budget
378 Office and the Joint Committee on Taxation concluded that
379 the mandatory E-Verify that was included in Representative
380 Health Shuler's SAVE Act would decrease Federal revenues by
381 \$17.3 billion. Those two offices determined that expanding
382 E-Verify to an economy with a significant undocumented
383 workforce would drive employers and workers off the book and
384 into the underground economy. Compare that with the CBO's
385 recent finding that the Senate immigration reform bill will
386 decrease the U.S. deficit by \$175 billion over the next 10
387 years and by an additional over \$700 billion over the
388 following 10 years.

389 I believe that E-Verify is going to play an important
390 role in helping to fix our immigration system, so I

391 appreciate the proposal by Representative Smith. But our
392 job will not be done if we simply fix some of the most
393 glaring omissions in this bill and report it to the House
394 floor. We need to fix the underlying problems with our
395 broken immigration system, including the presence of 11
396 million undocumented immigrants looking for a way to get
397 right with the law. And we have yet to see a proposal that
398 even touches on that point.

399 I yield back, Mr. Chairman.

400 Chairman Goodlatte. I have an amendment at the desk,
401 and the clerk will report the amendment.

402 Ms. Jackson Lee. Mr. Chairman?

403 Chairman Goodlatte. For what purpose does the
404 gentlewoman from Texas seek recognition?

405 Ms. Jackson Lee. Chairman, I would like to strike the
406 last word, or in the alternative make a parliamentary
407 inquiry, Mr. Chairman.

408 Chairman Goodlatte. We would welcome the parliamentary
409 inquiry, and you can move to strike the last word once the
410 amendment is read. But go ahead with your parliamentary
411 inquiry.

412 Ms. Jackson Lee. Thank you, Mr. Chairman, whatever is
413 appropriate. Let me thank you very much. We have been
414 steadfastly moving. And even as some of us may agree or
415 disagree, I will say that the committee has been working its
416 will, and I think that is very important.

417 As you well know, yesterday the Supreme Court instructed
418 Congress to respond to its decision in the Voting Rights Act
419 of 1965. My inquiry is, when do you think the Judiciary
420 Committee could begin that process?

421 Chairman Goodlatte. Well, your question is very
422 appropriate. I am not sure it is a parliamentary inquiry,
423 but it is nonetheless an appropriate inquiry. And the
424 ranking member and I have just spoken. I have also spoken
425 with the ranking member of the Crime Subcommittee, the
426 gentleman from Virginia, Mr. Scott, and indicated that it is
427 our plan to hold a hearing on this issue sometime in July
428 when we return after the recess. We have not agreed upon a
429 date and the general scope of the subject, but we do think
430 it is very important that we examine the implications of the
431 Supreme Court's decision to make sure that people's
432 constitutional rights to vote continue to be protected, and

433 to examine what the implications of that decision are
434 relative to everyone's right under the 15th Amendment of the
435 United States Constitution.

436 Ms. Jackson Lee. I will just conclude, Mr. Chairman, I
437 am very gratified to hear that. And I would offer, for
438 those of us who lived through the work of former Chairman
439 Sensenbrenner and Ranking Member Conyers, and the very even-
440 handed manner in which we handled the reauthorization in
441 2006, we thank you for that.

442 And I would just offer a suggestion because as I am
443 reading the opinion, as to the potential impossibility of
444 field hearings because we want every T crossed and every I
445 dotted, because I believe it is crucial, as you said, to
446 restore -- well, let me just say -- these are my words -- to
447 restore the protections of the Voting Rights Act. But I
448 certainly believe it is crucial, as you said, to protect
449 everyone's right to vote.

450 Chairman Goodlatte. Well, I thank the gentlewoman for
451 her comments, and we will be working with all the members of
452 the committee on a plan for examining that important issue.

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

454 yield back.

455 Chairman Goodlatte. And he clerk will report the
456 amendment at the desk.

457 Ms. Deterding. Amendment to H.R. 1772, offered by Mr.
458 Goodlatte of Virginia, page 21 --

459 Chairman Goodlatte. Without objection, the amendment is
460 considered as read.

461 [The amendment of Chairman Goodlatte follows:]

462

463 Chairman Goodlatte. And I will recognize myself to
464 explain the amendment.

465 This amendment makes changes to five provisions of H.R.
466 1772. First, the amendment makes a technical correction to
467 ensure that employers who are required to re-verify the
468 employment eligibility of their temporary foreign workers do
469 so within 3 business days after the date on which the
470 initial temporary work authorization expires.

471 Second, the amendment provides that if employers use a
472 reasonable, secure, and established technological mechanism
473 to authenticate the identity of new employees, that shall be
474 taken into account for purposes of determining good faith
475 use of the E-Verify system. This change is meant to
476 encourage employers to do all that they can to help ensure
477 that identity theft is not used to breach the E-Verify
478 system. While H.R. 1772 on its face contains several
479 measures aimed at preventing identity theft within the E-
480 Verify system, we should also encourage employers to take
481 some further steps.

482 Next, the amendment eliminates the mandatory minimum
483 jail sentence in the bill for employers who commit a pattern

484 or practice of violation of employment eligibility
485 verification procedures. The new prison term would have a
486 maximum sentence of up to 18 months. The amendment also
487 reduces the maximum amount of the fine from \$15,000 per
488 violation to \$5,000 per violation. Taken together, these
489 penalties should act as sufficient deterrents to would-be
490 violators.

491 Fourth, the amendment requires that an employer who uses
492 the E-Verify photo tool mechanism must match the photograph
493 to both the photograph on the identity or employment
494 eligibility document provided by the employee and to the
495 face of the employee submitting the document for employ
496 verification purposes. Current USCIS procedures state that,
497 "A photo displayed in E-Verify should be compared with the
498 photo in the document that the employee has presented and
499 not with the face of the employee." What good is the photo
500 match tool to prevent identity theft if the employer is
501 prohibited from matching the photos to the person submitting
502 the identity document? This policy is ludicrous, and we
503 need to reject it in this legislation.

504 Finally, the amendment makes changes to the Identity

505 Authentication Pilot Program section of the bill.
506 Specifically, the amendment requires two identity
507 authentication pilot programs, each using separate and
508 distinct technology as opposed to one pilot program. This
509 change makes sure that DHS can evaluate a range of identity
510 authentication mechanisms.

511 In addition, the provision requires DHS to report the
512 findings of the pilot programs to the appropriate
513 congressional committees. While these changes are not
514 major, they do address certain concerns raised either during
515 or after the legislative hearing on H.R. 1772.

516 And I urge my colleagues to support the amendment, and
517 yield back the balance of my time.

518 Does the gentleman from Michigan seek recognition?

519 Mr. Conyers. I do.

520 Chairman Goodlatte. The gentleman is recognized for 5
521 minutes.

522 Mr. Conyers. I thank the chair for recognizing me.

523 The amendments are technical. They do make some
524 improvements to H.R. 1772. And I think the most important
525 one, of course, is that it eliminates the bill's mandatory

526 minimum criminal penalty in apparent recognition of the fact
527 that mandatory minimums are inefficient and unfair, a
528 position that I have held for some period of time, and I,
529 accordingly, strongly support that revision to the bill.

530 It also in your manager's amendment corrects the bill's
531 verification requirement for workers with limited employment
532 authorization so that it now explains how such persons
533 should be re-verified in order to confirm their work
534 authorization has been extended. I note that my staff and
535 yours have been working to make some of the necessary
536 changes reflected in this amendment.

537 But there are some problems here within these changes.
538 For example, current law provides a clear standard for
539 employers to use when deciding whether to accept documents
540 presented by a worker. The employee must decide if the
541 documents reasonably appear to be genuine. The underlying
542 bill eliminates that guidance from current law, and as a
543 result, employers will not know how to or whether they can
544 reject documents presented by an employee in order to avoid
545 a charge of discrimination under Section 274(b) of the
546 Immigration and Nationality Act.

547 The manager's amendment complicates things further by
548 requiring an employer to match a digital image in the system
549 produced by the photo matching tool with the appearance of
550 the actual employee presenting the document. And without
551 any standard for making that comparison, employers will
552 inevitably use many different standards. And so, given this
553 lack of clarity, some employers will modify the standard
554 based on real or perceived citizenship status or national
555 origin of the person presenting the document.

556 Even though they already made the decision to hire the
557 individual, they could force some people to jump through
558 more hoops than others, and out of an abundance of caution,
559 might end up rescinding job offers or terminating people as
560 a result of that more exacting consideration. My fear is
561 that without any standard or guidance, this exposes
562 employers to claims of discrimination and authorized workers
563 to real harm.

564 Combined with the concerns I already have regarding H.R.
565 1772 failure to include penalties for violations of its
566 protections for workers from discrimination and the bill's
567 lack of meaningful due process protections, this new level

568 of subjectivity is particularly problematic. And so, I am
569 not able to support the manager's amendment, even though we
570 have elimination of the mandatory provisions in the present
571 bill.

572 I return the balance of my time, and thank you.

573 Chairman Goodlatte. Has the gentleman yielded back?

574 Mr. Conyers. Yes, sir, I did.

575 Chairman Goodlatte. The question occurs -- for what
576 purpose does the gentleman from Iowa seek recognition?

577 Mr. King. Mr. Chairman, I move to strike the last word.

578 Chairman Goodlatte. The gentleman is recognized for 5
579 minutes.

580 Mr. King. Thank you, Mr. Chairman. I just wanted to
581 bring about a clarification and make a point on some very
582 interesting software capability that I saw here a few months
583 ago. I sat down with an inventor who has developed face
584 recognition software that on his iPhone has the ability to
585 identify 355 million faces through facial recognition. When
586 you look at your iPhone, it looks at you and turns on. When
587 you look away, it turns itself off.

588 And what I wanted to ask, if the chairman would yield to

589 a question is, the language that is in the manager's
590 amendment contemplates new technology. Is it your
591 understanding that the language that is in the manager's
592 amendment is broad enough to contemplate the technology of
593 facial recognition software so that it can be an automatic
594 thing eventually as opposed to a judgment decision on the
595 part of the employer?

596 Chairman Goodlatte. We would like to move in that
597 direction. However, we are not satisfied that the
598 technology is sufficiently and widely enough recognized and
599 know how it would operate to affect the rights of both
600 employers and employees to say that it should be by itself a
601 per se exemption by itself a finding that the employer has
602 acted in good faith. But we do think that the attempt to
603 use these technologies should be considered as a factor in
604 recognizing that the employer is acting in good faith.

605 Mr. King. And reclaiming my time, and thanking the
606 chairman, I just wanted to make that point that sometimes it
607 is hard to catch up with our legislation because technology
608 moves so fast. But I am hopeful that we will be able to
609 accommodate technology as it materializes.

610 And I yield back, and thank the chairman.

611 Chairman Goodlatte. Well, we thank the the gentleman
612 for his comment.

613 Mr. Scott. Mr. Chairman?

614 Chairman Goodlatte. For what purpose does the gentleman
615 from Virginia seek recognition?

616 Mr. Scott. Move to strike the last word.

617 Chairman Goodlatte. The gentleman is recognized for 5
618 minutes.

619 Mr. Scott. Thank you, Mr. Chairman. Mr. Chairman, I
620 just want to thank you for including in your manager's
621 amendment the amendment I would have offered deleting the
622 mandatory minimums. We have discussed this at length and
623 appreciate the fact that it is included in this amendment.

624 Chairman Goodlatte. Would the gentleman yield? I do
625 not want to indicate to the gentleman that I do not believe
626 that some mandatory minimums are appropriate in some
627 circumstances, but I do not think it is necessary in this
628 circumstance. And I know that we have, with your good work
629 and the gentleman from Wisconsin, Mr. Sensenbrenner, a task
630 force that is looking at what we call over criminalization

631 of Federal law. And certainly one of the subjects in that
632 is to look at the issue of mandatory minimums from a broader
633 perspective because I do believe that that is a worthwhile
634 endeavor to examine.

635 And I hope that there will be some good work coming
636 forward on the whole subject of mandatory minimums. And I
637 definitely appreciate the gentleman's support for removing
638 this particular provision from the bill.

639 Mr. Scott. Thank you.

640 Chairman Goodlatte. The question occurs on the
641 amendment.

642 All those in favor will respond by saying aye.

643 Opposed, no.

644 In the opinion of the chair, the ayes have it, and the
645 amendment is agreed to.

646 Are there further amendments to H.R. 1722?

647 Mr. Conyers. I have an amendment at the desk, Mr.

648 Chairman.

649 Chairman Goodlatte. The clerk will report the amendment
650 offered by the gentleman from Michigan.

651 Ms. Deterding. Amendment to H.R. 1772, offered by Mr.

652 Conyers of Michigan, page 12, line 7, strike --

653 Chairman Goodlatte. Without objection, the amendment

654 will be considered as read.

655 [The amendment of Mr. Conyers follows:]

656

657 Chairman Goodlatte. And the gentleman is recognized for
658 5 minutes in support of his amendment.

659 Mr. Conyers. Thank you. Members of the committee, my
660 amendment corrects a serious imbalance in the bill, which in
661 its present form fails to include any penalties for
662 employers if they violate its protections for American
663 workers and authorized citizens. Without the enforcement
664 mechanisms my amendment would add to H.R. 1772, those
665 protections are illusory.

666 As we know, H.R. 1772 opposes a series of new mandates
667 on employers, including the requirement that they verify new
668 hires, estimated to be around 60 million people each year,
669 re-verify current employers in certain circumstances, notify
670 the Department of Homeland Security if the employer chooses
671 not to terminate an employer after receiving a final non-
672 confirmation of employment eligibility, and refrain from
673 putting false information into the verification system.

674 If an employer violates these requirements, there are
675 penalties. But when it comes to the bill's protections for
676 American workers and authorized non-citizens, the bill is
677 absolutely silent. For example, this measure requires

678 employers to notify workers when E-Verify provides a
679 tentative non-confirmation, but it imposes no penalty if the
680 employer violates this provision, violates this requirement.
681 Another example: the bill prohibits employers from
682 terminating an employee or rescinding a job offer based on a
683 tentative non-confirmation until that employer receives a
684 final non-confirmation. But again, the bill imposes not a
685 single penalty for violating the protection. And a final
686 example, 1722 requires employers who choose to re-verify an
687 existing employee to also re-verify all similar employees.
688 The bill fails to subject employers who break this rule to
689 any penalty whatsoever.

690 The bill also says nothing to prohibit employers from
691 taking adverse employment actions short of termination, for
692 example, withholding pay, delaying training, or reducing
693 work hours, based on a tentative non-confirmation.

694 My amendment addresses this oversight and applies the
695 existing penalty structure to violations of these provisions
696 to better protect U.S. workers. And finally, it makes the
697 willful misuse of the verification system an unfair
698 immigration related employment practice, which will empower

699 the Office of Special Counsel to investigate such abuses and
700 to ensure that persons harmed by unlawful conduct have an
701 opportunity to obtain relief.

702 And I urge the support of this very common sense
703 amendment, and return the balance of my time.

704 Mr. Smith of Texas. Mr. Chairman?

705 Chairman Goodlatte. For what purpose does the gentleman
706 from Texas seek recognition?

707 Mr. Smith of Texas. Mr. Chairman, I oppose the
708 amendment.

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

711 Mr. Smith of Texas. Thank you, Mr. Chairman. I oppose
712 this amendment because it makes sweeping changes to the
713 actions considered in violation of the employment
714 eligibility verification requirements under H.R. 1772. And
715 it strikes certain provisions designed to make the E-Verify
716 system more employer-friendly.

717 Perhaps the most over broad is the prohibition on an
718 employer taking adverse employment action against the
719 individual seeking work or employed by the employer.

720 Adverse employment action could be almost any action,
721 including something as small as waiting to order an
722 employee's business cards until the E-Verify confirmation or
723 non-confirmation is complete. We should be educating
724 employers regarding possible inadvertent mistakes rather
725 than punishing them for making such mistakes.

726 And the amendment strikes the provision of H.R. 1772
727 that allows a job offer to be contingent on the final
728 confirmation of work eligibility. This common sense
729 provision prevents an employer from having to go through the
730 process of hiring an individual who turns out not to be work
731 eligible.

732 This amendment also creates, under Section 274(b) of the
733 Immigration and Nationality Act, an additional unfair
734 immigration related employment practice for employers who
735 take adverse employment action against an individual.
736 Again, this language is overly broad and could subject
737 employers to penalties for the smallest of infractions that
738 the Office of Special Counsel at the Department of Justice
739 deems adverse.

740 All of these changes taken together could have a

741 chilling effect on employers who desire to use E-Verify.

742 So, Mr. Chairman, I have to oppose this amendment because it

743 unduly burdens businesses, and I urge my colleagues to

744 oppose it as well.

745 I will yield back.

746 Chairman Goodlatte. I thank the gentleman. Will the

747 gentleman yield?

748 Mr. Smith of Texas. I would be happy to yield to the

749 chairman.

750 Chairman Goodlatte. I thank the gentleman. I just want

751 to say that I concur with the gentleman, that I do believe

752 that the legislation does encompass penalties for employers

753 who do not comply with the terms of the language. And,

754 therefore, the gentleman's amendment is not necessary, and I

755 would urge my colleagues to oppose it.

756 For what purpose does the gentleman from California seek

757 recognition?

758 Ms. Lofgren. To strike the last word.

759 Chairman Goodlatte. The gentlewoman is recognized for 5

760 minutes.

761 Ms. Lofgren. I think that Mr. Conyers' amendment is, in

762 fact, a soundly-crafted measure that would drastically
763 improve the bill. The last thing, and I know that the
764 chairman also does not seek to provide a discriminatory
765 environment in the workforces of the Nation. But because of
766 the crafting of this measure, that could be an outcome where
767 only foreign appearing workers are subject to
768 recertification.

769 The penalties are insufficient, and I do think that
770 unfair discrimination, although as I mentioned, I am sure is
771 not the intent of the proponents of the bill, will, in fact
772 be the outcome. And I think Mr. Conyers' amendment does a
773 lot to fix that problem. I would hope that we can enact it.
774 If it is not enacted, we will have a series of smaller
775 discreet fixes that we will offer for parts of the bill.
776 But the best approach would be to approve Mr. Conyers'
777 omnibus bill, and it will also make for a shorter markup.

778 Mr. Conyers. Would the gentlelady yield?

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

780 Mr. Conyers. I thank you for your observations. Could
781 you tell me if in your view this imposes some unreasonable
782 requirements upon the employers, business people?

783 Ms. Lofgren. I do not believe that it does. And, in
784 fact --

785 Mr. Conyers. I tried to avoid that.

786 Ms. Lofgren. I think that is correct. And some of
787 these provisions are how the E-Verify system is currently
788 utilized. And, I mean, we have unfair immigration
789 unemployment practices that are prohibited under 274(b) of
790 the Immigration and Nationality Act. I think that your
791 amendment is a sound one and will avoid unintended adverse
792 impacts from the bill. And I hope that we can adopt it.

793 And I yield back to the chairman.

794 Chairman Goodlatte. The question occurs on the
795 amendment offered by the gentleman from Michigan.

796 All those in favor --

797 Ms. Chu. Mr. Chairman?

798 Chairman Goodlatte. For what purpose does the
799 gentlewoman from California seek recognition?

800 Ms. Chu. I move to strike the last word.

801 Chairman Goodlatte. The gentlewoman is recognized for 5
802 minutes.

803 Ms. Chu. I strongly support the Conyers amendment to

804 provide much needed protections for American citizens and
805 legal workers. But before I begin, I want to express my
806 opposition to this bill, which again relies on more of the
807 same old enforcement efforts without any road to
808 citizenship, though we have been promised over and over
809 again that the majority would introduce a bill to address
810 the millions of undocumented that are here in this country.
811 Instead we are debating shortsighted legislation that does
812 not fix our immigration system.

813 This bill will make it harder for a U.S. citizen worker
814 to get a job. No one should lose his or her job due to
815 government error, but under this bill, there is little
816 protection for anyone who is authorized for work, but gets
817 caught up in the E-Verify system unfairly. Thousands of
818 workers would be vulnerable to losing wages or even their
819 jobs while they are trying to correct government errors in
820 the E-Verify database.

821 The Conyers amendment includes a provision to ensure
822 that employers treat all employees the same. It institutes
823 penalties if an employer chooses to single out an individual
824 or group of workers for verification.

825 Now, the underlying bill already prohibits selective
826 verification of workers, but there is a problem: the
827 provision has no teeth. There is no penalty for employers
828 who break the law and decide to single out certain workers
829 for verification. Employers could make workers go through
830 this extra hoop simply because they look foreign or look
831 illegal.

832 This kind of discrimination should not be happening in
833 the workplace. In fact, it could disproportionately harm
834 Asian-Americans, Latinos, and other communities that are
835 perceived to have greater numbers of undocumented
836 individuals, even if they are all America citizens.

837 The spirit of this provision is well intentioned, but
838 the prohibition is meaningless without any actual penalties
839 for the employers who break the law. And it is clear that
840 employers will. Although selective re-verification is
841 currently prohibited under E-Verify, the Westat corporation
842 did a study in 2009 and found that 34 percent of E-Verify
843 employers used the program to confirm at least one or some
844 of their existing employees. And that is not right.

845 As currently written, the bill would turn a blind eye to

846 the fact that it would inevitably result in discrimination
847 against workers who are singled out just because of their
848 race, where they are born, or how they look. And
849 inevitably, many of these workers will be American citizens.

850 Let me give you an example. I asked my own staff to
851 complete the current E-Verify self-check on the DHS website,
852 and out of the 10 people who submitted their information,
853 two of them received confirmation that they were able to
854 work. Two of them did not receive confirmation that they
855 were able to work, and yet both were born right here in the
856 United States, one right in my home district, and another in
857 New Jersey. And both are patriotic Americans working for
858 the government. And if employers start using E-Verify on
859 workers that they think look foreign, then both of these
860 could have been singled out. One is a fourth generation
861 Mexican-American and the other is Korean descent.

862 So during these difficult economic times, the last thing
863 the committee should be doing is making it harder for
864 American workers to pay their bills and keep a job. We need
865 a system that prevents using E-Verify in a discriminatory
866 manner. Unscrupulous employers who abuse the system by

867 selectively verifying only certain workers -- for example,
868 workers with Asian or Latino surnames -- must be punished
869 for these kind of abuses and deterred from any further
870 discrimination. And we know there are errors in the
871 database and that these errors already disproportionately
872 affect foreign born persons, inviting employers to target
873 just those people for re-verification.

874 And that is why I urge you to support this amendment and
875 ensure that employees are treated equally, and that foreign-
876 born employees are not discriminated against.

877 And I yield back.

878 Chairman Goodlatte. The question occurs on the
879 amendment offered by the gentleman from Michigan.

880 All those in favor, respond by saying aye.

881 Those oppose, no.

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

884 Mr. Conyers. May I have a record vote?

885 Chairman Goodlatte. A recorded vote is requested, and
886 the clerk will call the roll.

887 Ms. Deterding. Mr. Goodlatte?

888 Chairman Goodlatte. No.

889 Ms. Deterding. Mr. Goodlatte votes no.

890 Mr. Sensenbrenner?

891 Mr. Sensenbrenner. No.

892 Ms. Deterding. Mr. Sensenbrenner votes no.

893 Mr. Coble?

894 Mr. Coble. No.

895 Ms. Deterding. Mr. Coble votes no.

896 Mr. Smith of Texas?

897 Mr. Smith of Texas. No.

898 Ms. Deterding. Mr. Smith of Texas votes no.

899 Mr. Chabot?

900 Mr. Chabot. No.

901 Ms. Deterding. Mr. Chabot votes no.

902 Mr. Bachus?

903 Mr. Bachus. No.

904 Ms. Deterding. Mr. Bachus votes no.

905 Mr. Issa?

906 [No response.]

907 Ms. Deterding. Mr. Forbes?

908 Mr. Forbes. No.

909 Ms. Deterding. Mr. Forbes votes no.
910 Mr. King?
911 Mr. King. No.
912 Ms. Deterding. Mr. King votes no.
913 Mr. Franks?
914 Mr. Franks. No.
915 Ms. Deterding. Mr. Franks votes no.
916 Mr. Gohmert?
917 [No response.]
918 Ms. Deterding. Mr. Jordan?
919 [No response.]
920 Ms. Deterding. Mr. Poe?
921 [No response.]
922 Ms. Deterding. Mr. Chaffetz?
923 [No response.]
924 Ms. Deterding. Mr. Marino?
925 Mr. Marino. No.
926 Ms. Deterding. Mr. Marino votes no.
927 Mr. Gowdy?
928 Mr. Gowdy. No.
929 Ms. Deterding. Mr. Gowdy votes no.

930 Mr. Amodei?

931 [No response.]

932 Ms. Deterding. Mr. Labrador?

933 [No response.]

934 Ms. Deterding. Mr. Farenthold?

935 Mr. Farenthold. No.

936 Ms. Deterding. Mr. Farenthold votes no.

937 Mr. Holding?

938 Mr. Holding. No.

939 Ms. Deterding. Mr. Holding votes no.

940 Mr. Collins?

941 Mr. Collins. No.

942 Ms. Deterding. Mr. Collins votes no.

943 Mr. DeSantis?

944 Mr. DeSantis. No.

945 Ms. Deterding. Mr. DeSantis votes no.

946 Mr. Smith of Missouri?

947 Mr. Smith of Missouri. No.

948 Ms. Deterding. Mr. Smith of Missouri votes no.

949 Mr. Conyers?

950 Mr. Conyers. Aye.

951 Ms. Deterding. Mr. Conyers votes aye.
952 Mr. Nadler?
953 [No response.]
954 Ms. Deterding. Mr. Scott?
955 Mr. Scott. Aye.
956 Ms. Deterding. Mr. Scott votes aye.
957 Mr. Watt?
958 [No response.]
959 Ms. Deterding. Ms. Lofgren?
960 Ms. Lofgren. Aye.
961 Ms. Deterding. Ms. Lofgren vote aye.
962 Ms. Jackson Lee?
963 Ms. Jackson Lee. Aye.
964 Ms. Deterding. Ms. Jackson Lee votes aye.
965 Mr. Cohen?
966 Mr. Cohen. Aye.
967 Ms. Deterding. Mr. Cohen votes aye.
968 Mr. Johnson?
969 Mr. Johnson. Aye.
970 Ms. Deterding. Mr. Johnson votes aye.
971 Mr. Pierluisi?

972 Mr. Pierluisi. Aye.

973 Ms. Deterding. Mr. Pierluisi votes aye.

974 Ms. Chu?

975 Ms. Chu. Aye.

976 Ms. Deterding. Ms. Chu votes aye.

977 Mr. Deutch?

978 Mr. Deutch. Aye.

979 Ms. Deterding. Mr. Deutch votes aye.

980 Mr. Gutierrez?

981 [No response.]

982 Ms. Deterding. Ms. Bass?

983 Ms. Bass. Aye.

984 Ms. Deterding. Ms. Bass votes aye.

985 Mr. Richmond?

986 [No response.]

987 Ms. Deterding. Ms. DelBene?

988 Ms. DelBene. Aye.

989 Ms. Deterding. Ms. DelBene votes aye.

990 Mr. Garcia?

991 Mr. Garcia. Aye.

992 Ms. Deterding. Mr. Garcia votes aye.

993 Mr. Jeffries?

994 Mr. Jeffries. Aye.

995 Ms. Deterding. Mr. Jeffries votes aye.

996 Chairman Goodlatte. The gentleman from Idaho.

997 Mr. Labrador. No.

998 Ms. Deterding. Mr. Labrador votes no.

999 Chairman Goodlatte. The gentleman from Texas.

1000 Mr. Gohmert. No.

1001 Ms. Deterding. Mr. Gohmert votes no.

1002 Chairman Goodlatte. Has every member voted who wishes

1003 to vote?

1004 [No response.]

1005 Chairman Goodlatte. The clerk will report.

1006 Ms. Deterding. Mr. Chairman, 13 members voted aye, 18

1007 members voted nay.

1008 Chairman Goodlatte. And the amendment is not agreed to.

1009 The committee will stand in recess for lunch. But

1010 before we go, I want to make the members aware of the plan

1011 that the ranking member and I have discussed. We will

1012 return at 1:00 p.m. and resume consideration of amendments.

1013 When we recess for votes, we will continue that recess for

1014 30 minutes after the votes to accommodate the Democratic
1015 Caucus Meeting, and then we will return and resume debate.
1016 And at this point in time, it is not our intention to roll
1017 votes. We will continue to vote on each amendment as they
1018 are considered.

1019 We plan to continue to move through the process. We
1020 have quite a few amendments, and if necessary we will go
1021 into the evening. But we continue to hope that maybe we
1022 will not have to go that far. The gentleman from Michigan
1023 has his fingers crossed.

1024 Mr. Conyers. And I thank the chairman also.

1025 Chairman Goodlatte. I thank the gentleman, and the
1026 committee will stand in recess until 1:00 p.m.

1027 [Whereupon, at 12:05 p.m., the committee recessed, to
1028 reconvene at 2:54 p.m., the same day.]

1029 Chairman Goodlatte. The committee will reconvene.

1030 Here is our lead member of the other side, and I am sure
1031 we will be joined by others in a moment.

1032 But we will turn to the gentleman from Iowa for his
1033 amendment while we wait for members on the other side to
1034 return.

1035 Mr. King. Mr. Chairman?

1036 Chairman Goodlatte. For what purpose does the gentleman
1037 from Iowa seek recognition?

1038 Mr. King. Mr. Chairman, I have an amendment at the desk
1039 labeled King No. 51.

1040 Chairman Goodlatte. The clerk will report the
1041 amendment.

1042 Ms. Deterding. Amendment to H.R. 1772, offered by Mr.
1043 King of Iowa. Page 28, beginning on line --

1044 Chairman Goodlatte. Without objection, the amendment
1045 will be considered as read.

1046 [The amendment of Mr. King follows:]

1047

1048 Chairman Goodlatte. And the gentleman is recognized for
1049 his remarks for 5 minutes.

1050 Mr. King. Thank you, Mr. Chairman.

1051 This is an amendment that comes from a deeply held
1052 belief that the employers that may want to check their
1053 employees, and who have employees in multiple States,
1054 multiple locations, multiple job assignments, it becomes too
1055 onerous for them. They may realize that they have a
1056 situation that should be addressed in a locale or within a
1057 particular job category.

1058 So this language is drafted to say that an employer,
1059 rather than being required to run all employees through --
1060 and I am thinking of, say, restaurant franchisees who might
1061 be in multiple States. They would be required then to run
1062 their employees from all States through. This says,
1063 instead, that they can use a geographic location or a job
1064 category as criteria, as long as they utilize E-Verify
1065 within the geography and/or that job category.

1066 That is the simplified version of it. I think it
1067 reaches the same goal as the underlying bill does, but it
1068 allows the employer to not be faced with the onerous costs

1069 of an entire nationwide search effort under E-Verify.

1070 It is really that simple, and I would urge its adoption,
1071 and yield back the balance of my time.

1072 Chairman Goodlatte. Would the gentleman yield?

1073 Mr. King. I would yield.

1074 Chairman Goodlatte. I thank the gentleman for yielding.

1075 I think the amendment is a good one. It is limited in
1076 its scope, but it is a practical amendment that still
1077 protects against singling out individuals by requiring
1078 everybody in a particular category, a particular location,
1079 to be E-Verified if one of them is E-Verified. But it does
1080 not burden a large entity that has many locations or many
1081 departments from doing the entire company, if they want to
1082 check one individual.

1083 So I would support the gentleman's amendment.

1084 Ms. Lofgren. Mr. Chairman?

1085 Chairman Goodlatte. For what purpose does the
1086 gentlewoman from California seek recognition?

1087 Ms. Lofgren. To strike the last word.

1088 Chairman Goodlatte. The gentlewoman is recognized for 5
1089 minutes.

1090 Ms. Lofgren. I would urge opposition to this amendment.
1091 Although this is more limited than the other amendment that
1092 Mr. King, I assume, is not going to offer if this is
1093 adopted, to eliminate the ban on selected re-verification
1094 entirely, I do think this amendment will invite
1095 discrimination and potential abuse of the system.

1096 The plain language of the underlying bill says that if
1097 an employer wants to reverify one existing employee, the
1098 employer must reverify all persons so employed. What that
1099 really means is that an employer can reverify his or her
1100 entire workforce, but you can't pick and choose which
1101 employees to reverify. Limiting the requirement to a single
1102 geographic location is arbitrary and won't solve this
1103 defect.

1104 The language also rolls back the protections in the
1105 bill, which is also in current law, and will give employers
1106 a tool to target particular workplaces or locations that may
1107 be involved in organizing efforts, or efforts to strengthen
1108 worker protections. We have actually seen around the United
1109 States the use of immigration law to disrupt lawful efforts
1110 to organize workers. This will provide for that in spades.

1111 The language permitting employers to selectively
1112 reverify employees based on job categories makes this even
1113 worse, and I will give you an example.

1114 Throughout California, there have been efforts not only
1115 by unions, but supported by communities and the faith
1116 communities to organize janitors. And in fact, the Justice
1117 for Janitors campaign has resulted in the organization of
1118 janitors.

1119 This would allow for the reverification of janitors who
1120 were trying to organize and join a union. And I think its
1121 use could well be pernicious.

1122 I think that this amendment will actually condone
1123 discrimination. And I remember a case, and I won't mention
1124 the State, because I don't want to tarnish a whole State,
1125 but a State that enacted an E-Verify law, a chef said that
1126 when he put out an ad for a cook, he received 50
1127 applications. And he admitted, and this is a quote: He
1128 threw out all the ones that looked to be Mexican. I don't
1129 know if those folks are legal or not, but I just didn't want
1130 to even have to think about it.

1131 That was unlawful discrimination. But if we do omit

1132 penalties for selective reverification, and, in fact, if we
1133 accept this amendment, that will allow for selected
1134 reverification, I think, basically, we are giving employers
1135 like this chef our government blessing to selectively
1136 reverify any employees based on how they look or suspicions
1137 about their ethnicity.

1138 And I think that would be a step backward for our
1139 society that values so much freedom and lack of
1140 discrimination in the workforce.

1141 For these reasons, I would urge that the committee does
1142 not approve this amendment, and I yield back.

1143 Chairman Goodlatte. The chair thanks the gentlewoman.

1144 The question occurs on the amendment offered by the
1145 gentleman from Iowa.

1146 For what purpose does the gentleman from Alabama seek
1147 recognition?

1148 Mr. Bachus. I am trying to read this language, and I
1149 would just ask Mr. King, the last phrase, "as the employee
1150 with respect to whom the employer seeks voluntarily to use
1151 the verification system," I guess that is with respect to
1152 the employee?

1153 Mr. King. If the gentleman would yield, I would
1154 describe that as just simply the legal language selected to
1155 identify when an employer voluntarily uses E-Verify. The
1156 underlying bill allows for the employer to voluntarily use
1157 E-Verify on current or legacy employees, provided that that
1158 employer do so on all current or legacy employees. So this
1159 is just the language that identifies that the employer can
1160 voluntarily use the verification system.

1161 Chairman Goodlatte. For the category, as opposed to the
1162 entire employment of the company.

1163 Mr. King. Yes.

1164 Mr. Bachus. "As the employee with respect to whom the
1165 employer seeks voluntarily."

1166 Chairman Goodlatte. I think it is written correctly.

1167 Mr. Bachus. Is it? All right.

1168 Chairman Goodlatte. The question occurs on the
1169 amendment offered by the gentleman from Iowa.

1170 All those in favor, respond by saying aye.

1171 Opposed, no.

1172 In the opinion of the chair, the ayes have it, and the
1173 amendment is agreed to.

1174 Are there further amendments?

1175 Ms. Lofgren. I have an amendment at the desk.

1176 Chairman Goodlatte. The clerk will report the amendment
1177 from the gentlewoman from California.

1178 Ms. Lofgren. Lofgren, No. 3.

1179 Chairman Goodlatte. Lofgren, No. 3.

1180 Ms. Lofgren. Or it might be listed No. 25.

1181 Ms. Deterding. Amendment to H.R. 1772, offered by Ms.

1182 Lofgren of California. Page 19, line --

1183 Chairman Goodlatte. Without objection, the amendment
1184 will be considered as read.

1185 [The amendment of Ms. Lofgren follows:]

1186

1187 Chairman Goodlatte. And the gentlewoman is recognized
1188 for 5 minutes on her amendment.

1189 Ms. Lofgren. Mr. Chairman, this amendment would require
1190 employers who intend to screen a person before the first day
1191 of work to notify the Secretary as is currently required
1192 under the Federal Acquisition Regulation for reverification.
1193 The amendment also requires employers to treat all workers
1194 the same with respect to prescreening.

1195 This amendment would help prevent many Americans from
1196 being inappropriately fired or denied job opportunities. As
1197 I mentioned, the current E-Verify rules prohibit employers
1198 from prescreening job applicants. This bill removes the
1199 protection, which means people who are authorized to work,
1200 including American citizens, may lose out on jobs because of
1201 database errors or employer misconduct.

1202 By requiring employers to notify DHS in advance of
1203 prescreening job applicants or reverifying existing workers
1204 with E-Verify, the amendment will encourage necessary
1205 oversight and help prevent authorized workers from being
1206 erroneously fired or having job offers withheld or
1207 rescinded.

1208 Now, under the Bush administration, the Federal
1209 Acquisition Rule was adopted. Federal contractors are
1210 permitted to reverify their workforce only if they notify
1211 the Secretary of the Department of Homeland Security. And
1212 according to the Civilian Agency Acquisition Council and the
1213 Defense Acquisition Regulations Council, this requirement,
1214 and I quote them, "best prevents opportunities for
1215 discrimination or the appearance of discrimination."

1216 Now, notification to DHS under the Bush-era regulations
1217 has become a key tool to monitor employer compliance with
1218 program rules and to ensure that American workers do not
1219 lose their jobs because of employer misconduct.

1220 If this bill allows prescreening, it seems to me the
1221 very least it can do is require that employers notify the
1222 department so that American workers and other employment-
1223 authorized persons will be protected.

1224 Now we know that Americans will lose jobs due to user
1225 and database errors. As you will recall, USCIS testified at
1226 a hearing earlier this year that 94 percent of final
1227 nonconfirmations were issued correctly to employees not
1228 authorized for work. Well, that is the good news. But the

1229 bad news is 6 percent of the FNCs were incorrectly issued to
1230 employees who are authorized to work.

1231 Preventing this prescreening free-for-all will help
1232 protect citizens, American citizens, and especially
1233 naturalized citizens and citizens who some might say look
1234 foreign. I don't know always what that means.

1235 The bill correctly prohibits or did prohibit the
1236 selective use of E-Verify for existing employees before the
1237 King amendment. But we really do believe that absent at
1238 least the kind of review that DHS currently gives under the
1239 Bush-era regulations, that there will be discrimination
1240 against ethnic minorities, Asian Americans, Latinos, and
1241 other communities that are perceived by some to have greater
1242 numbers of undocumented individuals.

1243 This will not solve all the problems with the bill, but
1244 at least it will solve some of them, and I highly recommend
1245 that we apply President Bush's regulation to this bill.

1246 And I would yield back.

1247 Chairman Goodlatte. The chair thanks the gentlewoman
1248 and recognizes himself in opposition to the amendment
1249 because it places an undue burden on employers who choose to

1250 use E-Verify in a manner consistent with the changes to the
1251 law made by H.R. 1772.

1252 Specifically, the amendment requires that an employer
1253 notify the Department of Homeland Security if the employer
1254 intends to use E-Verify to check the work eligibility of a
1255 perspective employee prior to the first day of work for that
1256 employee. H.R. 1772 specifically changes current law to
1257 allow employers to use E-Verify in that manner. This is to
1258 alleviate the burden on employers of hiring an employee only
1259 to query E-Verify and to find out that employee is not work
1260 authorized.

1261 At that point, the employer has already invested money
1262 in the employee in the form of training, benefits, and
1263 salary, and must choose between firing the individual or
1264 violating the law.

1265 H.R. 1772 makes a common-sense change to current law,
1266 and employers should not be singled out and made to report
1267 to DHS for taking advantage of that change in the law.

1268 This notification requirement will act as a deterrent
1269 for some employers. And I urge my colleagues to oppose the
1270 amendment.

1271 The question occurs on the amendment offered by the
1272 gentlewoman from California.

1273 All those in favor, respond by saying aye.

1274 Those opposed, no.

1275 In the opinion of the chair, the noes have it.

1276 Ms. Lofgren. Mr. Chairman, could I have a recorded vote
1277 on that, please?

1278 Chairman Goodlatte. A recorded vote is requested, and
1279 the clerk will call the roll.

1280 Ms. Deterding. Mr. Goodlatte?

1281 Chairman Goodlatte. No.

1282 Ms. Deterding. Mr. Goodlatte votes no.

1283 Mr. Sensenbrenner?

1284 Mr. Sensenbrenner. No.

1285 Ms. Deterding. Mr. Sensenbrenner votes no.

1286 Mr. Coble?

1287 Mr. Coble. No.

1288 Ms. Deterding. Mr. Coble votes no.

1289 Mr. Smith of Texas?

1290 Mr. Smith of Texas. No.

1291 Ms. Deterding. Mr. Smith of Texas votes no.

1292 Mr. Chabot?

1293 Mr. Chabot. No.

1294 Ms. Deterding. Mr. Chabot votes no.

1295 Mr. Bachus?

1296 Mr. Bachus. No.

1297 Ms. Deterding. Mr. Bachus votes no.

1298 Mr. Issa?

1299 [No response.]

1300 Ms. Deterding. Mr. Forbes?

1301 [No response.]

1302 Ms. Deterding. Mr. King?

1303 Mr. King. No.

1304 Ms. Deterding. Mr. King votes no.

1305 Mr. Franks?

1306 Mr. Franks. No.

1307 Ms. Deterding. Mr. Franks votes no.

1308 Mr. Gohmert?

1309 Mr. Gohmert. No.

1310 Ms. Deterding. Mr. Gohmert votes no.

1311 Mr. Jordan?

1312 Mr. Jordan. No.

1313 Ms. Deterding. Mr. Jordan votes no.

1314 Mr. Poe?

1315 [No response.]

1316 Ms. Deterding. Mr. Chaffetz?

1317 Mr. Chaffetz. No.

1318 Ms. Deterding. Mr. Chaffetz votes no.

1319 Mr. Marino?

1320 Mr. Marino. No.

1321 Ms. Deterding. Mr. Marino votes no.

1322 Mr. Gowdy?

1323 Mr. Gowdy. No.

1324 Ms. Deterding. Mr. Gowdy votes no.

1325 Mr. Amodei?

1326 Mr. Amodei. No.

1327 Ms. Deterding. Mr. Amodei votes no.

1328 Mr. Labrador?

1329 Mr. Labrador. No.

1330 Ms. Deterding. Mr. Labrador votes no.

1331 Mr. Farenthold?

1332 Mr. Farenthold. No.

1333 Ms. Deterding. Mr. Farenthold votes no.

1334 Mr. Holding?

1335 Mr. Holding. No.

1336 Ms. Deterding. Mr. Holding votes no.

1337 Mr. Collins?

1338 [No response.]

1339 Ms. Deterding. Mr. DeSantis?

1340 Mr. DeSantis. No.

1341 Ms. Deterding. Mr. DeSantis votes no.

1342 Mr. Smith of Missouri?

1343 Mr. Smith of Missouri. No.

1344 Ms. Deterding. Mr. Smith of Missouri votes no.

1345 Mr. Conyers?

1346 Mr. Conyers. Aye.

1347 Ms. Deterding. Mr. Conyers votes aye.

1348 Mr. Nadler?

1349 [No response.]

1350 Ms. Deterding. Mr. Scott?

1351 Mr. Scott. Aye.

1352 Ms. Deterding. Mr. Scott votes aye.

1353 Mr. Watt?

1354 [No response.]

1355 Ms. Deterding. Ms. Lofgren?

1356 Ms. Lofgren. Aye.

1357 Ms. Deterding. Ms. Lofgren votes aye.

1358 Ms. Jackson Lee?

1359 [No response.]

1360 Ms. Deterding. Mr. Cohen?

1361 [No response.]

1362 Ms. Deterding. Mr. Johnson?

1363 [No response.]

1364 Ms. Deterding. Mr. Pierluisi?

1365 Mr. Pierluisi. Aye.

1366 Ms. Deterding. Mr. Pierluisi votes aye.

1367 Ms. Chu?

1368 Ms. Chu. Aye.

1369 Ms. Deterding. Ms. Chu votes aye.

1370 Mr. Deutch?

1371 [No response.]

1372 Ms. Deterding. Mr. Gutierrez?

1373 [No response.]

1374 Ms. Deterding. Ms. Bass?

1375 Ms. Bass. Aye.

1376 Ms. Deterding. Ms. Bass votes aye.

1377 Mr. Richmond?

1378 [No response.]

1379 Ms. Deterding. Ms. DelBene?

1380 Ms. DelBene. Aye.

1381 Ms. Deterding. Ms. DelBene votes aye.

1382 Mr. Garcia?

1383 Mr. Garcia. Aye.

1384 Ms. Deterding. Mr. Garcia votes aye.

1385 Mr. Jeffries?

1386 [No response.]

1387 Chairman Goodlatte. The gentleman from Virginia?

1388 Mr. Forbes. No.

1389 Ms. Deterding. Mr. Forbes votes no.

1390 Chairman Goodlatte. Are there other members who have

1391 not voted who wish to vote?

1392 The clerk will report.

1393 Ms. Deterding. Mr. Chairman, eight members voted aye;

1394 20 members voted nay.

1395 Chairman Goodlatte. The amendment is not agreed to.

1396 Are there additional amendments?

1397 The gentlewoman from California?

1398 Ms. Lofgren. I have an amendment at the desk. It is

1399 Lofgren No. 22.

1400 Chairman Goodlatte. The clerk will report amendment.

1401 Ms. Deterding. Amendment to H.R. 1772, offered by Ms.

1402 Lofgren of California. Page 41, beginning on line --

1403 Chairman Goodlatte. Without objection, the amendment is

1404 considered as read.

1405 [The amendment of Ms. Lofgren follows:]

1406

1407 Chairman Goodlatte. And the gentlewoman is recognized
1408 for 5 minutes on her amendment.

1409 Ms. Lofgren. Mr. Chairman, this amendment eliminates
1410 the requirement in the bill that labor unions, hiring halls,
1411 and day labor centers verify individuals before they can
1412 refer people for employment.

1413 I think that provision in the law doesn't even belong in
1414 this bill. I can only think it was included simply because
1415 of animosity toward organized labor.

1416 The bill requires persons or entities who receive
1417 payment for referring or recruiting other persons for
1418 employment to verify the employment eligibility of those
1419 persons. I can buy that.

1420 But the exception to the rule is that all unions, hiring
1421 halls, and day labor centers are required to use E-Verify,
1422 even though the bill acknowledges they receive no payment
1423 whatsoever for providing recruitment or referral services.

1424 I think this is a measure that I can only assume was
1425 intended to hurt unions and hiring halls, who are I think
1426 just working to protect workers and find them employment.

1427 These entities are not end-employers who will benefit

1428 from the employee services. They aren't even receiving
1429 payment from the ultimate employer for recruitment or
1430 referral services. And it just doesn't make any sense that
1431 they would be forced to bear the cost of verification.

1432 Now, I think there is another problem with this, which
1433 is this gives employers a free pass. If the employers will
1434 not have to verify employment eligibility for workers
1435 referred by a union or day labor center, it really gives
1436 them a free pass and puts that burden onto unions and hiring
1437 halls, and I don't think that is fair. I don't think it
1438 should be a cost and responsibility on the union instead of
1439 the employer.

1440 It is not the union's job to make sure an employer does
1441 not violate the law by hiring unauthorized workers. It is
1442 the employer who benefits from the work performed, so the
1443 employer should be the one who confirms authorization to
1444 work.

1445 I think this provision of the bill not only is unfair,
1446 it doesn't really even advance the goals of the bill. I
1447 think the only thing it would do, it is intended to do,
1448 would be to harm the ability of labor unions to organize and

1449 represent the rights of workers.

1450 I would just make one other point. Once we have
1451 authorized our workforce through top-to-bottom immigration
1452 reform, this provision might actually have an impact of
1453 allowing employers to prefer hiring out of union halls,
1454 because they would no longer then have the obligation
1455 imposed by the bill.

1456 So after comprehensive immigration reform, the harm done
1457 to unions might actually not even occur under this
1458 amendment. It might have the opposite impact.

1459 In any case, I think the provision does not belong in
1460 this bill. I think it is unfortunate that it is included,
1461 and I would hope that we could strike it.

1462 And with that, I would yield back.

1463 Chairman Goodlatte. The chair thanks the gentlewoman.

1464 For what purpose does gentleman from Texas seek
1465 recognition?

1466 Mr. Smith of Texas. Mr. Chairman, I oppose the
1467 amendment.

1468 Chairman Goodlatte. The gentleman is recognized for 5
1469 minutes.

1470 Mr. Smith of Texas. Thank you, Mr. Chairman.

1471 Mr. Chairman, I oppose the amendment because it strikes
1472 provisions specifically designed to ensure that U.S. jobs go
1473 to Americans and legal workers.

1474 The Legal Workforce Act requires day labor centers,
1475 union hiring halls, and other labor service entities to use
1476 E-Verify for those individuals they recruit for employment,
1477 regardless of whether or not they receive payment for doing
1478 so.

1479 This amendment alters the text so only entities that
1480 receive payment for recruiting or referring employees are
1481 required to use E-Verify. I am sure it that it is
1482 unintentional, but this amendment aids and abets illegal
1483 immigration.

1484 Many localities around the country have opened day labor
1485 sites to provide places where workers, mostly illegal
1486 immigrants, are matched with employers seeking labor for one
1487 day or short-term work. Localities that open these sites
1488 often seek to enable illegal workers and employers to evade
1489 immigration laws.

1490 Section 4 of the Legal Workforce Act requires localities

1491 that set up day labor sites to use E-Verify to check the
1492 employment eligibility of those seeking jobs at the sites.

1493 In addition, some union leaders deliberately recruit
1494 illegal immigrant workers for union membership. Since some
1495 of these unions also operate hiring halls, Section 4 is
1496 designed to ensure that the unions cannot give illegal
1497 immigrants jobs at these locations.

1498 It requires unions operating hiring halls to use E-
1499 Verify to check the employment eligibility of those seeking
1500 jobs.

1501 Why some unions want to put the interests of illegal
1502 workers ahead of the interests of American workers I do not
1503 know. All entities that recruit or refer employees should
1504 be required to use E-Verify to help ensure the prospective
1505 employee's work eligibility.

1506 Exemption from this requirement, simply because they
1507 don't receive a fee for the referral or recruitment simply
1508 doesn't make sense. What does make sense is that the Legal
1509 Workforce Act protects jobs for Americans and legal workers.

1510 For those reasons, Mr. Chairman, I oppose the amendment,
1511 and I yield back.

1512 Chairman Goodlatte. For what purpose does the gentleman
1513 from Illinois seek recognition?

1514 Mr. Gutierrez. To strike the last word.

1515 Chairman Goodlatte. The gentleman is recognized for 5
1516 minutes.

1517 Mr. Gutierrez. I support the gentlelady's amendment.
1518 And I was wondering if the gentleman from Texas could name
1519 specifically, so I can call these union representatives
1520 today that hire and promote the hiring of undocumented
1521 workers ahead of American citizen workers? I want to know
1522 particularly --

1523 Mr. Smith of Texas. Why would they oppose --

1524 Mr. Gutierrez. No, I am just asking if you could name
1525 the particular unions --

1526 Mr. Smith of Texas. If the gentleman would yield?

1527 Mr. Gutierrez. Absolutely.

1528 Mr. Smith of Texas. I think it is commonly known that
1529 that occurs in many, many places. And my evidence for that
1530 is the amendment offered by the gentlewoman from California.
1531 Why offer the amendment unless that is in fact a desire or
1532 the occasional practice of labor unions?

1533 Ms. Lofgren. Would the gentleman yield?

1534 Mr. Gutierrez. Absolutely.

1535 Ms. Lofgren. I haven't consulted with any labor unions
1536 about my amendment. I just think it is unfair and
1537 unreasonable to put the burden that should be borne by the
1538 employer on organizations that do not hire the individuals.

1539 And in fact, that is not the case, except for the
1540 specific carveout for labor unions, hiring halls, and day
1541 labor centers. I think it is unreasonable.

1542 But to suggest that somehow the unions have put this
1543 amendment forward is incorrect. I put this amendment
1544 forward because it is the right thing to do.

1545 And I thank the gentleman for yielding.

1546 Mr. Gutierrez. You're welcome.

1547 Reclaiming my time, to the gentleman from Texas, I just
1548 don't know of these union halls that are opened to hire
1549 undocumented workers. I would love to have that kind of
1550 information, because I would be the first one to join the
1551 gentleman to go after unions that have union halls that
1552 specifically are opened to hire undocumented workers. I
1553 just don't know find them.

1554 Of course, there are a few undocumented workers who
1555 probably need work that I might want to refer there to get a
1556 job.

1557 But in all seriousness, I just don't see it happening.
1558 I have a funny feeling the full force of the law would have
1559 been -- how would I say? -- thrust against anybody that
1560 opened up a place publicly.

1561 Now, I will say this, I don't know about these wonderful
1562 places that have offices open in America. I know that there
1563 are lot of Home Depots and a lot of Menards and a lot of
1564 other places where undocumented workers go, and guess who
1565 shows up? American citizens like you and me show up knowing
1566 -- now, they don't ask them if they have papers or not.
1567 They just want to know how much they are going to work for,
1568 and knowing that -- you know what? Let's put the burden on
1569 everybody, because it seems to me that when we always talk
1570 about E-Verify, it is those untrustworthy illegals that are
1571 roaming the streets of America taking away jobs.

1572 I mean, I would love for one day, seriously, I would
1573 love for one day, not more than one day, because I don't
1574 want to disrupt the American economy to the point that food

1575 vanishes from all the shelves of America. But I would like
1576 for one day for the 1.7 million undocumented workers in
1577 America that go out in the fields to pick our fruit, our
1578 lettuce, our tomatoes, pick our crops, to just to say, "You
1579 know what? We're not going to work today. We are just not
1580 going to show up." And see how many Americans come down to
1581 those farms and say, "Great, I will take that job. That's
1582 why I studied so hard. That's why I'm in America. That's
1583 the job I want."

1584 If we want to do E-Verify, let's just realize that E-
1585 Verify is going to make us safer, and that I support E-
1586 Verify, and I have always put it in. But if you put it
1587 without the context of also going against the employer, and
1588 we simply imagine these centers of undocumented -- I am
1589 sorry; I want to use your term -- illegal workers coming, it
1590 just doesn't exist.

1591 I do know that there are, and I want to repeat for the
1592 record, you go to Home Depot, Menards, you can go to Handy
1593 Andy -- I don't know what the latest ones in your neck of
1594 the woods are -- and they show up there.

1595 Let me tell you why they show up there, because there is

1596 a demand from the American public and the American people,
1597 American citizens, those of us born here in this country, to
1598 exploit that labor. And they know where to find it, and
1599 they know they jump in the back of a pickup truck.

1600 Lastly, let me just say that I wish we would look at E-
1601 Verify, because I want a verification system, because I want
1602 a legal system under which people will work.

1603 But I am also motivated because I want to protect all
1604 American workers. We are doing a pretty good job. OSHA is
1605 doing a good job.

1606 You know what? If there is one thing that government is
1607 doing right, it is reducing the number of people who die
1608 working in America. That is a good thing. That means
1609 workplaces are safer. It is reducing the number of people
1610 who get hurt when they go to work. That is a good thing
1611 people. People shouldn't die. They shouldn't get hurt
1612 trying to earn a living.

1613 But when you look at Latinos as a specific group of
1614 people, more Latinos are getting hurt going to work. More
1615 Latinos are dying going to work. And I think we all know
1616 why.

1617 So I want to end the illegality, as you to refer to it,
1618 because I want to make them go to a job that they don't have
1619 to die at, they don't have to get hurt at, and that they get
1620 paid a fair wage. So that when you and I and others like
1621 us, not specifically, but in general terms, go to Home Depot
1622 to pick them up to do a job at our house, we want to make
1623 sure that they can go safely to their home at the end of the
1624 day also.

1625 And I yield the rest of my time.

1626 Chairman Goodlatte. The chair thanks the gentleman and
1627 recognizes himself in opposition to the amendment.

1628 I just want to point out to the gentleman from Illinois
1629 that not only does this apply to union hiring halls, it
1630 applies to employment agencies. It applies to headhunters.

1631 And the reason why it is applied to union halls is that
1632 many collective bargaining agreements require that the
1633 employer accept the workers sent to them by the hiring hall.
1634 So the workers come to the employer with no E-Verify. You
1635 have them on staff and run them because the employer also
1636 has to do the E-Verify. And they don't clear E-Verify.
1637 Then you have a choice: violate the law or violate your

1638 collective bargaining agreement.

1639 This is a practical provision in the bill, and I would
1640 urge my colleagues to oppose the amendment.

1641 I yield back.

1642 Mr. Conyers. Mr. Chairman?

1643 Chairman Goodlatte. The gentleman from Michigan is
1644 recognized for 5 minutes.

1645 Mr. Conyers. I have a letter from the Laborers'
1646 International Union, which opposes this provision in the
1647 bill, and I would like to read the sentence that is
1648 pertinent: Over 5.5 million employers would thus have to
1649 begin using the system within 2 years, which equates to
1650 approximately 250,000 employers enrolling in the program
1651 every month. We are especially concerned with the provision
1652 under the law, the Legal Workforce Act, that imposes new
1653 verification requirements for union hiring halls and
1654 nonprofit employment agencies. Unions are not employers.
1655 We negotiate and fight for better wages, say the Laborers'
1656 International Union, and working conditions for workers.

1657 It is the responsibility of the employer to verify the
1658 status of employment, not the union. The new verification

1659 requirement is misguided.

1660 And I ask unanimous consent to introduce this letter

1661 into the record.

1662 Chairman Goodlatte. Without objection, it will be made

1663 a part of the record.

1664 [The information follows:]

1665

1666 Mr. Gutierrez. Would the gentleman yield?

1667 Mr. Conyers. I would be pleased to yield.

1668 Mr. Gutierrez. I think I am very happy that the ranking
1669 member has made that, because unions don't hire. That means
1670 they refer somebody to get hired. That is where the
1671 verification -- and I am very happy, because I didn't think
1672 the gentlelady from California, Congresswoman Lofgren, took
1673 her orders from the union bosses to come down here and
1674 provide legislation to us.

1675 And that is why I asked the gentleman from Texas if he
1676 could cite specific examples of a union opening up a center
1677 exclusively -- not exclusive, as he said, to the detriment
1678 of American workers to hire undocumented workers at those
1679 centers.

1680 And lastly, I would like to say that Mr. Trumka, the
1681 head of the AFL-CIO, and labor unions across this country
1682 have endorsed the Senate proposal. The Senate proposal has
1683 very strict rules on E-Verify and has a verification system
1684 in place. And so it has other measures in place.

1685 And so I think labor union have worked -- as a matter
1686 fact, wait a minute, there's a historic agreement between

1687 business, the Chamber of Commerce, the U.S. Chamber of
1688 Commerce, historic in its nature, and the labor movement,
1689 where they have to come together and taken interests of the
1690 Chamber of Commerce and interests of working men and women,
1691 and put them together and have come together to bipartisan
1692 agreement.

1693 I thank the gentleman for yielding to me.

1694 Mr. Conyers. Well, the Lofgren amendment is important
1695 for even another reason, because if mandatory E-Verify is
1696 implemented without legalizing some of the millions of
1697 undocumented workers in our economy, employers will simply
1698 move their unauthorized workers off their books into the
1699 underground economy, causing billions of dollars in lost tax
1700 revenue and harm to all workers.

1701 And so I support the Lofgren amendment and urge its
1702 passage.

1703 I ask unanimous consent to introduce the letter.

1704 Chairman Goodlatte. We have taken care of that already
1705 for you.

1706 Mr. Conyers. I yield all my time back.

1707 Chairman Goodlatte. I thank the gentleman.

1708 The question occurs on the amendment offered by the
1709 gentlewoman from California.

1710 All this in favor, respond by saying aye.

1711 Those opposed, no.

1712 In the opinion of the chair, the noes have it.

1713 Ms. Lofgren. Mr. Chairman, could I get a recorded vote?

1714 Chairman Goodlatte. A recorded vote is requested, and
1715 the clerk will call the roll.

1716 Ms. Deterding. Mr. Goodlatte?

1717 Chairman Goodlatte. No.

1718 Ms. Deterding. Mr. Goodlatte votes no.

1719 Mr. Sensenbrenner?

1720 Mr. Sensenbrenner. No.

1721 Ms. Deterding. Mr. Sensenbrenner votes no.

1722 Mr. Coble?

1723 Mr. Coble. No.

1724 Ms. Deterding. Mr. Coble votes no.

1725 Mr. Smith of Texas?

1726 Mr. Smith of Texas. No.

1727 Ms. Deterding. Mr. Smith of Texas votes no.

1728 Mr. Chabot?

1729 Mr. Chabot. No.

1730 Ms. Deterding. Mr. Chabot votes no.

1731 Mr. Bachus?

1732 Mr. Bachus. No.

1733 Ms. Deterding. Mr. Bachus votes no.

1734 Mr. Issa?

1735 [No response.]

1736 Ms. Deterding. Mr. Forbes?

1737 [No response.]

1738 Ms. Deterding. Mr. King?

1739 Mr. King. No.

1740 Ms. Deterding. Mr. King votes no.

1741 Mr. Franks?

1742 Mr. Franks. No.

1743 Ms. Deterding. Mr. Franks votes no.

1744 Mr. Gohmert?

1745 Mr. Gohmert. No.

1746 Ms. Deterding. Mr. Gohmert votes no.

1747 Mr. Jordan?

1748 Mr. Jordan. No.

1749 Ms. Deterding. Mr. Jordan votes no.

1750 Mr. Poe?

1751 [No response.]

1752 Ms. Deterding. Mr. Chaffetz?

1753 Mr. Chaffetz. No.

1754 Ms. Deterding. Mr. Chaffetz votes no.

1755 Mr. Marino?

1756 Mr. Marino. No.

1757 Ms. Deterding. Mr. Marino votes no.

1758 Mr. Gowdy?

1759 Mr. Gowdy. No.

1760 Ms. Deterding. Mr. Gowdy votes no.

1761 Mr. Amodei?

1762 Mr. Amodei. No.

1763 Ms. Deterding. Mr. Amodei votes no.

1764 Mr. Labrador?

1765 Mr. Labrador. No.

1766 Ms. Deterding. Mr. Labrador votes no.

1767 Mr. Farenthold?

1768 Mr. Farenthold. No.

1769 Ms. Deterding. Mr. Farenthold votes no.

1770 Mr. Holding?

1771 Mr. Holding. No.

1772 Ms. Deterding. Mr. Holding votes no.

1773 Mr. Collins?

1774 [No response.]

1775 Ms. Deterding. Mr. DeSantis?

1776 Mr. DeSantis. No.

1777 Ms. Deterding. Mr. DeSantis votes no.

1778 Mr. Smith of Missouri?

1779 Mr. Smith of Missouri. No.

1780 Ms. Deterding. Mr. Smith of Missouri votes no.

1781 Mr. Conyers?

1782 Mr. Conyers. Aye.

1783 Ms. Deterding. Mr. Conyers votes aye.

1784 Mr. Nadler?

1785 [No response.]

1786 Ms. Deterding. Mr. Scott?

1787 Mr. Scott. Aye.

1788 Ms. Deterding. Mr. Scott votes aye.

1789 Mr. Watt?

1790 [No response.]

1791 Ms. Deterding. Ms. Lofgren?

1792 Ms. Lofgren. Aye.

1793 Ms. Deterding. Ms. Lofgren votes aye.

1794 Ms. Jackson Lee?

1795 Ms. Jackson Lee. Aye.

1796 Ms. Deterding. Ms. Jackson Lee votes aye.

1797 Mr. Cohen?

1798 Mr. Cohen. Aye.

1799 Ms. Deterding. Mr. Cohen votes aye.

1800 Mr. Johnson?

1801 Mr. Johnson. Aye.

1802 Ms. Deterding. Mr. Johnson votes aye.

1803 Mr. Pierluisi?

1804 Mr. Pierluisi. Aye.

1805 Ms. Deterding. Mr. Pierluisi votes aye.

1806 Ms. Chu?

1807 Ms. Chu. Aye.

1808 Ms. Deterding. Ms. Chu votes aye.

1809 Mr. Deutch?

1810 [No response.]

1811 Ms. Deterding. Mr. Gutierrez?

1812 Mr. Gutierrez. Aye.

1813 Ms. Deterding. Mr. Gutierrez votes aye.

1814 Ms. Bass?

1815 [No response.]

1816 Ms. Deterding. Mr. Richmond?

1817 [No response.]

1818 Ms. Deterding. Ms. DelBene?

1819 Ms. DelBene. Aye.

1820 Ms. Deterding. Ms. DelBene votes aye.

1821 Mr. Garcia?

1822 Mr. Garcia. Aye.

1823 Ms. Deterding. Mr. Garcia votes aye.

1824 Mr. Jeffries?

1825 Mr. Jeffries. Aye.

1826 Ms. Deterding. Mr. Jeffries votes aye.

1827 Chairman Goodlatte. The gentleman from Virginia?

1828 Mr. Forbes. No.

1829 Ms. Deterding. Mr. Forbes votes no.

1830 Chairman Goodlatte. The gentleman from Texas, Mr. Poe?

1831 Mr. Poe. No.

1832 Ms. Deterding. Mr. Poe votes no.

1833 Ms. Lofgren. Mr. Chairman, how am I recorded?

1834 Ms. Deterding. Ms. Lofgren votes aye.

1835 Mr. Garcia. Mr. Chairman?

1836 Chairman Goodlatte. The gentleman from Florida is
1837 uncertain about his aye vote.

1838 Ms. Deterding. Mr. Garcia votes aye.

1839 Mr. Garcia. Thank you for confirming.

1840 Chairman Goodlatte. The gentleman from Florida, Mr.
1841 Deutch?

1842 Mr. Deutch. Mr. Chairman, how am I recorded?

1843 Chairman Goodlatte. You are not recorded.

1844 Mr. Deutch. Aye.

1845 Ms. Deterding. Mr. Deutch votes aye.

1846 Mr. Scott. Mr. Chairman, how am I recorded?

1847 Chairman Goodlatte. The gentleman from Virginia, how is
1848 he recorded?

1849 Ms. Deterding. Mr. Scott votes aye.

1850 Chairman Goodlatte. The gentlewoman from California,
1851 Ms. Bass?

1852 Ms. Bass. Aye.

1853 Ms. Deterding. Ms. Bass votes aye.

1854 Chairman Goodlatte. The clerk will report.

1855 Ms. Deterding. Mr. Chairman, 14 members voted aye; 21
1856 members voted nay.

1857 Chairman Goodlatte. And the amendment is not agreed to.

1858 Are there further amendments?

1859 Ms. Lofgren. Mr. Chairman?

1860 Chairman Goodlatte. For what purpose does the
1861 gentlewoman from California seek recognition?

1862 Ms. Lofgren. To call up amendment No. 1, Lofgren No. 1.

1863 Chairman Goodlatte. The clerk will report the
1864 amendment.

1865 Ms. Deterding. Amendment to H.R. 1772, offered by Ms.
1866 Lofgren of California.

1867 Chairman Goodlatte. Without objection, the amendment
1868 will be considered as read.

1869 [The amendment of Ms. Lofgren follows:]

1870

1871 Chairman Goodlatte. And the gentlewoman is recognized
1872 for 5 minutes to explain her amendment.

1873 Ms. Lofgren. Mr. Chairman, this amendment requires the
1874 Department of Homeland Security to design E-Verify so that
1875 individuals whose identifying information has been provided
1876 to the system can receive direct notice of the results of a
1877 tentative nonconfirmation and a final nonconfirmation.

1878 This amendment builds on some initiatives that are
1879 already underway. Earlier this year, DHS released a new I-9
1880 form that allows employees to submit their email address.
1881 If the employer inputs that email address into E-Verify, DHS
1882 will be able to use that address to provide direct
1883 electronic notice to the employee of a tentative
1884 nonconfirmation.

1885 This amendment requires that DHS also provide direct
1886 notice of final nonconfirmations. According to USCIS, a
1887 recent Westat report showed, and I mentioned this in an
1888 earlier amendment, that 6 percent of final nonconfirmations
1889 were erroneously provided to individuals who were in fact
1890 authorized to work.

1891 The vast majority of these resulted from employers

1892 failing to provide notice of tentative nonconfirmations to
1893 employees. And if we adopt this amendment, employees will
1894 be notified. And if there is a mistake, they will have a
1895 better chance to address that mistake and avoid the very
1896 unfortunate result of an American citizen being fired
1897 because the government made a mistake.

1898 This amendment allows the department to go further than
1899 current practice, although it builds on the current
1900 practice, which depends on self-reporting of email
1901 addresses. It doesn't codify the approach.

1902 USCIS is free to determine another way to provide direct
1903 notice of the TNCs and FNCs, for example, to allow people to
1904 create user accounts in E-Verify, through which they could
1905 receive notice.

1906 These accounts could also play an important role in
1907 allowing people to monitor the use of their information in
1908 the system, which could serve as an important tool for fraud
1909 detection.

1910 I would hope that although we have had a number of
1911 amendments that we couldn't agree on, this might be one that
1912 we could agree on. I think it will provide just basic

1913 fairness into the system.

1914 And with that, I would yield back, Mr. Chairman.

1915 Chairman Goodlatte. The chair recognizes himself in
1916 possible opposition to the amendment.

1917 And I do so because it limits the provision of notice of
1918 a tentative nonconfirmation or final nonconfirmation of work
1919 eligibility to the employer making the E-Verify query and
1920 the individual whose Social Security number has been
1921 submitted for purposes of querying the system.

1922 While I don't disagree with the intent of the amendment
1923 as the gentlelady has explained it, I am concerned that this
1924 language does not do exactly that. Specifically, I am
1925 concerned that this language may inhibit law enforcement
1926 from using such information in worksite enforcement
1927 activities.

1928 I am also concerned that the wording of this amendment
1929 may unintentionally open the Department of Homeland Security
1930 up to lawsuits, if USCIS sends notice of a tentative or
1931 final nonconfirmation to an individual who has engaged in
1932 identity theft, since that individual would not be the
1933 individual whose "Social Security number or other

1934 identifying information has been submitted to the
1935 verification system," which is required by the amendment.

1936 Perhaps if the gentlelady would like to address these
1937 concerns, there is the possibility that we could work on
1938 language as we move forward to the floor for consideration
1939 of the bill.

1940 But until those concerns are addressed, I would have to
1941 oppose the amendment, and urge my colleagues to do so.

1942 And I will be happy to entertain the amendment on a
1943 vote, or to have the gentlewoman withdraw it and work with
1944 her. Either way is fine.

1945 Ms. Lofgren. If the chairman is offering to work these
1946 issues out, I would be happy to withdraw the amendment at
1947 this point, or ask unanimous consent to do so --

1948 Chairman Goodlatte. Unanimous consent is not necessary.
1949 The gentlewoman can withdraw the amendment under the rule.

1950 Ms. Lofgren. -- in the hopes that we can actually
1951 address those issues. I think with the manager's amendment
1952 and the picture requirement, the fraud issue that you have
1953 addressed may actually have been dealt with.

1954 But I would be happy to work with the chairman and his

1955 staff to work through the other issues. And hopefully we
1956 can come to an agreement.

1957 Chairman Goodlatte. Well, the chair is happy to work
1958 with the gentlewoman on that point, and with her motion, the
1959 amendment is withdrawn.

1960 The gentlewoman from California?

1961 Ms. Lofgren. I would like to substitute Lofgren No. 23
1962 for Lofgren No. 26, which is next on the roster.

1963 Chairman Goodlatte. Yes, the clerk will report Lofgren
1964 No. 26.

1965 Ms. Lofgren. Number 23.

1966 Chairman Goodlatte. I am sorry. The clerk will report
1967 Lofgren No. 23.

1968 I don't see that on the -- we are trying to follow the
1969 system where amendments offered first are considered first.

1970 But without objection, we will take up Lofgren No. 23.

1971 The clerk will report.

1972 Ms. Deterding. Amendment to H.R. 1772, offered by Ms.
1973 Lofgren of California. Beginning on page 46, strike line 4
1974 through page 47, line 24, and insert the following --

1975 Chairman Goodlatte. Without objection, the amendment is

1976 considered as read.

1977 [The amendment of Ms. Lofgren follows:]

1978

1979 Chairman Goodlatte. And the gentlewoman is recognized
1980 for 5 minutes on her amendment.

1981 Ms. Lofgren. Thank you, Mr. Chairman.

1982 This amendment replaces the preemption language in the
1983 bill with the preemption language that we had in last year's
1984 bill, the Legal Workforce Act.

1985 Section 6 preempts any State or local law, ordinance,
1986 policy, or rule, including any criminal or civil fine or
1987 penalty structure, that relates to the hiring, continued
1988 employment, or status verification for employment
1989 eligibility of unauthorized aliens.

1990 It authorizes State or political subdivisions to
1991 exercise their authority over business licensing and similar
1992 laws in order to impose a penalty for failure to use E-
1993 Verify.

1994 This is consistent with current law and the Supreme
1995 Court's holding in Chamber of Commerce v. Whiting, and the
1996 preemption language in the amendment that mirrors the
1997 language contained in the Legal Workforce Act considered in
1998 the 112th Congress.

1999 But Section 6 also contains a brand-new provision that

2000 permits States, at their own expense, to enforce all of the
2001 civil and criminal provisions for unauthorized hiring in
2002 section 270(4)(a) of the Immigration and Nationality Act.
2003 The provision requires that in doing so, a State must follow
2004 the Federal regulations, apply the Federal penalties
2005 structure, and comply with all Federal rules and guidelines.
2006 And the section protects employers from overlapping audits,
2007 investigations, and other enforcement actions by giving the
2008 right of first refusal to the governmental entity that first
2009 initiated the action.

2010 Now, I think, as drafted, this provision would actually
2011 be entirely unworkable and would create significant
2012 confusion in the enforcement of the employment verification
2013 laws. The provision appears to authorize States to enforce
2014 Federal criminal statutes, presumably in State courts. And
2015 because each court would then develop its own jurisprudence
2016 on critical issues, this would quickly undermine the purpose
2017 of the broad preemption language and eviscerate the
2018 protections that are created by requiring the State to
2019 follow Federal regulations and guidelines.

2020 By saying that a State that begins an audit or

2021 investigation has a right of first refusal, the bill will
2022 interfere with the Federal Government's authority to enforce
2023 Federal law.

2024 And finally, this language would permit States to act in
2025 the place of Federal Government in administrative
2026 proceedings before an administrative law judge of the Office
2027 of Chief Administrative Hearing Officer. That is not a
2028 workable plan.

2029 And to think that a State law enforcement or civil
2030 official could essentially stand in the shoes and work
2031 through the administrative proceedings in DOJ is just not a
2032 workable scheme.

2033 I think that the language we had in last year's bill,
2034 that certainly the chairman and Mr. Smith supported, is much
2035 more workable. And therefore, I propose that we strike this
2036 year's language and replace last year's language as a more
2037 practical approach to preemption.

2038 And with that, I would yield back.

2039 Chairman Goodlatte. The chair recognizes himself in
2040 opposition to the amendment.

2041 It removes an additional layer of enforcement assurance

2042 from the Legal Workforce Act. By striking the provision in
2043 Section 6 authorizing State and local jurisdictions to
2044 enforce the Federal immigration requirements of E-Verify, we
2045 must rely solely on the administration for enforcement.

2046 Unfortunately, for many years, virtually all immigration
2047 enforcement has been relied upon whomever the President
2048 happens to be. Over those years, we have seen Presidents
2049 select which laws they want to enforce.

2050 And this is not specific to one political party or
2051 another. There are aspects of immigration enforcement that
2052 neither party has chosen to undertake. And the result is an
2053 ever-increasing amount of illegal immigration.

2054 The American people are tired of immigration laws being
2055 ignored. They were promised enforcement in 1986, but none
2056 materialized. We should enact laws that empower States and
2057 localities to help enforce Federal immigration laws.

2058 This amendment would put all worksite enforcement back
2059 in the hands of whomever happens to reside at 1600
2060 Pennsylvania Avenue. And under the current President, the
2061 Department of Homeland Security has made a conscious effort
2062 to enact administrative policies directing officials to not

2063 enforce the law. When our Federal officials cannot be
2064 trusted to enforce the law, it is only logical that the
2065 States be allowed to do so.

2066 The Legal Workforce Act creates a process for the States
2067 to enforce the Federal requirements, to apply the Federal
2068 penalties, and to comply with Federal guidance to implement
2069 this process. It is a constitutional way to allow the
2070 States to do what the Federal Government will not: enforce
2071 immigration laws.

2072 And I urge my colleagues to oppose the amendment.

2073 The question occurs on the amendment offered by the
2074 gentlewoman from California.

2075 All those in favor, respond by saying aye.

2076 Those opposed, no.

2077 In the opinion of the chair, the noes have it, and the
2078 amendment is not agreed to.

2079 Are there further amendments?

2080 Ms. Jackson Lee. I have an amendment at the desk.

2081 Chairman Goodlatte. The clerk will report the
2082 amendment.

2083 Ms. Jackson Lee. On the roster, it is amendment No. 8.

2084 Ms. Deterding. Amendment to H.R. 1772, offered by Ms.

2085 Jackson Lee of Texas. Beginning --

2086 Chairman Goodlatte. Without objection, the amendment

2087 will be considered as read.

2088 [The amendment of Ms. Jackson Lee follows:]

2089

2090 Chairman Goodlatte. And the gentlewoman is recognized
2091 for 5 minutes on her amendment.

2092 Ms. Jackson Lee. Thank you very much, Mr. Chairman.

2093 My amendment is a simple amendment, and it really speaks
2094 to the seriousness of this challenge and responsibility that
2095 we are now placing on our Federal authorities. And the very
2096 fact that you made an earlier comment that Americans are
2097 concerned about the enforcement aspect of immigration, my
2098 amendment is a simple amendment that prohibits the
2099 Department of Homeland Security Secretary from outsourcing
2100 responsibility for administrating or operating the E-Verify
2101 system to private contractors and other nongovernmental
2102 entities.

2103 My amendment strikes the language in the bill. It would
2104 not be incorrect to characterize my amendment as one that
2105 states that no outsourcing should be done on as an important
2106 government responsibility as E-Verify is.

2107 Any misconstruing of a person's ID, designation,
2108 citizenship, or status, or not status, really would have a
2109 long-term impact on that individual.

2110 If this bill was to become law, a person could lose his

2111 or her job or not be hired for a job based on the results of
2112 an E-Verification response to an employer inquiry. This, I
2113 think, is too important a responsibility to have it lodged
2114 in a myriad of entities outside of the governmental
2115 structure.

2116 This also deals with the question of liberty and
2117 warrants the protection of the due process clause of the
2118 Fifth and 14th Amendments.

2119 And therefore, I would ask my colleagues to recognize
2120 that we have had experiences over the last couple weeks of
2121 exposure of sensitive information that has come out on the
2122 basis of the task being outsourced. So I would hope that my
2123 colleagues would support this amendment, and have well-
2124 trained government employees that would be able to respond
2125 accordingly to the sensitive material and data that would be
2126 in place through E-Verify that really does have an impact
2127 on/ someone status, their liberty, or their rights to secure
2128 employment.

2129 With that, I yield back.

2130 Chairman Goodlatte. The chair thanks the gentlewoman.

2131 For what purpose does the gentleman from Texas seek

2132 recognition?

2133 Mr. Smith of Texas. Mr. Chairman, I oppose the
2134 amendment.

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

2137 Mr. Smith of Texas. Thank you, Mr. Chairman.

2138 Mr. Chairman, I oppose this amendment because it strikes
2139 a part of current law that could eventually allow better
2140 administration of the E-Verify system.

2141 Specifically, current law allows the DHS Secretary to
2142 designate an outside entity to administer E-Verify. This
2143 provision was included when E-Verify's predecessor, the
2144 basic pilot program, was created in 1996.

2145 Frankly, I just don't want to preclude the possibility
2146 that the Secretary of the Department of Homeland Security
2147 might want to have this or exercise this as an option in the
2148 future.

2149 I know that some individuals may have concerns about
2150 private entities having access to information, but no
2151 information is stored in E-Verify. The system is not a
2152 database. It is a portal through which information is

2153 transmitted to compare with DHS and the Social Security
2154 Administration databases to determine whether a Social
2155 Security number is work-eligible.

2156 It may be, at some point in the future, that E-Verify
2157 can effectively be run by an entity other than DHS. And I
2158 simply do not want to preclude that from happening.

2159 For that reason, I urge my colleagues to oppose the
2160 amendment.

2161 And I yield back.

2162 Chairman Goodlatte. The question occurs on the
2163 amendment offered by the gentlewoman from Texas.

2164 Ms. DelBene. Excuse me?

2165 Chairman Goodlatte. For what purpose does the
2166 gentlewoman from Washington seek recognition?

2167 Ms. DelBene. Move to strike the last word.

2168 Chairman Goodlatte. The gentlewoman is recognized for 5
2169 minutes.

2170 Ms. DelBene. I am going to give the time to the
2171 gentlewoman from Texas.

2172 Ms. Jackson Lee. I thank the distinguished gentlelady.

2173 I just want to answer Mr. Smith. He indicated that

2174 there is transmission thereof of sensitive information.

2175 "Transmission thereof" gives every possibility that the

2176 information can be misused.

2177 And I truly think there are questions of having your

2178 data outsourced to entities where you have a question of due

2179 process; you have a question of your rights, if you will;

2180 and you have a question of your identity, which is very,

2181 very important.

2182 We already know that this bill lends itself to the

2183 possibility of misinterpretation, misnaming, misdesignating.

2184 And I would suggest that this is an important

2185 responsibility, and the DHS operations is not prohibited

2186 from themselves hiring experts. I am suggesting that the

2187 actual duties not be outsourced. That is the intent, and

2188 that is what the amendment says.

2189 So I ask my colleagues to support the amendment. And I

2190 yield back. I thank the gentlelady. I yield back to the

2191 gentlelady.

2192 Chairman Goodlatte. The question occurs on the

2193 amendment offered by the gentlewoman from Texas.

2194 All those in favor, respond by saying aye.

2195 Those opposed, no.

2196 In opinion of the chair, the noes have it, and the
2197 amendment is not agreed to.

2198 Does the gentlewoman from Texas have additional
2199 amendments?

2200 Ms. Jackson Lee. I do.

2201 Chairman Goodlatte. And the chair would inquire if any
2202 of those amendments are suitable to consider en bloc. I
2203 noticed that several of them are studies.

2204 Ms. Jackson Lee. Let me indicate that I will certainly
2205 look at that. I am going to go to amendment No. 9. And I
2206 understand there is an amendment proposed by another one of
2207 my colleagues. So I will go to amendment No. 9 at this
2208 point.

2209 Chairman Goodlatte. The clerk will report Jackson Lee
2210 amendment No. 9.

2211 Ms. Deterding. Amendment to H.R. 1772, offered by Ms.
2212 Jackson Lee of Texas. Page --

2213 Chairman Goodlatte. Without objection, the amendment is
2214 considered as read.

2215 [The amendment of Ms. Jackson Lee follows:]

2216

2217 Chairman Goodlatte. And the gentlewoman is recognized
2218 for 5 minutes on her amendment.

2219 Ms. Jackson Lee. I hope we can find some collaborative
2220 bipartisan compromise on an amendment that indicates that
2221 since we are going to have such an extensive mandated
2222 program, a mandatory program for the United States, in E-
2223 Verify of large, medium, and small businesses, my amendment
2224 indicates that we would ask that the Secretary of Homeland
2225 Security hire and train additional full-time IT technicians
2226 for the Science and Technology Directorate in the department
2227 for the purpose of executing E-Verify.

2228 Both the proponent of this legislation and myself are
2229 members of Homeland Security, and we hear often that the
2230 Science and Technology Directorate is overworked. It is
2231 overworked because part of its responsibilities include the
2232 idea of dealing with new technology and security.

2233 And so this is a simple call for there to be
2234 consultation with the DHS, with the director of National
2235 Institutes of Standards and Technology, to ensure that we
2236 have the added -- with the Science and Technology
2237 Directorate to show that we have the necessary IT

2238 technicians, and IT technicians that are within the
2239 parameters of the government, that in fact are in the
2240 service of their Nation.

2241 I think that this is very important, and it recognizes
2242 some of the challenges that we have with the CBO report on
2243 the Senate bill. It indicates that if we have the
2244 opportunity to move forward to a comprehensive bill, we will
2245 have the resources to act appropriately.

2246 So I would ask my colleagues to support the amendment.

2247 Chairman Goodlatte. For what purpose does the gentleman
2248 from Texas seek recognition?

2249 Mr. Smith of Texas. Mr. Chairman, I oppose the
2250 amendment.

2251 Chairman Goodlatte. The gentleman is recognized for 5
2252 minutes.

2253 Mr. Smith of Texas. Thank you, Mr. Chairman.

2254 I oppose this amendment by the gentlewoman from Texas to
2255 require DHS to higher 500 full-time information technology
2256 technicians. There is no doubt that USCIS will need
2257 additional resources in the form of personnel and technology
2258 in order to ensure that the E-Verify system runs as needed

2259 and as required. But just as USCIS currently adjusts
2260 resources based on the needs of the E-Verify users, they are
2261 free to continue doing so under the bill. Appropriations
2262 will then be requested and determined by Congress.

2263 The Department of Homeland Security may not need 500 new
2264 IT technicians. Requiring their hiring without knowing
2265 exactly how many and what type of additional employees are
2266 needed to run the system is not necessarily being a good
2267 steward of taxpayer funds. In effect, this is over-
2268 micromanaging.

2269 So I urge my colleagues to oppose the amendment.

2270 Ms. Jackson Lee. Will the gentleman yield?

2271 Mr. Smith of Texas. I would be happy to yield.

2272 Ms. Jackson Lee. Mr. Smith, the bill itself far exceeds
2273 any E-Verify we've ever had. It is mandating E-Verify for
2274 every single company -- every single company -- in the
2275 United States of America.

2276 I cannot imagine that 500 hires would in any way be
2277 excessive, based on the responsibilities of what we have.

2278 And I would ask my colleagues to support the amendment,
2279 and I yield back to the gentleman, and I thank him for

2280 yielding.

2281 Mr. Smith of Texas. Okay. I thank the gentlewoman for
2282 her comments.

2283 I think we are simply saying we don't want to
2284 micromanage. We don't want to tell USCIS exactly how many
2285 of what kind of employees they might need in order to
2286 process successfully and implement E-Verify.

2287 Mr. Farenthold. Will the gentleman yield for a second?

2288 Mr. Smith of Texas. I would be happy to yield to the
2289 gentleman from Texas.

2290 Mr. Farenthold. So assuming Ms. Jackson Lee is correct
2291 in that they need 500 people to upsize the website or
2292 however they are going to do that, they would be able to
2293 those, right? There is nothing in the bill --

2294 Mr. Smith of Texas. The gentleman is correct. Under
2295 the bill, they would be able to hire.

2296 Mr. Farenthold. And if they only needed 50, we could
2297 save the taxpayers a lot of money.

2298 Mr. Smith of Texas. It could be more or less. Let's
2299 leave that up to the department.

2300 Mr. Farenthold. All right, thank you.

2301 Mr. Smith of Texas. I thank the gentleman from Texas
2302 for making that good point.

2303 And I yield back.

2304 Chairman Goodlatte. The questions on the amendment --

2305 Ms. Jackson Lee. Is the time still with Mr. Smith?

2306 Chairman Goodlatte. I will recognize myself and yield
2307 to the gentlewoman.

2308 Ms. Jackson Lee. I thank you.

2309 In actuality, my colleagues, 500 is a drop in the
2310 bucket. CBO estimates that we don't know how many you might
2311 possibly need because of the expanse of this particular
2312 structure under E-Verify.

2313 So again, I ask my colleagues to support the amendment.

2314 I yield back, Mr. Chairman.

2315 Chairman Goodlatte. Reclaiming my time, I would just
2316 say that since we don't know, it's best to leave it up to
2317 the department in the normal process of seeking
2318 appropriation for the level of employment that they need.

2319 And I urge my colleagues to oppose the amendment.

2320 All those in favor of the amendment would respond by
2321 saying aye.

2322 Those opposed, no.

2323 Ms. Jackson Lee. Roll call.

2324 Chairman Goodlatte. A recorded vote is requested, and

2325 the clerk will call the roll.

2326 Ms. Deterding. Mr. Goodlatte?

2327 Chairman Goodlatte. No.

2328 Ms. Deterding. Mr. Goodlatte votes no.

2329 Mr. Sensenbrenner?

2330 Mr. Sensenbrenner. No.

2331 Ms. Deterding. Mr. Sensenbrenner votes no.

2332 Mr. Coble?

2333 Mr. Coble. No.

2334 Ms. Deterding. Mr. Coble votes no.

2335 Mr. Smith of Texas?

2336 Mr. Smith of Texas. No.

2337 Ms. Deterding. Mr. Smith of Texas votes no.

2338 Mr. Chabot?

2339 [No response.]

2340 Ms. Deterding. Mr. Bachus?

2341 Mr. Bachus. No.

2342 Ms. Deterding. Mr. Bachus votes no.

2343 Mr. Issa?

2344 [No response.]

2345 Ms. Deterding. Mr. Forbes?

2346 [No response.]

2347 Ms. Deterding. Mr. King?

2348 [No response.]

2349 Ms. Deterding. Mr. Franks?

2350 Mr. Franks. No.

2351 Ms. Deterding. Mr. Franks votes no.

2352 Mr. Gohmert?

2353 [No response.]

2354 Ms. Deterding. Mr. Jordan?

2355 Mr. Jordan. No.

2356 Ms. Deterding. Mr. Jordan votes no.

2357 Mr. Poe?

2358 [No response.]

2359 Ms. Deterding. Mr. Chaffetz?

2360 Mr. Chaffetz. No.

2361 Ms. Deterding. Mr. Chaffetz votes no.

2362 Mr. Marino?

2363 [No response.]

2364 Ms. Deterding. Mr. Gowdy?
2365 Mr. Gowdy. No.
2366 Ms. Deterding. Mr. Gowdy votes no.
2367 Mr. Amodei?
2368 Mr. Amodei. No.
2369 Ms. Deterding. Mr. Amodei votes no.
2370 Mr. Labrador?
2371 Mr. Labrador. No.
2372 Ms. Deterding. Mr. Labrador votes no.
2373 Mr. Farenthold?
2374 Mr. Farenthold. No.
2375 Ms. Deterding. Mr. Farenthold votes no.
2376 Mr. Holding?
2377 Mr. Holding. No.
2378 Ms. Deterding. Mr. Holding votes no.
2379 Mr. Collins?
2380 Mr. Collins. No.
2381 Ms. Deterding. Mr. Collins votes no.
2382 Mr. DeSantis?
2383 Mr. DeSantis. No.
2384 Ms. Deterding. Mr. DeSantis votes no.

2385 Mr. Smith of Missouri?

2386 [No response.]

2387 Ms. Deterding. Mr. Conyers?

2388 Mr. Conyers. Aye.

2389 Ms. Deterding. Mr. Conyers votes aye.

2390 Mr. Nadler?

2391 [No response.]

2392 Ms. Deterding. Mr. Scott?

2393 Mr. Scott. Aye.

2394 Ms. Deterding. Mr. Scott votes aye.

2395 Mr. Watt?

2396 [No response.]

2397 Ms. Deterding. Ms. Lofgren?

2398 [No response.]

2399 Ms. Deterding. Ms. Jackson Lee?

2400 Ms. Jackson Lee. Aye.

2401 Ms. Deterding. Ms. Jackson Lee votes aye.

2402 Mr. Cohen?

2403 [No response.]

2404 Ms. Deterding. Mr. Johnson?

2405 Mr. Johnson. Aye.

2406 Ms. Deterding. Mr. Johnson votes aye.

2407 Mr. Pierluisi?

2408 Mr. Pierluisi. Aye.

2409 Ms. Deterding. Mr. Pierluisi votes aye.

2410 Ms. Chu?

2411 Ms. Chu. Aye.

2412 Ms. Deterding. Ms. Chu votes aye.

2413 Mr. Deutch?

2414 Mr. Deutch. Aye.

2415 Ms. Deterding. Mr. Deutch votes aye.

2416 Mr. Gutierrez?

2417 Mr. Gutierrez. Aye.

2418 Ms. Deterding. Mr. Gutierrez votes aye.

2419 Ms. Bass?

2420 Ms. Bass. Aye.

2421 Ms. Deterding. Ms. Bass votes aye.

2422 Mr. Richmond?

2423 [No response.]

2424 Ms. Deterding. Ms. DelBene?

2425 Ms. DelBene. Aye.

2426 Ms. Deterding. Ms. DelBene votes aye.

2427 Mr. Garcia?

2428 Mr. Garcia. Aye.

2429 Ms. Deterding. Mr. Garcia votes aye.

2430 Mr. Jeffries?

2431 Mr. Jeffries. Aye.

2432 Ms. Deterding. Mr. Jefferies votes aye.

2433 Chairman Goodlatte. The gentleman from Virginia, Mr.

2434 Forbes?

2435 Mr. Forbes. No.

2436 Ms. Deterding. Mr. Forbes votes no.

2437 Chairman Goodlatte. The gentleman from Iowa, Mr. King?

2438 Mr. King. No.

2439 Ms. Deterding. Mr. King votes no.

2440 Chairman Goodlatte. The gentleman from Ohio, Mr.

2441 Chabot?

2442 Mr. Chabot. No.

2443 Ms. Deterding. Mr. Chabot votes no.

2444 Chairman Goodlatte. Gentleman from Texas, Mr. Gohmert?

2445 Mr. Gohmert. No.

2446 Ms. Deterding. Mr. Gohmert votes no.

2447 Chairman Goodlatte. The gentleman from Missouri, Mr.

2448 Smith?

2449 Mr. Smith of Missouri. No.

2450 Ms. Deterding. Mr. Smith of Missouri votes no.

2451 Chairman Goodlatte. Are there other members who have

2452 not voted who wish to vote?

2453 The clerk will report.

2454 Ms. Deterding. Mr. Chairman, 12 members voted aye; 20

2455 members voted nay.

2456 Chairman Goodlatte. The amendment is not agreed to.

2457 The gentlewoman from Texas?

2458 Ms. Jackson Lee. Amendment No. 207, No. 10 on the

2459 roster.

2460 Chairman Goodlatte. The clerk will report Jackson Lee

2461 No. 207.

2462 Ms. Deterding. Amendment to H.R. 1772, offered by Ms.

2463 Jackson Lee of Texas. Page 39, line 15, after the period at

2464 the end, add the following --

2465 Chairman Goodlatte. Without objection, the amendment is

2466 considered as read.

2467 [The amendment of Ms. Jackson Lee follows:]

2468

2469 Chairman Goodlatte. And the gentlewoman is recognized
2470 for 5 minutes on her amendment.

2471 Ms. Jackson Lee. Thank you very much, Mr. Chairman.

2472 The bill as currently drafted provides that the only
2473 recourse available to workers who lose their jobs because of
2474 alleged errors of the E-Verification system is to file a
2475 claim under the Federal Torts Claim Act. But people do not
2476 want to clog up our overburdened courts. And it is
2477 challenging to do so, as many of us know who practice in
2478 these courts.

2479 They are really trying to earn a living and to get a
2480 job. That means that they either have to retain counsel,
2481 and it is enormously burdensome.

2482 Please be reminded, again, to my colleague that this is
2483 mandatory E-Verify all over the country. Imagine a
2484 situation which could be resolved if someone who is not
2485 directly involved can take a fresh look at the issue and
2486 help to resolve it.

2487 And that is with the creation of an ombudsman would do
2488 in the case of matters before the Department of Homeland
2489 Security and the Social Security Administration. It would

2490 be the intent, and I hope that it would be shared by many of
2491 the members, that individuals who are ready, willing, and
2492 able to work do not lose their job or have a delay in being
2493 hired because of the computer mixup or some other
2494 administrative snafu.

2495 My amendment establishes an ombudsman to resolve
2496 questions by workers and employees regarding the match
2497 terminations between the SSA system of records and the DHS
2498 E-Verify system, and to make recommendations to fix systemic
2499 problems and to improve the quality of the administration of
2500 the E-Verify system.

2501 This is the best of all worlds. It, in essence,
2502 provides a safe, but independent oversight of this process
2503 to move the process along as to whether or not somebody
2504 could be hired or whether or not they cannot.

2505 The one issue that it does provide is a safety net for
2506 the individual so that they are able to move on to correct
2507 the issue or error. The ombudsman will assist employers and
2508 individuals in resolving problems with the E-Verify system.

2509 When I spoke to employers in my district, those who are
2510 even in the system as we speak, one of the issues is who to

2511 call, how to get a question answered, and the difficulty of
2512 doing so.

2513 The ombudsman will also identify areas in which
2514 individuals and employers encounter problems with the E-
2515 Verify system and make recommendations as to the corrective
2516 actions that should be taken.

2517 A witness at a Judiciary Crime Subcommittee hearing last
2518 April on document fraud testified, according to the Social
2519 Security Administration, 453.7 million Social Security
2520 numbers have been issued. Therefore, there is roughly a 50-
2521 50 chance that a randomly made-up number has already been
2522 officially assigned to someone else. However, even if the
2523 randomly generated number has been issued by the Social
2524 Security Administration, if it is not taken out of the
2525 system when someone begins to fraudulently use it.

2526 Therefore, I would hope that we would support this
2527 legislation.

2528 And to just use an example, a U.S. citizen from Florida
2529 was hired for a well-paying telecommunications position in
2530 October 2010. After she was hired, her employer ran her
2531 information through E-Verify and received a TNC. Her

2532 employer did not explain to her what a TNC meant, nor did he
2533 explain any of her rights.

2534 The worker went to an SSA office to resolve the
2535 situation, but she and the agency could not resolve the
2536 issues.

2537 She tried to communicate this to the employer, but she
2538 ultimately received an FNC and was fired.

2539 After her termination, she went to great lengths to
2540 correct the error but was unable to do so.

2541 She was unemployed for over 3 months, including over the
2542 Christmas holiday, but accepted a new lower paid position.

2543 She legitimately had a right to have that job.

2544 I would ask my colleagues to support a simple process of
2545 an ombudsman for this legislation.

2546 With that, I yield back my time.

2547 Chairman Goodlatte. For what purpose does the gentleman
2548 from Texas seek recognition?

2549 Mr. Smith of Texas. Mr. Chairman, I oppose the
2550 amendment.

2551 Chairman Goodlatte. The gentleman is recognized for 5
2552 minutes.

2553 Mr. Smith of Texas. Thank you, Mr. Chairman.

2554 Mr. Chairman, I oppose the amendment because it creates
2555 an ombudsman within the DHS to "assist in the resolution of
2556 problems encountered by individuals and employers in
2557 correcting erroneous information in the verification
2558 system." But there is already a process in place for
2559 individuals to be able to correct erroneous information
2560 encountered while using the E-Verify system.

2561 Upon the issuance of a tentative nonconfirmation, the
2562 individual is required to contact the Social Security
2563 Administration or the DHS to help clear up any inaccuracy
2564 that may be the cause of the tentative nonconfirmation.

2565 And in the case of the final nonconfirmation being
2566 issued, there is a procedure in place that allows DHS to
2567 work with the individual to clear up any erroneous
2568 information in the system that may have caused the
2569 nonconfirmation.

2570 It is to the benefit of the DHS to clear up any
2571 discrepancies as quickly as possible, and the DHS has been
2572 making strides to do so. As the DHS official testified
2573 during a February Immigration Subcommittee hearing on E-

2574 Verify, "USCIS continues to improve E-Verify accuracy by
2575 increasing the number of databases checked by the system and
2576 making enhancements to reduce the likelihood of employer
2577 typos and other data entry errors."

2578 So I oppose the amendment and urge my colleagues to do
2579 the same. I yield back.

2580 Chairman Goodlatte. The question occurs on the
2581 amendment offered by the gentlewoman from Texas.

2582 All those in favor, respond by saying aye.

2583 Those opposed, no.

2584 In the opinion of the chair, the noes have it.

2585 Ms. Jackson Lee. Roll call vote, Mr. Chairman.

2586 Chairman Goodlatte. A recorded vote is requested.

2587 The clerk will call the roll.

2588 Ms. Deterding. Mr. Goodlatte?

2589 Chairman Goodlatte. No.

2590 Ms. Deterding. Mr. Goodlatte votes no.

2591 Mr. Sensenbrenner?

2592 [No response.]

2593 Ms. Deterding. Mr. Coble?

2594 [No response.]

2595 Ms. Deterding. Mr. Smith of Texas?

2596 Mr. Smith of Texas. No.

2597 Ms. Deterding. Mr. Smith of Texas votes no.

2598 Mr. Chabot?

2599 Mr. Chabot. No.

2600 Ms. Deterding. Mr. Chabot votes no.

2601 Mr. Bachus?

2602 Mr. Bachus. No.

2603 Ms. Deterding. Mr. Bachus votes no.

2604 Mr. Issa?

2605 [No response.]

2606 Ms. Deterding. Mr. Forbes?

2607 Mr. Forbes. No.

2608 Ms. Deterding. Mr. Forbes votes no.

2609 Mr. King?

2610 [No response.]

2611 Ms. Deterding. Mr. Franks?

2612 [No response.]

2613 Ms. Deterding. Mr. Gohmert?

2614 [No response.]

2615 Ms. Deterding. Mr. Jordan?

2616 Mr. Jordan. No.

2617 Ms. Deterding. Mr. Jordan votes no.

2618 Mr. Poe?

2619 Mr. Poe. No.

2620 Ms. Deterding. Mr. Poe votes no.

2621 Mr. Chaffetz?

2622 Mr. Chaffetz. No.

2623 Ms. Deterding. Mr. Chaffetz votes no.

2624 Mr. Marino?

2625 [No response.]

2626 Ms. Deterding. Mr. Gowdy?

2627 Mr. Gowdy. No.

2628 Ms. Deterding. Mr. Gowdy votes no.

2629 Mr. Amodei?

2630 Mr. Amodei. No.

2631 Ms. Deterding. Mr. Amodei votes no.

2632 Mr. Labrador?

2633 [No response.]

2634 Ms. Deterding. Mr. Farenthold?

2635 Mr. Farenthold. Yes.

2636 Ms. Deterding. Mr. Farenthold votes aye.

2637 Mr. Holding?

2638 Mr. Holding. No.

2639 Ms. Deterding. Mr. Holding votes no.

2640 Mr. Collins?

2641 Mr. Collins. No.

2642 Ms. Deterding. Mr. Collins votes no.

2643 Mr. DeSantis?

2644 Mr. DeSantis. No.

2645 Ms. Deterding. Mr. DeSantis votes no.

2646 Mr. Smith of Missouri?

2647 Mr. Smith of Missouri. No.

2648 Ms. Deterding. Mr. Smith of Missouri votes no.

2649 Mr. Conyers?

2650 Mr. Conyers. Aye.

2651 Ms. Deterding. Mr. Conyers votes aye.

2652 Mr. Nadler?

2653 [No response.]

2654 Ms. Deterding. Mr. Scott?

2655 Mr. Scott. Aye.

2656 Ms. Deterding. Mr. Scott votes aye.

2657 Mr. Watt?

2658 [No response.]

2659 Ms. Deterding. Ms. Lofgren?

2660 [No response.]

2661 Ms. Deterding. Ms. Jackson Lee?

2662 Ms. Jackson Lee. Aye.

2663 Ms. Deterding. Ms. Jackson Lee votes aye.

2664 Mr. Cohen?

2665 [No response.]

2666 Ms. Deterding. Mr. Johnson?

2667 [No response.]

2668 Ms. Deterding. Mr. Pierluisi?

2669 Mr. Pierluisi. Aye.

2670 Ms. Deterding. Mr. Pierluisi votes aye.

2671 Ms. Chu?

2672 Ms. Chu. Aye.

2673 Ms. Deterding. Ms. Chu votes aye.

2674 Mr. Deutch?

2675 Mr. Deutch. Aye.

2676 Ms. Deterding. Mr. Deutch votes aye.

2677 Mr. Gutierrez?

2678 Mr. Gutierrez. Aye.

2679 Ms. Deterding. Mr. Gutierrez votes aye.

2680 Ms. Bass?

2681 Ms. Bass. Aye.

2682 Ms. Deterding. Ms. Bass votes aye.

2683 Mr. Richmond?

2684 [No response.]

2685 Ms. Deterding. Ms. DelBene?

2686 Ms. DelBene. Aye.

2687 Ms. Deterding. Ms. DelBene votes aye.

2688 Mr. Garcia?

2689 Mr. Garcia. Aye.

2690 Ms. Deterding. Mr. Garcia votes aye.

2691 Mr. Jeffries?

2692 Mr. Jeffries. Aye.

2693 Ms. Deterding. Mr. Jefferies votes aye.

2694 Mr. Smith of Texas. [Presiding] Are there other members

2695 who wish to vote or change their votes?

2696 The gentleman from Wisconsin, Mr. Sensenbrenner?

2697 Mr. Sensenbrenner. No.

2698 Ms. Deterding. Mr. Sensenbrenner votes no.

2699 Mr. Smith of Texas. The gentleman from North Carolina,

2700 Mr. Coble?

2701 Mr. Coble. No.

2702 Ms. Deterding. Mr. Coble votes no.

2703 Mr. Smith of Texas. The gentleman from Arizona, Mr.

2704 Franks?

2705 Mr. Franks. No.

2706 Ms. Deterding. Mr. Franks votes no.

2707 Mr. Smith of Texas. The gentleman from Idaho, Mr.

2708 Labrador?

2709 Mr. Labrador. No.

2710 Ms. Deterding. Mr. Labrador votes no.

2711 Mr. Smith of Texas. The gentleman from Texas, Mr.

2712 Gohmert?

2713 Mr. Gohmert. No.

2714 Ms. Deterding. Mr. Gohmert votes no.

2715 Mr. Smith of Texas. The gentleman from Pennsylvania?

2716 Mr. Marino. No.

2717 Ms. Deterding. Mr. Marino votes no.

2718 Mr. Smith of Texas. The clerk will report.

2719 Ms. Deterding. Mr. Chairman, 12 members voted aye; 20

2720 members voted nay.

2721 Mr. Smith of Texas. The amendment is not agreed to.

2722 Are there any other amendments?

2723 Ms. Jackson Lee. Mr. Chairman?

2724 Mr. Smith of Texas. The gentlewoman from Texas is
2725 recognized.

2726 Ms. Jackson Lee. I have an amendment, No. 15 on the
2727 roster, 213.

2728 Mr. Smith of Texas. The clerk will report the
2729 amendment.

2730 Ms. Deterding. Amendment to H.R. 1772, offered by Ms.
2731 Jackson Lee of Texas.

2732 Mr. Smith of Texas. This is No. 15, Jackson Lee, is
2733 that correct?

2734 Ms. Jackson Lee. Yes.

2735 Ms. Deterding. Page 40, line 18. Insert after this
2736 paragraph, the following --

2737 Ms. Jackson Lee. I ask the amendment be considered as
2738 read.

2739 Mr. Smith of Texas. Without objection, the amendment
2740 will be considered as read.

2741 [The amendment of Ms. Jackson Lee follows:]

2742

2743 Mr. Smith of Texas. The gentlewoman from Texas is
2744 recognized to explain her amendment.

2745 Ms. Jackson Lee. I thank the gentleman very much.

2746 I think every time we offer an amendment on this side of
2747 the aisle, as I heard Mr. Conyers say, we are seeking
2748 bipartisanship on some very tough legislative mandates that
2749 are going to be in place for a massive program. I want to
2750 emphasize again, this is for every single employer in the
2751 United States, graduated over large, medium, and small.

2752 My amendment authorizes selective employer audits by an
2753 independent entity, such as the Department of Homeland
2754 Security Office of Civil Rights and Civil Liberties that
2755 includes the use of testers, authorizes periodic audits of
2756 employers, for which the special counsel or the OCRCL have
2757 received information or complaints that are actual charges
2758 of citizenship, national origin discrimination, or document
2759 abuse.

2760 It requires reports containing the findings of the
2761 audit.

2762 Again, this amendment provides a construct that all of
2763 us should adhere to, or at least support on the basis of

2764 making sure there is a sense of purity, there is a fairness,
2765 and that there is some opportunity for relief under this
2766 program.

2767 Given the lack of any real penalties in H.R. 1772 for
2768 misuse of E-Verify, strong government oversight is necessary
2769 to protect against discrimination and abuse, and to ensure
2770 that American citizens and noncitizens authorized to work do
2771 not lose their jobs and job offers because of employer and
2772 database errors.

2773 In my previous discussion, I mentioned an individual who
2774 did lose her job for a period of time through the Christmas
2775 holiday.

2776 So selective employer audits will help ensure employer
2777 compliance with the program rules and protect workers from
2778 adverse employment.

2779 1772 allows prescreening and re-verification and
2780 provides no penalties to ensure that workers are not
2781 selectively verified based upon national origin, appearance,
2782 or any other improper grounds.

2783 The very least the bill can do is guarantee these quasi
2784 independent entities, such as the Department of Homeland

2785 Security Office of Civil Liberties and Civil Rights perform
2786 regular oversight through such audits.

2787 I would hope that we would have the ability for all of
2788 us to be serious about what we are doing and, therefore,
2789 come together around protecting authorized workers from
2790 being wrongfully terminated based upon tentative
2791 nonconfirmation, TNCs.

2792 This amendment is necessary to provide added strength to
2793 H.R. 1772.

2794 I ask my colleagues to be kind enough to support this
2795 amendment.

2796 Mr. Smith of Texas. Thank you, Ms. Jackson Lee.

2797 I will recognize myself in opposition to the amendment.

2798 First, it creates additional authorities for the
2799 Department of Homeland Security Office for Civil Rights and
2800 Civil Liberties, CRCL. But the Department of Justice
2801 Special Counsel, OSC, for unfair immigration-related
2802 employment practices already conducts investigations aimed
2803 at the prevention of immigration-related discrimination by
2804 employers.

2805 This amendment is a solution in search of a problem.

2806 In addition, the amendment validates bad-faith behavior
2807 that will cost businesses scarce time and millions of
2808 dollars. Specifically, the amendment requires CRCL to
2809 conduct annual audits of E-Verify use. These audits include
2810 the use of testers to determine whether employers use E-
2811 Verify properly, the use of random audits to determine
2812 employer compliance with civil liberties and civil rights
2813 protections, and periodic audits of employers for which CRCL
2814 and OSC receives complaints.

2815 OSC was created by the Immigration Reform and Control
2816 Act of 1986 specifically to investigate charges and issue
2817 complaints under section 270(4)(b) of the Immigration and
2818 Nationality Act.

2819 Section 270(4)(b) sets out prohibitions on "unfair
2820 immigration-related employment practices." So OSC is
2821 already tasked with doing exactly what the goal of this
2822 amendment accomplishes, namely prosecuting immigration-
2823 related discrimination violations.

2824 But this amendment goes one step further to burden
2825 businesses. It requires the use of testers to check if
2826 employers are using the verification system properly. This

2827 is a jobs-killing provision. And that is the last thing we
2828 need when there are millions of Americans who are without
2829 jobs.

2830 According to the Equal Employment Opportunity
2831 Commission, testers are individuals who apply for employment
2832 which they do not intend to accept for the sole purpose of
2833 uncovering unlawful discriminatory hiring practices. The
2834 EEOC further States that testers are matched to appear
2835 equally qualified with respect to their employment history,
2836 educational background, references, and other relevant
2837 factors.

2838 So a tester applies for a job and the employer takes the
2839 time to review the tester's resume, check their references,
2840 interview them, and offer them the job. In the meantime,
2841 the employer stops advertising the job opening and reviewing
2842 other applicants' information. But the tester then refuses
2843 the job offer, and the employer has wasted precious time,
2844 money, and other resources on an individual who never
2845 intended to take the job in the first place. How is this
2846 fair to employers who just want to stay in business in this
2847 tough economy and meet the payroll for their employees?

2848 Current law already provides the means to ensure
2849 employer compliance with E-Verify not only through the OSC
2850 but also through the Department of Homeland Security, which
2851 is specifically tasked with enforcement of immigration laws,
2852 including those related to the current E-Verify system and
2853 the Legal Workforce Act.

2854 The point of the Legal Workforce Act is to put Americans
2855 back to work. There is no room in the bill for any
2856 provision that has the opposite effect. So I oppose the
2857 amendment and urge my colleagues to do the same and yield
2858 back the balance of my time.

2859 Are there other members who wish to be heard on this
2860 amendment?

2861 The gentleman from Illinois, Mr. Gutierrez, is
2862 recognized.

2863 Mr. Gutierrez. Yes. Notwithstanding the very able
2864 comments of the Chairman, I still think that we should
2865 proceed with this amendment, and I always think we should
2866 have good abilities for checks and balances to make sure,
2867 especially such a -- I mean, I am for E-Verify, but I want
2868 to make sure that such a huge undertaking by the Federal

2869 Government has outside venues of checking.

2870 I see the gentlelady, Ms. Jackson Lee, would like me to
2871 yield?

2872 Ms. Jackson Lee. Mr. Gutierrez, thank you very much,
2873 and thank you for your insight. And I want to remind
2874 members, to make it very clear, this will not be a fishing
2875 expedition. This is based upon having received information
2876 or complaints and/or actual charges of citizenship or
2877 natural origin discrimination.

2878 Let me just say, my friends, in a very simple inquiry,
2879 is it too much to ask that whatever processes we put in
2880 place, whether it is individual bills or comprehensive
2881 immigration reform, that we do not have the construct or the
2882 structures or the matrix that includes and protects civil
2883 liberties and civil rights? As indicated with a system this
2884 weighted with so many inputs, you can almost predict that
2885 there will be opportunities for the denying of an individual
2886 based on misinformation. If there are such complaints that
2887 come through, that is all we are asking for this process to
2888 investigate. Are our liberties so insignificant that we
2889 cannot add to legislation that added measure of protection?

2890 I ask my colleagues to support this amendment. Again,
2891 it is not a fishing expedition. It goes on the basis of
2892 individuals who have legitimate complaints.

2893 Let me say this. Anyone who is engaged in fraud is not
2894 going to put themselves forward for an investigation. They
2895 will certainly go away quietly in most instances, because
2896 when you ask for an investigation, obviously you are
2897 interested in getting the truth because you have been
2898 offended with the lack of truth.

2899 I ask my colleagues to support this amendment. I thank
2900 the gentleman. I yield back.

2901 Mr. Smith of Texas. Thank you, Ms. Jackson Lee.

2902 Are there any other members who wish to be heard?

2903 If not, the question is on the Jackson Lee amendment.

2904 All in favor, say aye.

2905 Opposed, nay.

2906 A roll call has been requested, and the Clerk will call
2907 the roll.

2908 Ms. Deterding. Mr. Goodlatte?

2909 [No response.]

2910 Ms. Deterding. Mr. Sensenbrenner?

2911 [No response.]

2912 Ms. Deterding. Mr. Coble?

2913 [No response.]

2914 Ms. Deterding. Mr. Smith of Texas?

2915 Mr. Smith of Texas. No.

2916 Ms. Deterding. Mr. Smith of Texas votes no.

2917 Mr. Chabot?

2918 Mr. Chabot. No.

2919 Ms. Deterding. Mr. Chabot votes no.

2920 Mr. Bachus?

2921 [No response.]

2922 Ms. Deterding. Mr. Issa?

2923 [No response.]

2924 Ms. Deterding. Mr. Forbes?

2925 Mr. Forbes. No.

2926 Ms. Deterding. Mr. Forbes votes no.

2927 Mr. King?

2928 [No response.]

2929 Ms. Deterding. Mr. Franks?

2930 Mr. Franks. No.

2931 Ms. Deterding. Mr. Franks votes no.

2932 Mr. Gohmert?

2933 [No response.]

2934 Ms. Deterding. Mr. Jordan?

2935 Mr. Jordan. No.

2936 Ms. Deterding. Mr. Jordan votes no.

2937 Mr. Poe?

2938 Mr. Poe. No

2939 Ms. Deterding. Mr. Poe votes no.

2940 Mr. Chaffetz?

2941 [No response.]

2942 Ms. Deterding. Mr. Marino?

2943 Mr. Marino. No.

2944 Ms. Deterding. Mr. Marino votes no.

2945 Mr. Gowdy?

2946 Mr. Gowdy. No.

2947 Ms. Deterding. Mr. Gowdy votes no.

2948 Mr. Amodei?

2949 Mr. Amodei. No.

2950 Ms. Deterding. Mr. Amodei votes no.

2951 Mr. Labrador?

2952 Mr. Labrador. No.

2953 Ms. Deterding. Mr. Labrador votes no.

2954 Mr. Farenthold?

2955 Mr. Farenthold. No.

2956 Ms. Deterding. Mr. Farenthold votes no.

2957 Mr. Holding?

2958 Mr. Holding. No.

2959 Ms. Deterding. Mr. Holding votes no.

2960 Mr. Collins?

2961 Mr. Collins. No.

2962 Ms. Deterding. Mr. Collins votes no.

2963 Mr. DeSantis?

2964 Mr. DeSantis. No.

2965 Ms. Deterding. Mr. DeSantis votes no.

2966 Mr. Smith of Missouri?

2967 Mr. Smith of Missouri. No.

2968 Ms. Deterding. Mr. Smith of Missouri votes no.

2969 Mr. Conyers?

2970 Mr. Conyers. Aye.

2971 Ms. Deterding. Mr. Conyers votes aye.

2972 Mr. Nadler?

2973 [No response.]

2974 Ms. Deterding. Mr. Scott?

2975 Mr. Scott. Aye.

2976 Ms. Deterding. Mr. Scott votes aye.

2977 Mr. Watt?

2978 [No response.]

2979 Ms. Deterding. Ms. Lofgren?

2980 [No response.]

2981 Ms. Deterding. Ms. Jackson Lee?

2982 Ms. Jackson Lee. Aye.

2983 Ms. Deterding. Ms. Jackson Lee votes aye.

2984 Mr. Cohen?

2985 [No response.]

2986 Ms. Deterding. Mr. Johnson?

2987 [No response.]

2988 Ms. Deterding. Mr. Pierluisi?

2989 Mr. Pierluisi. Aye.

2990 Ms. Deterding. Mr. Pierluisi votes aye.

2991 Ms. Chu?

2992 Ms. Chu. Aye.

2993 Ms. Deterding. Ms. Chu votes aye.

2994 Mr. Deutch?

2995 Mr. Deutch. Aye.

2996 Ms. Deterding. Mr. Deutch votes aye.

2997 Mr. Gutierrez?

2998 Mr. Gutierrez. Aye.

2999 Ms. Deterding. Mr. Gutierrez votes aye.

3000 Ms. Bass?

3001 [No response.]

3002 Ms. Deterding. Mr. Richmond?

3003 Mr. Richmond. Aye.

3004 Ms. Deterding. Mr. Richmond votes aye.

3005 Ms. DelBene?

3006 Ms. DelBene. Aye.

3007 Ms. Deterding. Ms. DelBene votes aye.

3008 Mr. Garcia?

3009 Mr. Garcia. Yes, aye.

3010 Ms. Deterding. Mr. Garcia votes aye.

3011 Mr. Jeffries?

3012 Mr. Jeffries. Aye.

3013 Ms. Deterding. Mr. Jeffries votes aye.

3014 Chairman Goodlatte. [Presiding] How am I recorded?

3015 Ms. Deterding. Not recorded, sir.

3016 Chairman Goodlatte. Votes no.

3017 Ms. Deterding. Mr. Goodlatte votes no.

3018 Chairman Goodlatte. The gentleman from California, Mr.

3019 Issa?

3020 Mr. Issa. No.

3021 Ms. Deterding. Mr. Issa --

3022 Chairman Goodlatte. The gentleman from Alabama, Mr.

3023 Bachus?

3024 Mr. Bachus. No.

3025 Ms. Deterding. Mr. Bachus votes no.

3026 Chairman Goodlatte. The gentleman from Texas, Mr.

3027 Gohmert.

3028 Mr. Gohmert. No.

3029 Ms. Deterding. Mr. Gohmert votes no.

3030 Chairman Goodlatte. The gentleman from Wisconsin?

3031 Mr. Sensenbrenner. No.

3032 Ms. Deterding. Mr. Sensenbrenner votes no.

3033 Chairman Goodlatte. The gentlewoman from California,

3034 Ms. Bass?

3035 Ms. Bass. Aye.

3036 Ms. Deterding. Ms. Bass votes aye.

3037 Chairman Goodlatte. The gentleman from North Carolina,
3038 Mr. Coble?

3039 Mr. Coble. No.

3040 Ms. Deterding. Mr. Coble votes no.

3041 Chairman Goodlatte. Has every member voted who wishes
3042 to vote?

3043 [No response.]

3044 Chairman Goodlatte. The clerk will report.

3045 Ms. Jackson Lee. Mr. Chairman, how am I recorded?

3046 Ms. Deterding. Ms. Jackson Lee votes aye.

3047 Mr. Chairman, 12 members voted aye, 21 members voted
3048 nay.

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

3051 Ms. Chu. Mr. Chairman, I have an amendment at the desk.

3052 Chairman Goodlatte. The clerk will report the amendment
3053 from the gentlewoman from California.

3054 Ms. Chu. And I would like to ask if I could take
3055 Amendment 18 and 19 and do 17 after them, if that is okay?

3056 Chairman Goodlatte. Sure. You want to consider 18 and
3057 19, en bloc?

3058 Ms. Chu. No.

3059 Chairman Goodlatte. Oh, each separately.

3060 Ms. Chu. Yes, each separately.

3061 Chairman Goodlatte. Okay. The clerk will report Chu

3062 Amendment 18.

3063 Ms. Deterding. Amendment to H.R. 1772, offered by Ms.

3064 Chu of California, page 48, line 12 --

3065 Chairman Goodlatte. Without objection, the amendment

3066 will be considered as read.

3067 [The amendment of Ms. Chu follows:]

3068

3069 Chairman Goodlatte. And the gentlewoman is recognized
3070 for 5 minutes on her amendment.

3071 Ms. Chu. Mr. Chair, the underlying bill significantly
3072 increases the penalties on employers who do not use the
3073 verification program or misrepresent information, but it
3074 does not protect workers from unfair immigration-related
3075 employment practices by similarly raising those penalties.
3076 My amendment makes sure that both sets of penalties are
3077 increased equally.

3078 We already know that E-Verify will tempt people to
3079 discriminate even if there is no malice behind it. In
3080 Georgia, where E-Verify will be mandatory for all employers
3081 with more than 10 employees starting next week, already
3082 workers are being turned away just because of their national
3083 origin. The Atlanta quoted a chef who refused to be named
3084 in the paper as saying, "I recently put out an ad for a cook
3085 and I got about 50 applications. I threw out all the ones
3086 that looked to be Mexican because we knew this law was
3087 coming down and we didn't want to deal with it. I don't
3088 know if these folks are legal or not, but I just didn't want
3089 to even have to think about it."

3090 Now, under current law, this type of discrimination
3091 based on national origin or citizenship is prohibited. But
3092 without an increase in penalties for employers who might
3093 turn away applicants, and we must make sure that the law
3094 will be enforced so that there is strong disincentive
3095 against discrimination. As we implement E-Verify, I cannot
3096 help but worry that such discrimination will happen more
3097 frequently. In the Georgia case, all of those applicants
3098 could have been legal workers or even American citizens.
3099 Without my amendment, we cannot be sure that the bill will
3100 not increase discrimination and make it harder for legal
3101 workers, including U.S. citizens, to find work in this tough
3102 economy.

3103 This bill as written will hurt U.S. citizen workers who
3104 are just trying to find a job and make a living for their
3105 families. My amendment will go a long way to ensuring
3106 employer accountability and protect U.S. citizens from
3107 discrimination.

3108 Thank you. I yield back.

3109 Chairman Goodlatte. The Chair thanks the gentlewoman
3110 and recognizes himself in opposition to the amendment. It

3111 increases penalties for unfair immigration-related
3112 employment practices under 274(b) of the Immigration and
3113 Nationality Act. It is a common complaint of employers that
3114 the Office of Special Counsel for Immigration-related Unfair
3115 Employment Practices is overzealous in their pursuit of
3116 claims against employers for use of discriminatory tactics,
3117 even in cases in which the employer acted inadvertently and
3118 without malice. Under this amendment, the penalties for
3119 such violations would be greatly increased, and therefore I
3120 must urge my colleagues to oppose the amendment.

3121 The question occurs on the amendment offered by the
3122 gentlewoman from California.

3123 All those in favor, respond by saying aye.

3124 Those opposed, no.

3125 In the opinion of the Chair, the noes have it. The
3126 amendment is not agreed to.

3127 Ms. Chu. I ask for a recorded vote.

3128 Chairman Goodlatte. A recorded vote is requested, and
3129 the Clerk will call the roll.

3130 Ms. Deterding. Mr. Goodlatte?

3131 Chairman Goodlatte. No.

3132 Ms. Deterding. Mr. Goodlatte votes no.
3133 Mr. Sensenbrenner?
3134 Mr. Sensenbrenner. No.
3135 Ms. Deterding. Mr. Sensenbrenner votes no.
3136 Mr. Coble?
3137 Mr. Coble. No.
3138 Ms. Deterding. Mr. Coble votes no.
3139 Mr. Smith of Texas?
3140 Mr. Smith of Texas. No.
3141 Ms. Deterding. Mr. Smith of Texas votes no.
3142 Mr. Chabot?
3143 Mr. Chabot. No.
3144 Ms. Deterding. Mr. Chabot votes no.
3145 Mr. Bachus?
3146 [No response.]
3147 Ms. Deterding. Mr. Issa?
3148 Mr. Issa. No.
3149 Ms. Deterding. Mr. Issa votes no.
3150 Mr. Forbes?
3151 Mr. Forbes. No.
3152 Ms. Deterding. Mr. Forbes votes no.

3153 Mr. King?

3154 [No response.]

3155 Ms. Deterding. Mr. Franks?

3156 Mr. Franks. No.

3157 Ms. Deterding. Mr. Franks votes no.

3158 Mr. Gohmert?

3159 [No response.]

3160 Ms. Deterding. Mr. Jordan?

3161 Mr. Jordan. No.

3162 Ms. Deterding. Mr. Jordan votes no.

3163 Mr. Poe?

3164 [No response.]

3165 Ms. Deterding. Mr. Chaffetz?

3166 [No response.]

3167 Ms. Deterding. Mr. Marino?

3168 Mr. Marino. No.

3169 Ms. Deterding. Mr. Marino votes no.

3170 Mr. Gowdy?

3171 Mr. Gowdy. No.

3172 Ms. Deterding. Mr. Gowdy votes no.

3173 Mr. Amodei?

3174 Mr. Amodei. No.

3175 Ms. Deterding. Mr. Amodei votes no.

3176 Mr. Labrador?

3177 Mr. Labrador. No.

3178 Ms. Deterding. Mr. Labrador votes no.

3179 Mr. Farenthold?

3180 Mr. Farenthold. No.

3181 Ms. Deterding. Mr. Farenthold votes no.

3182 Mr. Holding?

3183 Mr. Holding. No.

3184 Ms. Deterding. Mr. Holding votes no.

3185 Mr. Collins?

3186 Mr. Collins. No.

3187 Ms. Deterding. Mr. Collins votes no.

3188 Mr. DeSantis?

3189 Mr. DeSantis. No.

3190 Ms. Deterding. Mr. DeSantis votes no.

3191 Mr. Smith of Missouri?

3192 [No response.]

3193 Ms. Deterding. Mr. Conyers?

3194 Mr. Conyers. Aye.

3195 Ms. Deterding. Mr. Conyers votes aye.
3196 Mr. Nadler?
3197 [No response.]
3198 Ms. Deterding. Mr. Scott?
3199 Mr. Scott. Aye.
3200 Ms. Deterding. Mr. Scott votes aye.
3201 Mr. Watt?
3202 [No response.]
3203 Ms. Deterding. Ms. Lofgren?
3204 [No response.]
3205 Ms. Deterding. Ms. Jackson Lee?
3206 [No response.]
3207 Ms. Deterding. Mr. Cohen?
3208 [No response.]
3209 Ms. Deterding. Mr. Johnson?
3210 [No response.]
3211 Ms. Deterding. Mr. Pierluisi?
3212 Mr. Pierluisi. Aye.
3213 Ms. Deterding. Mr. Pierluisi votes aye.
3214 Ms. Chu?
3215 Ms. Chu. Aye.

3216 Ms. Deterding. Ms. Chu votes aye.

3217 Mr. Deutch?

3218 Mr. Deutch. Aye.

3219 Ms. Deterding. Mr. Deutch votes aye.

3220 Mr. Gutierrez?

3221 Mr. Gutierrez. Yes.

3222 Ms. Deterding. Mr. Gutierrez votes aye.

3223 Ms. Bass?

3224 Ms. Bass. Aye.

3225 Ms. Deterding. Ms. Bass votes aye.

3226 Mr. Richmond?

3227 Mr. Richmond. Aye.

3228 Ms. Deterding. Mr. Richmond votes aye.

3229 Ms. DelBene?

3230 Ms. DelBene. Aye.

3231 Ms. Deterding. Ms. DelBene votes aye.

3232 Mr. Garcia?

3233 Mr. Garcia. Aye.

3234 Ms. Deterding. Mr. Garcia votes aye.

3235 Mr. Jeffries?

3236 Mr. Jeffries. Aye.

3237 Ms. Deterding. Mr. Jeffries votes aye.

3238 Ms. Jackson Lee. Mr. Chairman?

3239 Chairman Goodlatte. The gentlewoman from Texas.

3240 Ms. Jackson Lee. Aye.

3241 Ms. Deterding. Ms. Jackson Lee votes aye.

3242 Chairman Goodlatte. The gentleman from Alabama.

3243 Mr. Bachus. No.

3244 Ms. Deterding. Mr. Bachus votes no.

3245 Chairman Goodlatte. The gentleman from Iowa.

3246 Mr. King. No.

3247 Ms. Deterding. Mr. King votes no.

3248 Chairman Goodlatte. The gentleman from Missouri.

3249 Mr. Smith of Missouri. No.

3250 Ms. Deterding. Mr. Smith of Missouri votes no.

3251 Chairman Goodlatte. Has every member voted who wishes

3252 to vote?

3253 [No response.]

3254 Chairman Goodlatte. The clerk will report.

3255 Ms. Deterding. Mr. Chairman, 12 members voted aye, 20

3256 members voted nay.

3257 Chairman Goodlatte. And the amendment is not agreed to.

3258 Are there further amendments?

3259 Ms. Chu. Yes. I would like to have Amendments 19 and
3260 17 considered, en bloc.

3261 Chairman Goodlatte. Without objection, the Clerk will
3262 report Amendments 19 and 17, en bloc.

3263 Ms. Deterding. Amendment to H.R. 1772, offered by Ms.
3264 Chu of California, page 61, insert after line 11 the
3265 following, Section 14 annual report required --

3266 Chairman Goodlatte. Without objection, both amendments
3267 will be considered as read.

3268 [The amendments of Ms. Chu follow:]

3269

3270 Chairman Goodlatte. And the gentlewoman from California
3271 is recognized for 5 minutes on her amendments.

3272 Ms. Chu. I will start with Amendment 19. This
3273 amendment would eliminate the cost for small businesses to
3274 implement the new burdensome government regulations created
3275 under this bill and instead have the government foot the
3276 bill for immigration enforcement, just as it does today.

3277 H.R. 1775 forces small businesses to act as de facto law
3278 enforcement officers for the Federal Government at a time
3279 when they are just trying to get ahead during this tough
3280 economy. The loss of jobs will be staggering as employers
3281 substitute machinery for employees or out-source employment
3282 to avoid the vexations and costs of compliance.

3283 The first year that this bill goes into effect, it could
3284 cost a single small business as much as \$24,500 to get this
3285 onerous program up and running. Mom and pop business owners
3286 will need to take time off from work to sign the appropriate
3287 memorandum of understanding with the government. Management
3288 time will be diverted to training. They will have to
3289 memorize the 88-page -- yes, 88-page -- user manual for
3290 employers that will tell them how to comply, and then there

3291 is the three-hour-long tutorial and the knowledge test that
3292 they will have to pass just to administer the program.

3293 Small businesses will be forced to do mounds of
3294 additional paperwork to comply with the regulations. They
3295 will need armies of expensive attorneys to safeguard against
3296 any unintended mistakes, and they will lose productive hours
3297 while employees take time to get their records fixed; and,
3298 in the case of wrongful terminations, lose highly qualified
3299 trained employees altogether.

3300 All told, according to a study by Bloomberg Government,
3301 E-Verify will cost all employers \$2.7 billion per year, with
3302 small businesses bearing 96 percent of these costs, a
3303 whopping \$2.6 billion. According to Bloomberg, the cost to
3304 businesses to use E-Verify with a new hire is twice as high
3305 for businesses with fewer than 500 employees as for big
3306 businesses, and that is because they don't already have big
3307 HR departments with dedicated personnel who can understand
3308 laws and fill out paperwork. Today, many larger businesses
3309 hire private law firms to handle E-Verify requirements.
3310 Small businesses just could not absorb that cost.

3311 As a member of the Small Business Committee, I just

3312 don't think it makes sense to add an expensive and
3313 burdensome requirement on our small businesses during these
3314 tough economic times. By requiring the Federal Government
3315 to help small businesses defray the costs of implementing E-
3316 Verify, my amendment will relieve some of the crushing costs
3317 of this mandatory E-Verify. We should make it easier for
3318 small businesses to grow and hire new workers, not make it
3319 more onerous.

3320 Thank you. I yield back.

3321 Chairman Goodlatte. For what purpose does the gentleman
3322 from Texas seek recognition?

3323 Mr. Smith of Texas. Mr. Chairman, I oppose the
3324 amendments.

3325 Chairman Goodlatte. The gentleman is recognized for 5
3326 minutes.

3327 Mr. Smith of Texas. Thank you, Mr. Chairman. Let me
3328 address Amendment 19 first, as the gentlewoman from
3329 California did. This amendment creates a grant program that
3330 purports to meet, in my view, an undemonstrated need.
3331 Fortunately, the facts are indisputable and show that an E-
3332 Verify requirement will not burden small businesses.

3333 Sixty-one percent of all businesses in America employ
3334 fewer than five people. Ninety-five percent of all
3335 employees in America employ fewer than 100 workers, and many
3336 are not hiring in today's economy. So the smallest
3337 businesses are only slightly impacted by the E-Verify
3338 requirements since it applies to new hires only. Companies
3339 with 10,000 or more employees are only 1 percent of American
3340 businesses, but they employ about 27 percent of the
3341 workforce. These large companies, not small businesses, are
3342 the ones doing most of the hiring, if any, in this economy.

3343 Opponents of a national E-Verify requirement often cite
3344 a Bloomberg Government study that claims an E-Verify
3345 requirement would cost small businesses \$2.6 billion, but
3346 that study is flawed. It relies on job turnover data that
3347 includes all changes of employment within a company, not
3348 just new hires. This is significant since an E-Verify
3349 requirement will, for the most part, only apply to new
3350 hires. Those who cite the Bloomberg Government study fail
3351 to also note that the 2009 Westat study on which Bloomberg
3352 relied actually said that 75 percent of all employers found
3353 that there were no costs associated with using E-Verify, no

3354 cost. So E-Verify use is not a significant cost for small
3355 businesses, and there is no need for the grant program
3356 created by this amendment.

3357 In regard to Amendment 17, in my view, from the outset,
3358 it is biased in its assumption that H.R. 1772's requirements
3359 will place a "financial burden on small businesses." This
3360 is simply, in my view, an incorrect assumption. Employers
3361 have noted time and time again that using E-Verify costs
3362 them little to nothing. The 2008 Westat study revealed that
3363 76 percent of responding employers stated that the cost was
3364 zero, as I mentioned a while ago, and the cost would be even
3365 less today.

3366 The system is free to use. So I could perhaps see a
3367 concern on the part of large businesses that have thousands
3368 of employees since the company would likely need to hire an
3369 HR person to run E-Verify queries. But smaller businesses
3370 which inherently have fewer employees have less reason for
3371 concern.

3372 In addition, in the amendment, the first report is
3373 required within 180 days of H.R. 1772's enactment. But how
3374 can this provide an accurate assessment when small

3375 businesses are not even required to use the system until 24
3376 months after the date of enactment?

3377 The amendment makes a biased assumption from the outset,
3378 so I urge my colleagues to oppose it, and I will yield back.

3379 Mr. Jeffries. Mr. Chairman?

3380 Chairman Goodlatte. Who seeks recognition?

3381 Mr. Jeffries. Move to strike the last word?

3382 Chairman Goodlatte. The gentleman from New York is
3383 recognized for 5 minutes.

3384 Mr. Jeffries. Thank you, Mr. Chair. Small businesses
3385 certainly are an important engine of economic growth and
3386 employment for our economy. We are still in the midst of a
3387 fragile economic recovery. We have to take care to make
3388 sure that we do all that we can to ensure a robust existence
3389 and continued vitality of our small businesses. And so I
3390 support the amendments that have been offered by
3391 Congresswoman Chu, and I yield the balance of my time to
3392 her.

3393 Ms. Chu. Thank you, Mr. Jeffries. I did want to
3394 clarify Amendment 17, which simply requires an annual report
3395 on the financial burden of E-Verify compliance on small

3396 business. I think that the public needs to understand the
3397 true cost of this implementation. Even if we can't agree on
3398 my previous amendment, number 19, the government should be
3399 responsible for these costs, and we should have accurate
3400 information, which could only help lawmakers and the
3401 administration as we move forward.

3402 E-Verify will greatly impact small business. Take Ken
3403 Nagle, a small business owner in Phoenix, Arizona. When he
3404 tried to hire his own daughter in his restaurant, E-Verify
3405 said that she wasn't authorized to work even though she was
3406 a U.S. citizen. Cleaning up these errors will cost many
3407 businesses a lot of money and heartache. In 2008, Intel,
3408 the computer chipmaker, put its employees through E-Verify,
3409 and 12 percent were declared ineligible. A firm
3410 representative told officials that resolving the errors took
3411 a significant investment of time and money, lost
3412 productivity, and many hours of confusion, worry, and upset,
3413 and that is for Intel, a global tech giant with the know-how
3414 and resources to address these problems. Your mom and pop
3415 market would not be able to keep up.

3416 It is critical that we have full and accurate

3417 information about how this legislation will impact small
3418 business, and that is why also I urge support of Amendment
3419 17, and I yield back.

3420 Chairman Goodlatte. The Chair thanks the gentlewoman.

3421 The question occurs on the gentlewoman's two amendments
3422 en bloc.

3423 All those in favor, respond by saying aye.

3424 Those opposed, no.

3425 In the opinion of the Chair, the noes have it, and the
3426 amendments are not agreed to.

3427 A recorded vote is requested, and the Clerk will call
3428 the roll.

3429 Ms. Deterding. Mr. Goodlatte?

3430 Chairman Goodlatte. No.

3431 Ms. Deterding. Mr. Goodlatte votes no.

3432 Mr. Sensenbrenner?

3433 Mr. Sensenbrenner. No.

3434 Ms. Deterding. Mr. Sensenbrenner votes no.

3435 Mr. Coble?

3436 Mr. Coble. No.

3437 Ms. Deterding. Mr. Coble votes no.

3438 Mr. Smith of Texas?

3439 Mr. Smith of Texas. No.

3440 Ms. Deterding. Mr. Smith of Texas votes no.

3441 Mr. Chabot?

3442 [No response.]

3443 Ms. Deterding. Mr. Bachus?

3444 Mr. Bachus. No.

3445 Ms. Deterding. Mr. Bachus votes no.

3446 Mr. Issa?

3447 Mr. Issa. No.

3448 Ms. Deterding. Mr. Issa votes no.

3449 Mr. Forbes?

3450 Mr. Forbes. No.

3451 Ms. Deterding. Mr. Forbes votes no.

3452 Mr. King?

3453 [No response.]

3454 Ms. Deterding. Mr. Franks?

3455 Mr. Franks. No.

3456 Ms. Deterding. Mr. Franks votes no.

3457 Mr. Gohmert?

3458 Mr. Gohmert. No.

3459 Ms. Deterding. Mr. Gohmert votes no.
3460 Mr. Jordan?
3461 Mr. Jordan. No.
3462 Ms. Deterding. Mr. Jordan votes no.
3463 Mr. Poe?
3464 [No response.]
3465 Ms. Deterding. Mr. Chaffetz?
3466 Mr. Chaffetz. No.
3467 Ms. Deterding. Mr. Chaffetz votes no.
3468 Mr. Marino?
3469 Mr. Marino. No.
3470 Ms. Deterding. Mr. Marino votes no.
3471 Mr. Gowdy?
3472 Mr. Gowdy. No.
3473 Ms. Deterding. Mr. Gowdy votes no.
3474 Mr. Amodei?
3475 [No response.]
3476 Ms. Deterding. Mr. Labrador?
3477 Mr. Labrador. No.
3478 Ms. Deterding. Mr. Labrador votes no.
3479 Mr. Farenthold?

3480 Mr. Farenthold. No.

3481 Ms. Deterding. Mr. Farenthold votes no.

3482 Mr. Holding?

3483 Mr. Holding. No.

3484 Ms. Deterding. Mr. Holding votes no.

3485 Mr. Collins?

3486 Mr. Collins. No.

3487 Ms. Deterding. Mr. Collins votes no.

3488 Mr. DeSantis?

3489 Mr. DeSantis. No.

3490 Ms. Deterding. Mr. DeSantis votes no.

3491 Mr. Smith of Missouri?

3492 Mr. Smith of Missouri. No.

3493 Ms. Deterding. Mr. Smith of Missouri votes no.

3494 Mr. Conyers?

3495 Mr. Conyers. Aye.

3496 Ms. Deterding. Mr. Conyers votes aye.

3497 Mr. Nadler?

3498 [No response.]

3499 Ms. Deterding. Mr. Scott?

3500 Mr. Scott. Aye.

3501 Ms. Deterding. Mr. Scott votes aye.

3502 Mr. Watt?

3503 [No response.]

3504 Ms. Deterding. Ms. Lofgren?

3505 [No response.]

3506 Ms. Deterding. Ms. Jackson Lee?

3507 [No response.]

3508 Ms. Deterding. Mr. Cohen?

3509 [No response.]

3510 Ms. Deterding. Mr. Johnson?

3511 [No response.]

3512 Ms. Deterding. Mr. Pierluisi?

3513 [No response.]

3514 Ms. Deterding. Ms. Chu?

3515 Ms. Chu. Aye.

3516 Ms. Deterding. Ms. Chu votes aye.

3517 Mr. Deutch?

3518 Mr. Deutch. Aye.

3519 Ms. Deterding. Mr. Deutch votes aye.

3520 Mr. Gutierrez?

3521 Mr. Gutierrez. Aye.

3522 Ms. Deterding. Mr. Gutierrez votes aye.

3523 Ms. Bass?

3524 [No response.]

3525 Ms. Deterding. Mr. Richmond?

3526 Mr. Richmond. Aye.

3527 Ms. Deterding. Mr. Richmond votes aye.

3528 Ms. DelBene?

3529 Ms. DelBene. Aye.

3530 Ms. Deterding. Ms. DelBene votes aye.

3531 Mr. Garcia?

3532 Mr. Garcia. Aye.

3533 Ms. Deterding. Mr. Garcia votes aye.

3534 Mr. Jeffries?

3535 Mr. Jeffries. Aye.

3536 Ms. Deterding. Mr. Jeffries votes aye.

3537 Chairman Goodlatte. The gentleman from Ohio.

3538 Mr. Chabot. No.

3539 Ms. Deterding. Mr. Chabot votes no.

3540 Chairman Goodlatte. The gentleman from -- is the

3541 gentleman from Alabama recorded?

3542 Mr. Bachus. I wanted 30 seconds just to --

3543 Chairman Goodlatte. Well, let's wait until the vote is
3544 complete.

3545 The gentleman from Nevada.

3546 Mr. Amodei. No.

3547 Ms. Deterding. Mr. Amodei votes no.

3548 Chairman Goodlatte. Are there other members who have
3549 not voted who wish to vote?

3550 [No response.]

3551 Chairman Goodlatte. The clerk will report.

3552 Ms. Deterding. Mr. Chairman, 9 members voted aye, 21
3553 members voted nay.

3554 Chairman Goodlatte. And the Chu Amendments 17 and 19,
3555 considered en bloc, are not agreed to.

3556 And who has an amendment? Let's go to the gentleman
3557 from Alabama.

3558 Mr. Bachus. Let me say to Ms. Chu and the other members
3559 of the committee, the Regulatory Flexibility Act, which was
3560 amended in 1996 with the -- I think it is Small Business
3561 Regulatory Enforcement Fairness Act, which this committee
3562 has looked at the impact of regulations on small businesses,
3563 if you could look at that, I think many, EPA and others have

3564 found that the small business advisory panels to show the
3565 impact, and I think maybe that might be a route to go going
3566 forward.

3567 Chairman Goodlatte. The Chair thanks the gentleman.

3568 For what purpose does the gentleman from Illinois seek
3569 recognition?

3570 Mr. Gutierrez. I have an amendment at the desk, Mr.

3571 Chairman.

3572 Chairman Goodlatte. The clerk will report the
3573 amendment.

3574 Ms. Deterding. Amendment to H.R. 1772 offered by Mr.
3575 Gutierrez of Illinois, page 61 --

3576 Chairman Goodlatte. Without objection, the amendment
3577 will be considered as read.

3578 [The amendment of Mr. Gutierrez follows:]

3579

3580 Chairman Goodlatte. The gentleman from Illinois is
3581 recognized for 5 minutes.

3582 Mr. Gutierrez. Thank you, Mr. Chairman. Look, my
3583 amendment is pretty simple and straightforward. It
3584 establishes a trigger, and I know how much my colleagues on
3585 the other side of the aisle love triggers when it comes to
3586 immigration policy. And this is a hard trigger. That means
3587 there are definite consequences to it. What it would say is
3588 that it would allow E-Verify to go into effect only if and
3589 when there is a legalization avenue for the 11 million
3590 undocumented individuals living in the United States of
3591 America.

3592 Our nation's immigration laws are broken. Increased
3593 enforcement without reform hurts the economy and American
3594 workers, and it does nothing to fix our broken immigration
3595 system.

3596 For many of my colleagues who are recent arrivals here
3597 in the Congress of the United States, Mr. Chairman, E-Verify
3598 may be something new. For me and others, like yourself and
3599 others, it is really old. It just never has been
3600 implemented. It was in the original bill. It was in the

3601 first bipartisan, bicameral bill in 2005 when Congressman
3602 Flake and I introduced it in the House. It is a critical
3603 part of comprehensive immigration reform. But I underscore,
3604 it is a critical part of comprehensive immigration reform.
3605 It is a part of it, and all of the parts must be moving
3606 together in order to fix our broken immigration system.

3607 So let me just begin by saying and making the political
3608 point, I know that we all want to make America safer. So we
3609 want comprehensive immigration reform. We want people to
3610 come out of the shadows. We want to know who they are. We
3611 want them to go through a background check. We want them to
3612 pay taxes. What did we hear from the CBO score just last
3613 week? \$175 billion, they said, will be increased in
3614 revenues to the Federal Government. That is how we will
3615 reduce the deficit, by \$175 billion the first 10 years, and
3616 \$700 billion in the subsequent 10 years.

3617 How do we know that is true? Because a couple of
3618 Republicans proposed an amendment in the Senate to spend the
3619 money right away. The ink wasn't dry on the CBO score.
3620 They said, oh, those illegals, \$175 billion, let's spend it
3621 to build a fence and put 20,000 more border patrol agents

3622 and spend that money right away. That is how secure they
3623 are, that conservative Republicans spent the money right
3624 away.

3625 So I want to make sure that revenue comes to the Federal
3626 Treasury to reduce our deficit but, at the same time,
3627 strengthen our economy. But I want to do it in a fair and
3628 balanced way.

3629 So I guess the other point I want to make is why have we
3630 been dealing with this? Because members on this side of the
3631 aisle -- I now have the temerity to speak for members on
3632 this side of the aisle -- will not vote for an E-
3633 verification system unless there is a legalization system.
3634 I have always understood that your side of the aisle will
3635 not vote for a legalization system unless there is a
3636 verification system. So let's work hand in glove together,
3637 Republicans and Democrats, to do what the American people
3638 want us to do.

3639 We need 218 votes. It would be wonderful to get 300
3640 votes. If you have a legalization system, you get a
3641 verification system. If you get a verification system, you
3642 get more border patrol, 20,000 more, a small army if you

3643 need it. But we will do the kinds of things to make America
3644 safer if and when there is a fair process.

3645 And let's just look at it from an economic point of
3646 view. Forget about the human fairness and justice point of
3647 view. We have already heard testimony established by the
3648 hearings conducted under your auspices, Mr. Chairman, and
3649 those of Mr. Gowdy, that there are probably upwards of 1.5
3650 million agricultural workers in the United States of America
3651 today picking crops. If you implement E-Verify without a
3652 legalization system, what is going to happen to all those
3653 crops in the field? You are simply going to tell all the
3654 people -- or secondly, if they do stay without a
3655 legalization system, do we really want to push those people
3656 who are so critical to our economy and to our food supply
3657 even deeper underground?

3658 No. I want to collect taxes from them. I want them to
3659 learn English. I want them to give us their fingerprints.
3660 I want to legalize them. The way to do that is by working
3661 hand in glove. Let's just say we won't implement this E-
3662 verification system that is very important until we have a
3663 legalization system.

3664 Mr. Smith of Texas. Mr. Chairman?

3665 Chairman Goodlatte. For what purpose does the gentleman
3666 from Texas seek recognition?

3667 Mr. Smith of Texas. Mr. Chairman, I oppose the
3668 amendment.

3669 Chairman Goodlatte. The gentleman is recognized for 5
3670 minutes.

3671 Mr. Smith of Texas. Thank you, Mr. Chairman. Mr.
3672 Chairman, I oppose the amendment because it is the wrong
3673 kind of trigger. In fact, we might call it an anti-trigger.
3674 The Legal Workforce Act enables employers to ensure that
3675 prospective employees are authorized to work in the United
3676 States, but the amendment seeks to delay implementation of
3677 this vital protection for American workers and legal
3678 immigrants until the DHS Secretary certifies that sufficient
3679 methods exist for immigrants in the country illegally to be
3680 legalized.

3681 This amendment is a double hit on American workers.
3682 First, it postpones E-Verify. Then it wants American
3683 workers to wait until they have competition for scarce jobs
3684 from millions of newly legalized workers. The amendment

3685 takes us backwards and holds E-Verify hostage to an amnesty
3686 program.

3687 The goal of the Legal Workforce Act is to put the
3688 interests of American workers first. This proposal tells
3689 American workers that enforcement of immigration laws takes
3690 a backseat to legalization of illegal immigrants. According
3691 to recent polls, two-thirds of Americans want Congress to
3692 strengthen border security before it addresses other
3693 immigration policies. This amendment will lead to job
3694 displacement and wage depression for hard-working Americans.
3695 And for these reasons, I urge my colleagues to oppose the
3696 amendment.

3697 I yield back.

3698 Chairman Goodlatte. For what purpose does the gentleman
3699 from Michigan seek recognition?

3700 Mr. Conyers. I rise in support of the Gutierrez
3701 amendment.

3702 Chairman Goodlatte. The gentleman is recognized for 5
3703 minutes.

3704 Mr. Conyers. I think that it has been said by
3705 Republicans on the committee repeatedly that Congress will

3706 enact a law allowing undocumented immigrants to gain legal
3707 status, and they ask us to trust them that the provisions in
3708 the Safe Act that would turn millions of undocumented
3709 immigrants into criminals overnight, as it were, will not
3710 apply to the undocumented because some legalization plan
3711 will eventually be unveiled.

3712 Now, if that is accurate, then today we are being asked
3713 to trust that the expansion of E-Verify will come with a
3714 legalization plan. If that impression is correct, and I
3715 will yield to Mr. Gutierrez to confirm that, if he can --

3716 Mr. Gutierrez. Yes. If you would yield to me, I would
3717 say this to Mr. Conyers. Once a legalization program is
3718 established, and I want to put some parameters, where people
3719 sign up with the government, give their fingerprints, go
3720 through a thorough background check -- we don't want
3721 criminals being able to have access to the system -- they
3722 learn English, they pay their taxes, they get on the books,
3723 much like the version in the Senate but not identical
3724 because I am not one -- I want to make this clear to my
3725 Republican colleagues, I am not one that is coming to say
3726 let's accept the Senate version. I want to create a House

3727 version of comprehensive immigration reform. It would do
3728 all those things, and then we would put E-Verify into place.

3729 Mr. Conyers. Thank you. It would be tremendous if we
3730 could legislate on the basis of trust alone. That has not
3731 been a very effective method in the Congress during my
3732 experience.

3733 The consequences of doing E-Verify without legalization
3734 are simply too big. Our economy, our agricultural industry,
3735 and our recovering job market simply can't afford the risk.

3736 Now, I know some prefer a piecemeal approach so that
3737 each piece of the puzzle is done right. But the whole
3738 reason a comprehensive approach is necessary here in
3739 immigration is that you can't get any one piece right
3740 without being able to foresee how the whole thing will fit
3741 together. And that is why the Gutierrez amendment makes it
3742 clear.

3743 I don't think that this is the best way to fix our
3744 immigration system, to make a solution contingent on another
3745 part taking place. I think that it needs to happen in some
3746 kind of systematic uniformity that, frankly, doesn't exist
3747 the way that we have been proceeding in the committee.

3748 And so I support the amendment, because unless we reach
3749 the kind of agreement that he has suggested and that could
3750 be worked out that hasn't been approached by either side in
3751 this discussion so far, there is where the nub of the
3752 problem is, and that is why it seems to me that the
3753 Gutierrez amendment is a huge step forward. I think it
3754 shows extremely good foresight on how a complex, long-
3755 ignored problem can be addressed in a reasonable and
3756 rational way with a number of members with many different
3757 views on the subject.

3758 I thank the Chairman, and I return any unused time.

3759 Mr. Labrador. Mr. Chairman?

3760 Chairman Goodlatte. For what purpose does the gentleman
3761 from Idaho seek recognition?

3762 Mr. Labrador. I move to strike the last word.

3763 Chairman Goodlatte. The gentleman is recognized for 5
3764 minutes.

3765 Mr. Labrador. Thank you, Mr. Chairman. I stand in
3766 opposition to the amendment, but I would like to stand with
3767 my good colleague from Illinois in support of the spirit of
3768 his amendment.

3769 I think the way the amendment has been drafted does not
3770 entirely comport with my feelings on immigration, but I do
3771 agree with the argument that some people on the other side
3772 are making that an E-Verify system by itself without some
3773 sort of legal status pathway is actually detrimental to our
3774 economy.

3775 I will be voting for final passage of this bill. I will
3776 be voting against this amendment. But I do wholeheartedly
3777 believe that the only way E-Verify is going to be sufficient
3778 for us to actually have a good legal immigration system in
3779 the United States is if we actually find a way to also
3780 figure out what to do with the 11 million people that are
3781 here, if we also find a way to have a legal status program
3782 for guest workers, if we fix the entire legal immigration
3783 system.

3784 I just cannot go as far as Mr. Gutierrez is going with
3785 this amendment. We have not decided whether, for example,
3786 the lawful status should be adjusted to lawful permanent
3787 resident or it should be some other status that we are going
3788 to grant the 11 million that are here, but I think that we
3789 will get to that at some point in this committee.

3790 I think we are going to be working together. And even
3791 though I will be voting for this bill today, I do agree with
3792 some of my friends on the other side that we need to have a
3793 comprehensive approach to the issue. And the only way this
3794 is going to work is if we have a way for people to come
3795 legally to the United States.

3796 Mr. Conyers. Would the gentleman yield?

3797 Mr. Gutierrez. Would the gentleman yield?

3798 Mr. Labrador. Yes.

3799 Mr. Conyers. I want to just thank the gentleman for
3800 making the statement that he has made. It validates the
3801 proposals that were inherent in Gutierrez's amendment. And
3802 I think that this is the beginning of a real candid
3803 discussion about the many complex problems, and that the
3804 gentleman can hold himself out for some future way that we
3805 can begin to look at this. And I thank the gentleman for
3806 his statement.

3807 Mr. Gutierrez. Will the gentleman yield further to me?

3808 Mr. Labrador. I will.

3809 Mr. Gutierrez. Thank you. So I think the gentleman
3810 from Idaho knows that I am for the E-Verify system for doing

3811 what we need to do for an exit/entry visa system that no one
3812 really talks about. It is going to be more complicated so
3813 those who come to visit us have to leave when their time is
3814 up, kind of like on the meter, park your car, right? You
3815 put in a quarter, you get a certain amount of time so that
3816 people have to move on. I get all of that to make our
3817 immigration system work, so I am looking forward to working
3818 with you and others.

3819 And I want to just reiterate, I believe there needs to
3820 be a place for a bipartisan approach in the House of
3821 Representatives. I am not a proponent of, oh, let us just
3822 take what they send down from the Senate. This is the House
3823 of Representatives. I want to work the will of this body
3824 with members on that side of the aisle and this side of the
3825 aisle so that we can have a product that we can present to
3826 the American people.

3827 And I want to thank the gentleman for his words because
3828 I believe that we can try to figure it out. I know that
3829 many of my colleagues on the other side of the aisle have
3830 said we are going to work on that. I am looking forward to
3831 it.

3832 In that spirit, I would like to take this moment to
3833 withdraw my amendment, to not take time. I made the point.
3834 We have had the conversation that I did not know it was
3835 going to elicit. But I figure I am winning, so let me stop
3836 while I am ahead.

3837 [Laughter.]

3838 Mr. Gutierrez. Thank you so much. I withdraw the
3839 amendment, Mr. Chairman.

3840 Mr. Labrador. Thank you, Mr. Chairman. I yield back my
3841 time.

3842 Chairman Goodlatte. Are there further amendments?

3843 Mr. Deutch. Mr. Chairman, I have an amendment at the
3844 desk.

3845 Chairman Goodlatte. The gentleman from Florida.

3846 Mr. Deutch. Thank you, Mr. Chairman.

3847 Chairman Goodlatte. The clerk will report the amendment
3848 offered by Mr. Deutch of Florida.

3849 Ms. Deterding. Amendment to H.R. 1772, offered by Mr.
3850 Deutch of Florida, page 40, beginning on line --

3851 Chairman Goodlatte. Without objection, the amendment
3852 will be considered as read.

3853 [The amendment of Mr. Deutch follows:]

3854

3855 Chairman Goodlatte. And the gentleman is recognized for
3856 5 minutes on his amendment.

3857 Mr. Deutch. Thank you, Mr. Chairman. Mr. Chairman, we
3858 know that Americans and authorized immigrants will lose
3859 their jobs to user and database errors. The USCIS testified
3860 at a hearing earlier this year that 94 percent of final non-
3861 confirmations were issued correctly employees were not
3862 authorized for work, but 6 percent were incorrectly issued
3863 to employees who are authorized to work. And the exclusive
3864 remedy provided in the bill for workers who incorrectly lose
3865 their jobs because of E-Verify is to authorize lawsuits for
3866 lost wages against the Federal government under the Federal
3867 Tort Claims Act.

3868 But the bill also prohibits all class action lawsuits,
3869 even though they provide an efficient way for courts to
3870 handle numerous problems of a similar nature, and often
3871 provide the only possible way for plaintiff to get into
3872 court.

3873 My amendment would strike the provision in this bill,
3874 Section 3(d)(9) of the Legal Workforce Act, that prohibits
3875 class actions from being brought by workers who unjustly

3876 lose their jobs due to an error in the E-Verify system.

3877 This provision would eliminate any legal recourse for
3878 thousands of workers who lose their jobs due to database
3879 errors, and would remove the ability of courts to
3880 effectively and efficiently manage their dockets and resolve
3881 cases involving large numbers of workers who are harmed by
3882 similar systemic E-Verify errors.

3883 Class actions, Mr. Chairman, are an essential means by
3884 which courts can effectively manage their dockets and
3885 address claims that impact a large number of people in a
3886 similar manner. Cases that would be too expensive to
3887 litigate on an individual case-by-case basis are oftentimes
3888 raised as class actions. Accordingly, class actions enable
3889 individuals who are not in a position financially to bring
3890 his or her own lawsuit to have a court hear and adjudicate
3891 his claim as a part of a group of people similarly impacted.

3892 Class actions also enable a court to efficiently
3893 administer their dockets to resolve cases involving a large
3894 number of people who are being harmed by a similar practice
3895 rather than having to resolve numerous individual cases.

3896 Section 3(d)(9) creates a process for individuals to

3897 seek protection in the courts if that individual "would not
3898 have been dismissed from a job but for an error of the
3899 verification mechanism." This section of law permits the
3900 individual to seek compensation through the Federal Tort
3901 Claims Act and injunctive relief to correct the error.

3902 Inexplicably, the section also prohibits class actions
3903 from being filed to seek relief for a verification error
3904 that may have occurred under the E-Verify system. This
3905 prohibition against class actions would tie the hands of
3906 overburdened Federal courts to effectively manage their
3907 dockets and address potential E-Verify error problems having
3908 similar characteristics involving a large number of
3909 individuals and to provide adequate relief to these
3910 individuals.

3911 Moreover, this provision of the bill would limit the
3912 ability of employees with limited finances to seek relief in
3913 the courts should they lose their job due to an E-Verify
3914 error. Indeed, according to a not yet released study, there
3915 are approximately 450,000 U.S. citizens and lawful immigrant
3916 workers who could wrongly be fired due to mandatory E-
3917 Verify.

3918 Within this group of 450,000 workers, there could very
3919 well be groups of people who are fired for similar
3920 misidentification errors in the E-Verify system. It is well
3921 known that large groups of people are erroneously identified
3922 as illegal residents in a similar manner by E-Verify. For
3923 example, women who get married and change or hyphenate their
3924 last name often are identified incorrectly in the system.

3925 In addition, people who legally come to this country may
3926 enter important dates, such as date of birth, on employment
3927 forms in a different order than is required by E-Verify. As
3928 is customarily done in other countries, they may enter their
3929 birth dates or other personal information by day, month,
3930 year rather than month, day, year. Courts could best
3931 resolve these types of cases by consolidating them into one
3932 case rather than having to hear, consider evidence, and
3933 render decisions on an individual case-by-case
3934 determination.

3935 Moreover, the bill provides an exclusive recourse for a
3936 worker who unjustly loses his job due to an E-Verify error.
3937 These individual workers can only seek lost wages against
3938 the Federal government under the Tort Claims Act or seek

3939 injunctive relief. But the Tort Claims Act has a cap on
3940 fees for attorneys that successfully recover lost wages for
3941 an individual worker that loses his job in this kind of
3942 case. This creates yet another barrier for aggrieved
3943 individuals to receive back pay for losing their job because
3944 of an E-Verify error. It makes it financially impractical
3945 for an attorney often to represent an aggrieved lower income
3946 individual against the Federal government in order to
3947 recover lost wages.

3948 Indeed, under this bill, cases seeking lost wages filed
3949 by aggrieved individuals will be very costly, they will have
3950 to be filed in Federal court, which will takes months and,
3951 in some cases, years to resolve. In these instances, a
3952 class action may be the only way for a group of individuals
3953 to receive legal representation and have their case against
3954 the government heard in Federal court for wages they
3955 unjustly lost from an E-Verify error.

3956 A class action could be the best method for individual
3957 workers who lost their job for similar E-Verify errors to
3958 have their cases heard in court. It permits a court to
3959 efficiently manage their docket and consolidate claims into

3960 one case.

3961 The bottom line, Mr. Chairman, is that most workers who
3962 will wrongly lose their jobs under H.R. 1772 will never
3963 receive any compensation, and those who do could be out of
3964 work without pay for up to 8 months. That is unacceptable,
3965 and that is why I urge support of my amendment.

3966 And thank you. I yield back the balance of my time.

3967 Chairman Goodlatte. The chair thanks the gentleman.

3968 For what purpose does the gentleman from Texas seek
3969 recognition?

3970 Mr. Smith of Texas. Mr. Chairman, I oppose the
3971 amendment.

3972 Chairman Goodlatte. The gentleman is recognized for 5
3973 minutes.

3974 Mr. Smith of Texas. Thank you, Mr. Chairman. I oppose
3975 the amendment, which appears to be a gift to the American
3976 Trial Lawyers Association. The Legal Workforce Act bars
3977 class actions against employers or the government for
3978 termination of employment that is based on an incorrect non-
3979 confirmation provided by E-Verify. This amendment strikes
3980 that bar.

3981 Employers should not have to worry about the possibility
3982 that their entire previous workforce will be recruited as a
3983 class by overzealous trial attorneys who are looking for the
3984 next big payout. Instead, employers should focus on helping
3985 put the 11.8 million Americans who are without jobs back to
3986 work, and we need to put their interests first.

3987 Mr. Chairman, I want to cite two figures. I think both
3988 of them were cited by the gentleman from Florida, but I have
3989 a different perspective on them. First of all, 99.7 percent
3990 of work eligible employees are approved, do get
3991 confirmation. That means only 3 out 1,000 do not, and in
3992 virtually all instances, those 3 do get confirmation within
3993 the next 10 days.

3994 The second figure that the gentleman mentioned is 6
3995 percent. I totally agree that 6 percent never receive
3996 confirmation, but that 6 percent coincides exactly with the
3997 percentage of employees in America who are thought to be
3998 working here illegally. So E-Verify is doing exactly what
3999 it ought be doing, and that is screening out the individuals
4000 who are not eligible to work in America, 5 to 6 percent of
4001 the total workforce.

4002 So I think E-Verify should continue to operate as we
4003 intend it to, and that is why I oppose the amendment.

4004 And I will yield back.

4005 Chairman Goodlatte. For what purpose does the
4006 gentlewoman from Washington seek recognition?

4007 Ms. DelBene. Move to strike the last word.

4008 Chairman Goodlatte. The gentlewoman is recognized for 5
4009 minutes.

4010 Ms. DelBene. Thank you, Mr. Chair. I yield time to Mr.
4011 Deutch.

4012 Mr. Deutch. And I thank the gentlelady. Mr. Chairman,
4013 I would just simply point out two things. One, there are
4014 two ways to look at a statistic, and 3 out of 1,000 may not
4015 sound like much. Almost half a million workers who wrongly
4016 lose their jobs sounds like an awful big number to me. And
4017 that is number one.

4018 Number two, it baffles me sometimes that the seeming
4019 disdain that some have on this committee for attorneys who
4020 handle cases like this would be paramount to and supersede
4021 concern about potentially half a million legal workers who
4022 lose their job wrongly and will have no opportunity without

4023 that counsel to have access to the courts, to be able to
4024 have the outcome that they justly deserve.

4025 It just surprises me, and I am disappointed. But I
4026 yield back.

4027 Mr. Smith of Texas. Would the gentleman from Florida
4028 yield just for a minute?

4029 Mr. Deutch. I will.

4030 Mr. Smith of Texas. I would like to reassure the
4031 gentleman from Florida in regard to those 3 out of 1,000
4032 that we are both talking about. They do not largely lose
4033 their jobs. As I mentioned a while ago, when you talk to
4034 employers, virtually every one of them do get confirmed
4035 after they double check the data and make sure their names
4036 are spelled correctly and so forth. So I would not want the
4037 impression to lie out there that they lose their jobs. They
4038 may have to take a few more days to confirm the validity of
4039 their data, but that is a lot different from losing their
4040 jobs.

4041 By the way, the gentleman was talking about statistics.
4042 Decades ago, I took a course in statistics, and we actually
4043 had a monograph entitled how to lie with statistics. I am

4044 not suggesting that either he or I are using anything in
4045 that monograph today, but you are right, statistics can be
4046 used in different ways, and maybe we are looking at them
4047 differently today.

4048 Mr. Deutch. I appreciate that, and I would welcome the
4049 opportunity for us both to review that study and perhaps put
4050 it to good work as the debate proceeds on other issues here
4051 on this committee.

4052 But I wonder if the gentleman could -- and perhaps I am
4053 just simply unaware of the point -- the 3 out of 1,000,
4054 virtually all of them wind up back at their jobs I think is
4055 what you just said. And I did not see that in the study. I
4056 am not sure where that comes from.

4057 Mr. Smith of Texas. Yeah. Just to go back to the
4058 original statistics, 99.7 percent of work eligible employees
4059 are confirmed. That does leave the 3 out of 1,000 who are
4060 not, but those are the individuals who do get reconfirmed or
4061 confirmed in the next 10 days when the data is clarified or
4062 double checked by the Social Security Administration. And
4063 there is some exchange of information between the individual
4064 and either DHS or the Social Security Administration.

4065 I do not think those three are automatically going to
4066 either not be employed or lose their jobs. In most cases,
4067 not be employed, I think you get the data straightened out
4068 and these individuals do get employed.

4069 Mr. Deutch. I just would simply suggest that that does
4070 not seem to be supported by the data. And I also do not
4071 want to leave any misimpressions. But the suggestion that
4072 somehow of these 450,000 people, that virtually all of them
4073 wind up back on the job within 10 days does not seem --

4074 Mr. Smith of Texas. Okay. I will be happy to supply
4075 the gentleman with the studies that I have seen. I do not
4076 know whether it is 99.7 percent of the 0.3 percent or not,
4077 but it is a high percentage who do get the situation
4078 resolved to the satisfaction of both parties. And I will be
4079 happy to provide the gentleman with those studies.

4080 Mr. Deutch. I appreciate that. And then at the same
4081 time, it is the USCIS testimony earlier this year that 94
4082 percent of the final non-confirmations were issued
4083 correctly, but 6 percent of those were incorrectly issued to
4084 employees who are authorized to work. So a different result
4085 this time by USCIS based on their own experience.

4086 But I will gladly look at what you provide, and ask my
4087 colleagues to support the opportunity for those who lose
4088 their jobs who should not lose their jobs, to have access to
4089 the courts so they can get their jobs back. And I yield
4090 back.

4091 Chairman Goodlatte. The gentlewoman from Washington
4092 yields back.

4093 The question occurs on the amendment offered by the
4094 gentleman from Florida.

4095 All those in favor, respond by saying aye.

4096 Those opposed, no.

4097 In the opinion of the chair, the noes have it, and the
4098 amendment is not agreed to.

4099 Mr. Deutch. Mr. Chair, I ask for a recorded vote on
4100 that.

4101 Chairman Goodlatte. A recorded vote is requested, and
4102 the clerk will call the roll.

4103 Ms. Deterding. Mr. Goodlatte?

4104 Chairman Goodlatte. No.

4105 Ms. Deterding. Mr. Goodlatte votes no.

4106 Mr. Sensenbrenner?

4107 Mr. Sensenbrenner. No.

4108 Ms. Deterding. Mr. Sensenbrenner votes no.

4109 Mr. Coble?

4110 [No response.]

4111 Ms. Deterding. Mr. Smith of Texas?

4112 Mr. Smith of Texas. No.

4113 Ms. Deterding. Mr. Smith of Texas votes no.

4114 Mr. Chabot?

4115 Mr. Chabot. No.

4116 Ms. Deterding. Mr. Chabot votes no.

4117 Mr. Bachus?

4118 [No response.]

4119 Ms. Deterding. Mr. Issa?

4120 Mr. Issa. No.

4121 Ms. Deterding. Mr. Issa votes no.

4122 Mr. Forbes?

4123 [No response.]

4124 Ms. Deterding. Mr. King?

4125 Mr. King. No.

4126 Ms. Deterding. Mr. King votes no.

4127 Mr. Franks?

4128 Mr. Franks. No.

4129 Ms. Deterding. Mr. Franks votes no.

4130 Mr. Gohmert?

4131 [No response.]

4132 Ms. Deterding. Mr. Jordan?

4133 Mr. Jordan. No.

4134 Ms. Deterding. Mr. Jordan votes no.

4135 Mr. Poe?

4136 [No response.]

4137 Ms. Deterding. Mr. Chaffetz?

4138 Mr. Chaffetz. No.

4139 Ms. Deterding. Mr. Chaffetz votes no.

4140 Mr. Marino?

4141 Mr. Marino. No.

4142 Ms. Deterding. Mr. Marino votes no.

4143 Mr. Gowdy?

4144 Mr. Gowdy. No.

4145 Ms. Deterding. Mr. Gowdy votes no.

4146 Mr. Amodei?

4147 Mr. Amodei. No.

4148 Ms. Deterding. Mr. Amodei votes no.

4149 Mr. Labrador?

4150 Mr. Labrador. No.

4151 Ms. Deterding. Mr. Labrador votes no.

4152 Mr. Farenthold?

4153 Mr. Farenthold. No.

4154 Ms. Deterding. Mr. Farenthold votes no.

4155 Mr. Holding?

4156 Mr. Holding. No.

4157 Ms. Deterding. Mr. Holding votes no.

4158 Mr. Collins?

4159 Mr. Collins. No.

4160 Ms. Deterding. Mr. Collins votes no.

4161 Mr. DeSantis?

4162 Mr. DeSantis. No.

4163 Ms. Deterding. Mr. DeSantis votes no.

4164 Mr. Smith of Missouri?

4165 Mr. Smith of Missouri. No.

4166 Ms. Deterding. Mr. Smith of Missouri votes no.

4167 Mr. Conyers?

4168 Mr. Conyers. Aye.

4169 Ms. Deterding. Mr. Conyers votes aye.

4170 Mr. Nadler?

4171 [No response.]

4172 Ms. Deterding. Mr. Scott?

4173 Mr. Scott. Aye.

4174 Ms. Deterding. Mr. Scott votes aye.

4175 Mr. Watt?

4176 [No response.]

4177 Ms. Deterding. Ms. Lofgren?

4178 [No response.]

4179 Ms. Deterding. Ms. Jackson Lee?

4180 [No response.]

4181 Ms. Deterding. Mr. Cohen?

4182 [No response.]

4183 Ms. Deterding. Mr. Johnson?

4184 [No response.]

4185 Ms. Deterding. Mr. Pierluisi?

4186 [No response.]

4187 Ms. Deterding. Ms. Chu?

4188 Ms. Chu. Aye.

4189 Ms. Deterding. Ms. Chu votes aye.

4190 Mr. Deutch?

4191 Mr. Deutch. Aye.

4192 Ms. Deterding. Mr. Deutch votes aye.

4193 Mr. Gutierrez?

4194 [No response.]

4195 Ms. Deterding. Ms. Bass?

4196 [No response.]

4197 Ms. Deterding. Mr. Richmond?

4198 [No response.]

4199 Ms. Deterding. Ms. DelBene?

4200 Ms. DelBene. Aye.

4201 Ms. Deterding. Ms. DelBene votes aye.

4202 Mr. Garcia?

4203 Mr. Garcia. Aye.

4204 Ms. Deterding. Mr. Garcia votes aye.

4205 Mr. Jeffries?

4206 Mr. Jeffries. Aye.

4207 Ms. Deterding. Mr. Jeffries votes aye.

4208 Chairman Goodlatte. The gentleman from Virginia, Mr.

4209 Forbes.

4210 Mr. Forbes. No.

4211 Ms. Deterding. Mr. Forbes votes no.

4212 Chairman Goodlatte. The gentleman from Texas, Mr. Poe.
4213 Mr. Poe. No.
4214 Ms. Deterding. Mr. Poe votes no.
4215 Chairman Goodlatte. Are there other members who wish to
4216 vote who have not voted?
4217 [No response.]
4218 Chairman Goodlatte. The clerk will report.
4219 Ms. Deterding. Mr. Chairman, 7 members voted aye, 20
4220 members voted nay.
4221 Chairman Goodlatte. And the amendment is not agreed to.
4222 For what purpose does the gentlewoman from Washington
4223 seek recognition?
4224 Ms. DelBene. Mr. Chair, I have an amendment at the
4225 desk. It is number 22 on the roster.
4226 Chairman Goodlatte. The clerk will report the
4227 amendment.
4228 Ms. Deterding. Amendment to H.R. 1772, offered by Ms.
4229 DelBene of Washington, page 17, beginning on line 7, strike
4230 "until the date that is 24 months after the date of the
4231 enactment of the Legal Workforce Act," and insert "until the
4232 Secretary of Homeland" --

4233 Chairman Goodlatte. The amendment will be considered as
4234 read without objection.

4235 [The amendment of Ms. DelBene follows:]

4236

4237 Chairman Goodlatte. And the chair would inquire of the
4238 gentlewoman if she wishes to consider both of her amendments
4239 en bloc.

4240 Ms. DelBene. No, I am only going to introduce this one.
4241 I am not going to introduce the other one.

4242 Chairman Goodlatte. Very well. The gentlewoman is
4243 recognized for 5 minutes on her amendment.

4244 Ms. DelBene. Thank you, Mr. Chair. This amendment
4245 delays verification requirements from applying to
4246 agricultural employers until the Department of Homeland
4247 Security in consultation with the Department of Agriculture
4248 certifies that requiring this verification will not cause a
4249 significant shortage of persons available to perform
4250 agricultural labor or services in the United States.

4251 If we do not exempt agriculture from the bill's
4252 verification requirements all together, then we should at
4253 least delay the application to farm workers, such as
4254 seasonal farm workers, until we have confidence that the
4255 industry will not be decimated by a loss of workers.

4256 This amendment would essentially delay the bill from
4257 applying in agriculture until DHS, in consultation with the

4258 Department of Agriculture, certifies that the bill's
4259 verification requirements will not harm the U.S.
4260 agricultural industry. A stable labor force is required to
4261 keep this industry alive, and we know how heavily the
4262 industry relies on foreign workers. Allowing a 2-year
4263 implementation time frame for agriculture employers is not
4264 sufficient.

4265 Over 15 percent of our economy relies on agriculture.
4266 Reports from Georgia and Alabama, following those States'
4267 implementation of mandatory E-Verify, suggests that there
4268 may be extensive damage to farmers and the agricultural
4269 industry. We know that up to 75 percent of on-the-field
4270 farm workers lack immigration status, and this percentage is
4271 growing. Losing those one to one and a half million workers
4272 would be devastating. American farms would struggle because
4273 there is nowhere this number of U.S. workers who are willing
4274 and able to fill these jobs. Without additional reforms to
4275 our immigration system, nationwide E-Verify will cause huge
4276 disruptions in our Nation's food system.

4277 I also want to note that the Legal Workforce Act was
4278 opposed in the 112th Congress by the American Farm Bureau,

4279 the National Council of Agricultural Employers, the National
4280 Council of Farmer Cooperatives, the Western Growers
4281 Association, the National Milk Producers Federation, the
4282 U.S. Apple Association, and the Agriculture Coalition for
4283 Immigration Reform.

4284 I urge my colleagues to support this amendment in order
4285 to prevent significant harm to our Nation's agricultural
4286 industry and the millions of American jobs supported by that
4287 industry.

4288 Thank you, Mr. Chairman, and I yield back.

4289 Chairman Goodlatte. The chair thanks the gentlewoman
4290 and recognizes himself in opposition to the amendment.

4291 It prevents implementation of E-Verify's required use
4292 for the agricultural industry until such time as the
4293 Department of Homeland Security Secretary and the
4294 agriculture Secretary certify that the use of E-Verify "will
4295 not cause a significant shortage of persons available to
4296 perform" agricultural labor or services to the United
4297 States.

4298 H.R. 1772 is one in a series of steps on the way to a
4299 broader fix to our broken immigration system. And the

4300 gentlewoman from Washington I hope is aware of my amendment
4301 to providing the agriculture industry with workable system
4302 through which to get needed workers. In fact, as every
4303 member here knows, last week this committee passed a bill to
4304 do just that.

4305 But this amendment is not just about delaying
4306 implementation of E-Verify until it is deemed that there
4307 will not be a shortage of agricultural workers. The
4308 amendment actually leaves up to the Secretaries the
4309 determination of whether a shortage would be created. And,
4310 thus, implementation of E-Verify would be subject to the
4311 whim of whomever happens to be the Secretary of the
4312 Department of Homeland Security -- excuse me -- and the
4313 Secretary of Agriculture. If those individuals happen to be
4314 opposed to the use of E-Verify in general, there is
4315 incentive never to certify that a shortage of workers will
4316 not be created. This provision abrogates Congress' role in
4317 determining immigration policy, and, therefore, I must urge
4318 my colleagues to oppose it.

4319 Mr. Deutch. Mr. Chairman?

4320 Chairman Goodlatte. For what purpose does the gentleman

4321 from Florida seek recognition?

4322 Mr. Deutch. Move to strike the last word.

4323 Chairman Goodlatte. The gentleman is recognized for 5
4324 minutes.

4325 Mr. Deutch. Thank you, Mr. Chairman. Mr. Chairman, I
4326 strongly support the DelBene amendment. This well thought
4327 out and critical amendment would ensure that the mandatory
4328 E-Verify provisions of the Legal Workforce Act do not have a
4329 devastating impact on our Nation's agriculture sector,
4330 including in my own State of Florida.

4331 Estimates are that currently more than 75 percent of the
4332 on-the-field farm workers lack immigration status, and the
4333 number continues to grow. Mandatory E-Verify could cause
4334 the loss of more than one to one and a half million workers
4335 in the agriculture industry, and it is well known that there
4336 are not one to one and a half million U.S. workers who are
4337 willing to fill these jobs.

4338 The economic losses caused by mandatory E-Verify to my
4339 State of Florida would be massive: between 500 million a
4340 billion dollars in lost production, and between \$168 million
4341 and \$560 million in net farm income. The only State whose

4342 agricultural industry would be hit harder than Florida would
4343 be California's. Such impacts to the agriculture industry
4344 would send Florida and other States into economic recession.

4345 As happened in Georgia last year when they passed a
4346 mandatory E-Verify bill, passage of a nationwide bill would
4347 cause massive numbers of the migrant labor force in the
4348 agricultural industry to leave the fields. In fact, as
4349 cited in the 2012 Georgia ag forecast by the University of
4350 Georgia, the Department of Agriculture recently calculated
4351 that the State of Georgia has lost \$390 million and more
4352 than 3,000 jobs because there were not enough people
4353 available to pick the crops.

4354 On the national level, the American Farm Bureau
4355 estimated the effects to the agricultural industry of losing
4356 a significant portion of its migrant labor force. The
4357 Bureau found that this lost labor force could cost between
4358 \$5 and \$9 billion in annual production, and a decline of one
4359 and a half to \$5 billion dollars in net farm income. We
4360 cannot afford to move the country backwards in our
4361 agricultural industry.

4362 It would be irresponsible for Congress to impose a

4363 mandatory E-Verify program without first ensuring that such
4364 a program will not have a devastating impact on our Nation's
4365 agricultural industry. Indeed, there is no assurance that
4366 within the 2-year period between the enactment of the Legal
4367 Workforce Act's mandatory E-Verify law and the expiration of
4368 the 2-year period in which the sector will be required to
4369 verify their workforce that a viable agricultural guest
4370 worker program would be in place.

4371 We, therefore, are forced to look at the experiences in
4372 Georgia and Alabama as examples of the detrimental impacts
4373 that mandatory E-Verify can have on the agriculture sectors
4374 absent a viable agriculture guest worker program.

4375 The primary problem with the Legal Workforce Act is not
4376 that it is not being considered as part of
4377 comprehensive immigration reform. Instead, the bill is
4378 being considered as a separate bill from a reform of the
4379 agricultural guest worker program. Considering these two
4380 issues separately ensures that there is no guarantee that a
4381 new guest worker program for ag workers will be enacted when
4382 a mandatory E-Verify program goes into effect.

4383 So I would thank my colleague, Congresswoman DelBene,

4384 for all of her hard work on this issue and protecting the
4385 agricultural community from the impacts of mandatory E-
4386 Verify.

4387 Absent a viable agriculture guest worker bill, mandatory
4388 E-Verify would cause a massive loss of agricultural workers,
4389 which would devastate the agricultural industry and cause
4390 irreparable harm in other industries, including food
4391 processing, transportation, farm equipment, marketing, the
4392 retail sectors. We have got to protect our farmers by
4393 having the agricultural sector begin compliance with the E-
4394 Verify provisions once there is a viable legal guest worker
4395 system in place.

4396 So, I, therefore, strongly support this amendment as the
4397 most modest way to avert a looming disaster to the Nation's
4398 agricultural industry. I urge my colleagues to support this
4399 good amendment.

4400 And I appreciate, Mr. Chairman, the time, and I yield
4401 back the balance of it.

4402 Chairman Goodlatte. The question occurs on the
4403 amendment offered by the gentlewoman from Washington.

4404 All those in favor, respond by saying aye.

4405 Those opposed, no.

4406 In the opinion of the chair, the noes have it, and the
4407 amendment is not agreed to.

4408 Ms. DelBene. Mr. Chair, I would ask for a recorded
4409 vote.

4410 Chairman Goodlatte. A recorded vote is requested, and
4411 the clerk will call the roll.

4412 Ms. Deterding. Mr. Goodlatte?

4413 Chairman Goodlatte. No.

4414 Ms. Deterding. Mr. Goodlatte votes no.

4415 Mr. Sensenbrenner?

4416 Mr. Sensenbrenner. No.

4417 [No response.]

4418 Ms. Deterding. Mr. Coble?

4419 [No response.]

4420 Ms. Deterding. Mr. Smith of Texas?

4421 Mr. Smith of Texas. No.

4422 Ms. Deterding. Mr. Smith of Texas votes no.

4423 Mr. Chabot?

4424 Mr. Chabot. No.

4425 Ms. Deterding. Mr. Chabot votes no.

4426 Mr. Bachus?

4427 Mr. Bachus. No.

4428 Ms. Deterding. Mr. Bachus votes no.

4429 Mr. Issa?

4430 Mr. Issa. No.

4431 Ms. Deterding. Mr. Issa votes no.

4432 Mr. Forbes?

4433 Mr. Forbes. No.

4434 Ms. Deterding. Mr. Forbes votes no.

4435 Mr. King?

4436 Mr. King. No.

4437 Ms. Deterding. Mr. King votes no.

4438 Mr. Franks?

4439 [No response.]

4440 Ms. Deterding. Mr. Gohmert?

4441 [No response.]

4442 Ms. Deterding. Mr. Jordan?

4443 Mr. Jordan. No.

4444 Ms. Deterding. Mr. Jordan votes no.

4445 Mr. Poe?

4446 [No response.]

4447 Ms. Deterding. Mr. Chaffetz?

4448 Mr. Chaffetz. No.

4449 Ms. Deterding. Mr. Chaffetz votes no.

4450 Mr. Marino?

4451 Mr. Marino. No.

4452 Ms. Deterding. Mr. Marino votes no.

4453 Mr. Gowdy?

4454 Mr. Gowdy. No.

4455 Ms. Deterding. Mr. Gowdy votes no.

4456 Mr. Amodei?

4457 Mr. Amodei. No.

4458 Ms. Deterding. Mr. Amodei votes no.

4459 Mr. Labrador?

4460 Mr. Labrador. No.

4461 Ms. Deterding. Mr. Labrador votes no.

4462 Mr. Farenthold?

4463 Mr. Farenthold. No.

4464 Ms. Deterding. Mr. Farenthold votes no.

4465 Mr. Holding?

4466 Mr. Holding. No.

4467 Ms. Deterding. Mr. Holding votes no.

4468 Mr. Collins?

4469 Mr. Collins. No.

4470 Ms. Deterding. Mr. Collins votes no.

4471 Mr. DeSantis?

4472 Mr. DeSantis. No.

4473 Ms. Deterding. Mr. DeSantis votes no.

4474 Mr. Smith of Missouri?

4475 Mr. Smith of Missouri. No.

4476 Ms. Deterding. Mr. Smith of Missouri votes no.

4477 Mr. Conyers?

4478 Mr. Conyers. Aye.

4479 Ms. Deterding. Mr. Conyers votes aye.

4480 Mr. Nadler?

4481 [No response.]

4482 Ms. Deterding. Mr. Scott?

4483 Mr. Scott. Aye.

4484 Ms. Deterding. Mr. Scott votes aye.

4485 Mr. Watt?

4486 [No response.]

4487 Ms. Deterding. Ms. Lofgren?

4488 [No response.]

4489 Ms. Deterding. Ms. Jackson Lee?
4490 [No response.]
4491 Ms. Deterding. Mr. Cohen?
4492 [No response.]
4493 Ms. Deterding. Mr. Johnson?
4494 Mr. Johnson. Aye.
4495 Ms. Deterding. Mr. Johnson votes aye.
4496 Mr. Pierluisi?
4497 [No response.]
4498 Ms. Deterding. Ms. Chu?
4499 Ms. Chu. Aye.
4500 Ms. Deterding. Ms. Chu votes aye.
4501 Mr. Deutch?
4502 Mr. Deutch. Aye.
4503 Ms. Deterding. Mr. Deutch votes aye.
4504 Mr. Gutierrez?
4505 [No response.]
4506 Ms. Deterding. Ms. Bass?
4507 Ms. Bass. Aye.
4508 Ms. Deterding. Ms. Bass votes aye.
4509 Mr. Richmond?

4510 [No response.]

4511 Ms. Deterding. Ms. DelBene?

4512 Ms. DelBene. Aye.

4513 Ms. Deterding. Ms. DelBene votes aye.

4514 Mr. Garcia?

4515 Mr. Garcia. Aye.

4516 Ms. Deterding. Mr. Garcia votes aye.

4517 Mr. Jeffries?

4518 Mr. Jeffries. Aye.

4519 Ms. Deterding. Mr. Jeffries votes aye.

4520 Chairman Goodlatte. The gentleman from Wisconsin, Mr.

4521 Sensenbrenner.

4522 Mr. Sensenbrenner. No.

4523 Ms. Deterding. Mr. Sensenbrenner votes no.

4524 Chairman Goodlatte. Are there other members who have

4525 not voted who wish to vote?

4526 [No response.]

4527 Chairman Goodlatte. The clerk will report.

4528 Ms. Deterding. Mr. Chairman, 8 members voted aye, 19

4529 members voted nay.

4530 Chairman Goodlatte. And the amendment is not agreed to.

4531 For what purpose does the gentleman from New York seek
4532 recognition?

4533 Okay. We will go to the gentleman from Georgia first.

4534 Mr. Johnson. Thank you, Mr. Chairman. I have an
4535 amendment at the desk.

4536 Chairman Goodlatte. The clerk will report the
4537 amendment.

4538 Ms. Deterding. Amendment to H.R. 1772, offered by Mr.
4539 Johnson of Georgia and Mr. Chabot of Ohio.

4540 Mr. Johnson. I ask that it be considered as read.

4541 Chairman Goodlatte. Without objection, the amendment
4542 will be considered as read.

4543 [The amendment of Mr. Johnson and Mr. Chabot follows:]

4544

4545 Chairman Goodlatte. And the gentleman from Georgia is
4546 recognized for 5 minutes on his amendment.

4547 Mr. Johnson. Thank you, Mr. Chairman. This bipartisan
4548 amendment would prevent the government from using a person's
4549 information for surveillance purposes. It only allows use
4550 of personal information to verify employment or to ensure
4551 the secure, appropriate, and non-discriminatory use of the
4552 verification system.

4553 I thank Mr. Chabot for his support. He and I have
4554 worked together in the past to protect Americans' privacy
4555 through the ABSAT, and I am proud to again work with him to
4556 protect Americans' privacy.

4557 Mr. Chairman, Americans overwhelmingly support a path to
4558 citizenship. While strong enforcement has its place in a
4559 balanced approach to comprehensive immigration reform, we
4560 should all be skeptical of an approach that lacks a path
4561 forward for millions of undocumented immigrants. Although
4562 standing alone it is deeply flawed, I recognize that the E-
4563 Verify system has its place in comprehensive immigration
4564 reform, and I suspect that the Legal Workforce Act will form
4565 part of whatever compromise comes out of the House.

4566 That is why we must make sure that it works for
4567 Americans. We need to get it right. This starts with
4568 privacy. We cannot fix the immigration system through mass
4569 surveillance or a national identity system. That is what my
4570 amendment is all about, making sure that we protect
4571 Americans' privacy while moving comprehensive immigration
4572 reform forward.

4573 We are not a Nation of suspects. The 4th Amendment is
4574 intended to prohibit a wide range of exploratory searches.
4575 This is why warrants must be carefully tailored to their
4576 justifications and also why we do not allow law enforcement
4577 to use general warrants to ransack houses, papers, and
4578 effects in the name of safety.

4579 Courts have long held that the 4th Amendment's
4580 prohibition against unlawful searches is a right that is
4581 indispensable and essential to our concept of a free and
4582 unfettered society. And yet, in the age we live in, law
4583 enforcement has powerful tools to lawfully track a person
4584 without a warrant.

4585 New technologies allow police to easily glean a person's
4586 location, communications, and other personal data. But as

4587 we have seen with the recent disclosure of the secret
4588 National Security Agency collection of telephone metadata,
4589 Americans bristle at the notion of surveillance, even when
4590 our Nation's security is at stake. Why should immigration
4591 be any different? We must be careful to prevent effective
4592 immigration enforcement from eroding our domestic liberties
4593 and civil rights.

4594 E-Verify is a system that contains information on almost
4595 every American. This includes a long list of information:
4596 name, photos, social security numbers, phone numbers, email
4597 addresses, and immigration information. This system is
4598 swiftly becoming a tool for identifying all workers. I
4599 recognize that this bill carefully specifies that no part of
4600 the act authorizes the issuance of identification cards. I
4601 further recognize that enabling surveillances is not a goal
4602 of this bill, and the chairman opposes such efforts.

4603 But the vast collection of personal information for
4604 employment verification creates a clear risk for a national
4605 identity system. And once created, a database with all
4606 Americans' personal information would only continue to grow.
4607 Such a database would also be in high demand, and everyone

4608 from law enforcement to landlords would seek access to it.
4609 This would substantially diminish the freedoms of law
4610 abiding citizens.

4611 The bipartisan amendment I offer, along with Mr. Chabot,
4612 would stem this tide of government surveillance. Before I
4613 withdraw this amendment so as to give this committee a
4614 chance to massage it, I would like to yield to the gentleman
4615 or perhaps he will ask -- okay. Well, at this point, I will
4616 yield the balance of my time.

4617 Chairman Goodlatte. The chair thanks the gentleman, and
4618 I will recognize myself for 5 minutes.

4619 I want to first thank the gentleman for offering this
4620 amendment. I very much appreciate his sentiments. And I do
4621 not disagree with his sentiment of wanting to prevent large-
4622 scale information sharing amongst government agencies. In
4623 fact, I do not want any inappropriate information sharing
4624 amongst government agencies or with others if the use of
4625 that is not appropriate.

4626 So if the gentleman is inclined to withdraw the
4627 amendment, I would like to work with him to help ensure that
4628 the language of his amendment adequately addresses his

4629 concerns and my concerns, and we will recognize the
4630 gentleman from Ohio in just a moment, and I am sure his
4631 concerns as well, while not being overbroad enough to
4632 inadvertently prevent certain information sharing that may
4633 be necessary for work site enforcement purposes.

4634 And I would say that this is not a database. The bill
4635 does not allow for the creation of a database with the
4636 information gathered here. But I join the gentleman and
4637 others in wanting to make sure that that is indeed very
4638 clear in the legislation.

4639 So at this time, I would be happy to yield to the
4640 gentleman from Ohio.

4641 Mr. Chabot. I will go ahead and take my own time.

4642 Chairman Goodlatte. Okay. No one seeks time on the
4643 Democratic side. The chair recognizes the gentleman from
4644 Ohio, Mr. Chabot.

4645 Mr. Chabot. Move to strike the last word.

4646 Chairman Goodlatte. The gentleman is recognized for 5
4647 minutes.

4648 Mr. Chabot. Thank you. I will not take 5 minutes, but
4649 I want to thank my colleague from Georgia for offering this

4650 amendment, and I appreciate his interest in doing everything
4651 that we possibly can to protect the privacy rights of
4652 American citizens.

4653 This amendment would simply prevent the implementation
4654 of the electronic employment eligibility verification system
4655 from issuing a national ID card -- a national identification
4656 card -- or otherwise creating a database, and the chairman
4657 has indicated that it does not do that, that could be
4658 searchable for any other purpose or by any other government
4659 entity or agency.

4660 In light of the NSA leaks, and the IRS abuses, and other
4661 recent scandals concerning how various agencies are using
4662 personal information, it is especially important when
4663 enacting laws that we create additional potential databases
4664 and private information to ensure adequate privacy
4665 protections are in place.

4666 I support H.R. 1772, the bill that we are dealing with
4667 here today, and believe it is necessary to ensure U.S. jobs
4668 go to legal workers. However, in creating this new system,
4669 it should be narrowed to only allow the use of personal
4670 information for the very specific purpose of verifying

4671 employment. The 4th Amendment protection from unreasonable
4672 searches and seizures requires that we not allow this new
4673 information to be searchable for any other purpose.

4674 Mr. Chairman, as you have indicated, you are willing to
4675 work with us to make sure that our concerns are met. And I
4676 know I have talked with some other members of the committee
4677 here today, too, who basically favor us making sure that we
4678 do everything possible here. But with all those assurances
4679 that the chair has given us, and, again, I want to thank my
4680 colleague from Georgia for pressing ahead on this and
4681 bringing it to the stage that we have today.

4682 I would be happy to join him in withdrawing this and
4683 working with the chair from here to the floor.

4684 Chairman Goodlatte. Before you do that, I think there
4685 are some other members who want to be heard on the issue as
4686 well.

4687 For what purpose does the gentleman from Ohio seek
4688 recognition?

4689 Mr. Jordan. Move to strike the last word.

4690 Chairman Goodlatte. The gentleman is recognized for 5
4691 minutes.

4692 Mr. Jordan. And I will be brief, too. Mr. Chairman,
4693 this is a good idea. This is a good amendment. I do hope
4694 we figure out how to put this in the bill and make this
4695 work.

4696 Never forget the fundamental fact. This government has
4697 already proven they are willing to take information about
4698 taxpayers and use it as a weapon to target specific groups,
4699 namely the IRS. This is a good idea. This is something we
4700 do need to work out. And I strongly support it.

4701 Chairman Goodlatte. Would the gentleman yield?

4702 Mr. Jordan. I would be happy to yield.

4703 Chairman Goodlatte. The gentleman makes a good point,
4704 and the chair would assure the gentleman that we are quite
4705 confident that this language can be worked out and put into
4706 the bill.

4707 Mr. Jordan. Great. Thank you, Chairman.

4708 Chairman Goodlatte. For what purpose does the gentleman
4709 from Utah seek recognition?

4710 Mr. Chaffetz. Move to strike the last word.

4711 Chairman Goodlatte. The gentleman is recognized for 5
4712 minutes.

4713 Mr. Chaffetz. Thank you, Mr. Chairman. I simply want
4714 to echo the sentiments that are here on the dais that
4715 personal privacy is paramount. We have got to be careful in
4716 the intersection between the 1st Amendment and the 4th
4717 Amendment, and we got to make sure that we are securing our
4718 liberties, and we cannot give up those liberties at every
4719 step in the name of security.

4720 I like the direction of this. I like the way it is
4721 going. I look forward to working with the committee, and
4722 the sponsors of this amendment, and you, Mr. Chairman. I
4723 just want to echo the sentiment that I think something to
4724 this degree should be inserted into the bill. And I look
4725 forward to seeing how that goes.

4726 Chairman Goodlatte. Would the gentleman yield?

4727 Mr. Chaffetz. Yes.

4728 Chairman Goodlatte. I thank the gentleman for yielding.
4729 I am informed that the Senate bill, their E-Verify provision
4730 does create a large database. So we want to make sure that
4731 the House version does not reflect that mindset at all and
4732 make sure that we are protecting the privacy of U.S.
4733 citizens and U.S. employers.

4734 Mr. Chaffetz. I thank the chairman and yield back.

4735 Chairman Goodlatte. Does the gentleman from Georgia
4736 seek to withdraw the amendment?

4737 Mr. Johnson. I do.

4738 Chairman Goodlatte. Well, I thank the gentleman for
4739 offering the amendment, and I look forward to working with
4740 him to get the right language into the bill.

4741 Are there further amendments?

4742 Mr. Chabot. Mr. Chairman?

4743 Chairman Goodlatte. The gentleman from Ohio.

4744 Mr. Chabot. Mr. Chairman, I have an amendment at the
4745 desk.

4746 Chairman Goodlatte. I think we will recognize the
4747 gentleman from Ohio first, and we will get to you
4748 momentarily.

4749 For what purpose does the gentleman from Ohio seek
4750 recognition?

4751 Mr. Chabot. Mr. Chairman, I have two amendments at the
4752 desk, 27 and 28, which I would like to, for time purposes,
4753 have en bloc, and then speak very briefly.

4754 Chairman Goodlatte. The clerk will reports the

4755 amendments of Mr. Chabot, numbers 27 and 28, and without
4756 objection, they will be considered en bloc.

4757 The clerk will report the amendments.

4758 Ms. Deterding. Amendment to H.R. 1772, offered by Mr.
4759 Chabot of Ohio --

4760 Mr. Chabot. Mr. Chairman, I would ask that the
4761 amendments be considered as read.

4762 Chairman Goodlatte. Without objection, the amendments
4763 will be considered as read.

4764 [The amendments of Mr. Chabot follow:]

4765

4766 Chairman Goodlatte. And the gentleman is recognized for
4767 5 minutes.

4768 Mr. Chabot. Thank you again, and I will be very brief.

4769 The first amendment, 27, would allow small businesses
4770 basically to have a longer period of time to implement this
4771 particular program and the other affiliated requirements of
4772 the bill. This amendment provides or would provide our
4773 small business --

4774 Mr. Chaffetz. Mr. Chairman? Mr. Chairman?

4775 Chairman Goodlatte. For what purposed does the
4776 gentleman from Utah --

4777 Mr. Chaffetz. My apologies for interrupting, but I do
4778 not think we have the amendment being passed around at this
4779 time. If we could --

4780 Chairman Goodlatte. We do not think we have the text.
4781 But I tell you what. If the gentleman was planning to
4782 withdraw them in any event --

4783 Mr. Chabot. We are going to withdraw them.

4784 Chairman Goodlatte. I will recognize the gentleman to
4785 explain what he would have done, and we will thank him.

4786 [Laughter.]

4787 Mr. Chabot. Okay. Thank you. Essentially, we are
4788 looking out for small businesses here and giving them a bit
4789 longer period on a tiered basis to implement the
4790 requirements of this particular bill. That is what that
4791 does. It is not a particular amount of time, but it depends
4792 on the number of people that you have employed as to what
4793 tier you would fall in.

4794 The second amendment would just give, depending, again,
4795 on the same principle, depending on how many employees you
4796 have, some relief on the penalty level that you would have
4797 to pay if you were not in compliance with this legislation.

4798 So those are the two things this would do. We have,
4799 again, talked to the chair and the staff and understand that
4800 you are willing to work with us on these things to see what
4801 we can do between now and the ultimate bill. And with that
4802 understanding --

4803 Chairman Goodlatte. Would the gentleman yield?

4804 Mr. Chabot. I would be happy to yield, Mr. Chairman.

4805 Chairman Goodlatte. The chair will happy to work with
4806 the gentleman. We want to make sure that every business is
4807 in compliance with this because this is an enforcement

4808 mechanism, and there are views that some small businesses
4809 are not using the voluntary system because they do not want
4810 to use the voluntary system because they do want to hire
4811 people who are not lawfully present in the United States.

4812 But with that view in mind, we also want to make sure
4813 that the program is implemented smoothly, and we will, I am
4814 sure, be having further discussions with how this particular
4815 piece of legislation works with other legislation related to
4816 immigration. And as we do so, we would be happy to work the
4817 gentleman to make sure that small businesses have a system
4818 that works for them. Whether it includes longer time or
4819 lesser penalties, I would not want to commit to that at this
4820 point in time, but I certainly would commit to the gentleman
4821 to further review of those concerns to make sure that we do
4822 it right.

4823 Mr. Chabot. With that understanding, and I want to
4824 thank the chair for his cooperation, we will withdraw both
4825 amendments.

4826 Chairman Goodlatte. The chair thanks the gentleman, and
4827 recognizes the gentleman from New York.

4828 Mr. Jeffries. Thank you, Mr. Chair. I have an

4829 amendment at the desk.

4830 Chairman Goodlatte. The clerk will report the
4831 amendment. The gentleman has two amendments, 200 and 014,
4832 or listed on our list as 25 or 26.

4833 Mr. Jeffries. I am going to begin with 200.

4834 Chairman Goodlatte. All right. The clerk will report
4835 Jeffries amendment 25.

4836 Ms. Deterding. Amendment to H.R. 1772, offered by Mr.
4837 Jeffries --

4838 Mr. Jeffries. Move to dispense with the reading.

4839 Chairman Goodlatte. Without objection, the amendment
4840 will be considered as read.

4841 [The amendment of Mr. Jeffries follows:]

4842

4843 Chairman Goodlatte. And the gentleman is recognized for
4844 5 minutes on his amendment.

4845 Mr. Jeffries. Thank you, Mr. Chair. This amendment
4846 will provide critical due process protections for authorized
4847 workers who incorrectly receive final non-confirmations of
4848 their eligibility to work.

4849 It sets forth an administrative appeals process that
4850 includes judicial review, allows workers to retain their
4851 jobs during the pendency of an appeal, and ensures that back
4852 pay will be provided to workers who lose their jobs due to
4853 system or employer error.

4854 According to the Department of Homeland Security, a
4855 recent USCIS evaluation found that 6 percent of final non-
4856 confirmations were incorrectly issued to employees who are
4857 actually authorized to work. These are Americans entitled
4858 to the pursuit of happiness as set forth in the Declaration
4859 of Independence through the vehicle of gainful employment.

4860 Many incorrect FNCs result from the failure to provide
4861 adequate notice of eligibility to employees. To address
4862 this issue, the amendment requires that employees receive
4863 written notice of a final non-confirmation, and then

4864 acknowledge such receipt.

4865 The amendment is designed to provide basic due process
4866 protections. It establishes an administrative appeal
4867 process to challenge final non-confirmations and then
4868 judicial review of such appeals, and requires employers to
4869 inform workers about the availability of such administrative
4870 remedies.

4871 An appeal from a person who claims or purports to be a
4872 U.S. citizen or legal resident can be made to the Social
4873 Security Administration, and an appeal from a person who
4874 purports to be an authorized non-U.S. citizen can be made to
4875 DHS. These additional remedies are necessary because this
4876 bill would otherwise only allow lawsuits for lost wages
4877 against the Federal government to be brought under the
4878 Federal Tort Claims Act. The FTCA is an inadequate,
4879 expensive remedy, and workers who lose their jobs due to E-
4880 Verify errors will get nothing if they cannot prove that the
4881 error resulted from a negligent or wrongful act or omission
4882 of any employee of the government. This standard is unduly
4883 prohibitive in the E-Verify context.

4884 Without this amendment, American workers and authorized

4885 immigrants could erroneously lose their jobs without any
4886 recourse because of errors in the verification system. This
4887 amendment creates the meaningful due process protections
4888 essential to the integrity of our democracy, and, I,
4889 therefore, urge my colleagues to support the amendment. And
4890 yield back the balance of my time.

4891 Chairman Goodlatte. The chair thanks the gentleman.

4892 For what purpose does the gentleman from Texas seek
4893 recognition?

4894 Mr. Smith of Texas. Mr. Chairman, I oppose the
4895 amendment.

4896 Chairman Goodlatte. The gentleman is recognized for 5
4897 minutes.

4898 Mr. Smith of Texas. Thank you, Mr. Chairman. Mr.
4899 Chairman, this amendment mirrors provisions contained in
4900 several comprehensive immigration reform bills that have
4901 either failed or never been considered in Congress. It is
4902 an attempt to make E-Verify compliance cumbersome. Its wage
4903 compensation provisions encourage delay tactics in the
4904 filing of appeals. And the amendment also overturns Supreme
4905 Court precedent that prevents employers from having to pay

4906 back wages to illegal immigrants.

4907 The Legal Workforce Act balances legitimate concerns of
4908 all interested parties regarding E-Verify. The business
4909 community and the American people desire to see immigration
4910 laws enforced and legal employees.

4911 The Legal Workforce Act retains the current deadlines for
4912 a final E-Verify verification determination. The bill
4913 requires DHS to issue the final determination within 10
4914 working days of the date that an employee or potential
4915 employee receives notice of a tentative non-confirmation.
4916 However, H.R. 1772 does provide for the process that USCIS
4917 has in place to help ensure the resolution of a non-
4918 confirmation that is contested by an employee. In those
4919 situations, DHS issues a letter requesting that the employer
4920 not take action on the final non-confirmation until a
4921 resolution has been completed.

4922 The average resolution time under this process is 2.5
4923 days. A final determination deadline is necessary in order
4924 to give employers a chance to find another employee, if need
4925 be, and to prevent illegal immigrants from occupying scarce
4926 jobs.

4927 The administrative process created by this amendment
4928 allows at least 223 days before determination of work
4929 eligibility could become final. But in reality, the
4930 amendment leaves the process open ended. There is no actual
4931 deadline for the time within which an individual must file
4932 the initial administrative appeal. And other deadlines can
4933 also be open ended if the DHS Secretary chooses to extend
4934 them.

4935 Illegal aliens could work potentially for years under
4936 this amendment as their appeals drag on. Of course, this
4937 would abuse the process. The lack of a time limit on final
4938 determination of work eligibility is an unnecessary burden
4939 on U.S. businesses. Companies should have a cut-off date at
4940 which point they can move on to find a different employee if
4941 need to be.

4942 Next, the amendment requires that the government
4943 compensate the individual for lost wages, reasonable costs,
4944 and attorneys' fees. That compensation could be upwards of
4945 \$125,000. U.S. taxpayers should not be required to foot
4946 that bill. Furthermore, the bill already allows remedies if
4947 an individual alleges that he or she would not have been

4948 dismissed from a job but for an error of the E-Verify
4949 system. The individual can file a claim using the Federal
4950 Tort Claims Act and can seek injunctive relief.

4951 In addition, the very last provision of the amendment
4952 attempts to overturn the 2002 Supreme Court ruling in
4953 *Hoffman Plastic Compounds v. National Labor Relations Board*.
4954 The Court rules that the NLRB could not order a company to
4955 pay back pay to an illegal immigrant who had been working
4956 for Hoffman Plastics. But Section 10, beginning on page 12
4957 of this amendment, specifically states that a former
4958 employee status as an illegal immigrant shall not be a basis
4959 for denying back pay remedies to the employee. So under
4960 this amendment, businesses will be forced to pay back wages
4961 to illegal immigrants.

4962 For all of the reasons I have mentioned above, I oppose
4963 this amendment and encourage my colleagues to do the same.

4964 Mr. Chairman, I will yield back.

4965 Chairman Goodlatte. The question occurs on the
4966 amendment offered by the gentleman from New York.

4967 All those in favor, respond by saying aye.

4968 Those opposed, no.

4969 In the opinion of the chair, the noes have it, and the
4970 amendment is not agreed to.

4971 Does the gentleman from New York --

4972 Mr. Jeffries. Yes, Mr. Chairman.

4973 Chairman Goodlatte. -- choose to offer his other
4974 amendment?

4975 Mr. Jeffries. Thank you, Mr. Chairman.

4976 Chairman Goodlatte. The clerk will report the
4977 amendment.

4978 Ms. Deterding. Amendment to H.R. 1772, offered by Mr.
4979 Jeffries of New York, page --

4980 Chairman Goodlatte. Without objection, the amendment
4981 will be considered as read.

4982 [The amendment of Mr. Jeffries follows:]

4983

4984 Chairman Goodlatte. And the gentleman is recognized for
4985 5 minutes on his amendment.

4986 Mr. Jeffries. This amendment would strike the sections
4987 of H.R. 1772 that would permit States to enforce all of the
4988 civil and criminal provisions for unauthorized hiring in
4989 Section 274(a) of the NIA.

4990 The current bill requires States to follow Federal
4991 regulations, apply the Federal penalty, and comply with all
4992 Federal rules and guidelines. However, State involvement
4993 could lead to significant confusion and uncertainty in the
4994 enforcement of our Federal employment verification laws. As
4995 drafted, local governments would be authorized to enforce
4996 Federal civil and criminal statutes presumably in States
4997 courts.

4998 Different courts in different jurisdictions in different
4999 regions can develop their own jurisprudence and
5000 interpretation on issues of Federal law. This could lead to
5001 judge or forum shopping in search of either a pro-employee
5002 or pro-employer jurisdiction. It will create an uneven and
5003 unfair playing field.

5004 This amendment would strike the language permitting

5005 States to take on these functions, leaving it instead to the
5006 Federal system in order to promote certainty, which of
5007 course is important to business, commerce, and to industry.

5008 I, therefore, urge my colleagues to support this
5009 amendment and yield back the balance of my time.

5010 Chairman Goodlatte. The chair thanks the gentleman and
5011 recognizes himself. I must oppose the amendment. It
5012 removes an additional layer of enforcement assurance from
5013 the Legal Workforce Act by striking the provision in Section
5014 6 authorizing State and local jurisdictions to enforce the
5015 Federal immigration requirements of E-Verify. We must rely
5016 solely on the Administration for enforcement, but
5017 unfortunately for many years, virtually all immigration
5018 enforcement has been reliant upon whomever the President
5019 happens to be.

5020 Over those years, we have seen Presidents select which
5021 laws they want to enforce, and this is not specific to one
5022 political party or another. There are aspects of
5023 immigration enforcement that neither party has chosen to
5024 undertake, and the result is an ever-increasing amount of
5025 illegal immigration.

5026 The American people are tired of immigration laws being
5027 ignored. They were promised enforcement in 1986, but none
5028 materialized. We should enact laws that empower States and
5029 localities to help enforce Federal immigration laws. This
5030 amendment would put all work site enforcement back in the
5031 hands of whomever happens to reside at 1600 Pennsylvania
5032 Avenue.

5033 Under the current President, the Department of Homeland
5034 Security has made a conscious effort to enact administrative
5035 policies directing officials to not enforce the law. When
5036 our Federal officials cannot be trusted to enforce the law,
5037 it is only logical that the States be allowed to do so. The
5038 Legal Workforce Act creates a process for the States to
5039 enforce the Federal requirements, to apply the Federal
5040 penalties, and to comply with Federal guidance to implement
5041 this process.

5042 It is a constitutional way to allow the States to do
5043 what the Federal government will not: enforce immigration
5044 laws. And I urge my colleagues to oppose the amendment.

5045 The question occurs on the amendment.

5046 For what purpose does the gentleman from Iowa seek

5047 recognition?

5048 Mr. King. Move to strike the last word.

5049 Chairman Goodlatte. The gentleman is recognized for 5
5050 minutes.

5051 Mr. King. Thank you, Mr. Chairman. I rise in
5052 opposition to the amendment. I want to make a point on my
5053 position with regard to preemption and local law
5054 enforcement, and that is that in all of my formative years,
5055 I grew up in a law enforcement family. And as I have
5056 watched some of the definition and re-definition of
5057 immigration law in the time I have been in Congress and the
5058 activities of the President of the United States, it has
5059 occurred to me that this division has been created from top
5060 down. And the arguments have been made that only federally
5061 sanctioned officers can enforce Federal immigration law.

5062 And I think the chairman and I agree that if you do not
5063 have cooperation at all levels of law enforcement, that you
5064 are simply not going to be able to enforce the law. If you
5065 compartmentalize it, that would mean that a Federal agent
5066 could not stop someone from violating a State statute. It
5067 would take a county sheriff to enforce a county ordinance,

5068 city policy to enforce a city ordinance, and only Federal
5069 officers enforcing Federal law. If that happens, then it is
5070 just simply everybody has got a hot potato, and people do
5071 not work and cooperate with each other.

5072 I want to see the Federal, State, and local officers sit
5073 down and have coffee with each other. and work together, and
5074 pull together to enforce law in the most effective way
5075 because there is a theme. There is a theme from Washington,
5076 D.C. to our State capitals to our county seats to our
5077 cities, and that theme is respect for the rule of law. And
5078 that the reason that I made some concessions here.

5079 But I want to restore my principle, which is that on
5080 balance I do not believe we should be preempting the States
5081 or the local governments from enforcing immigration law. I
5082 know that the underlying bill and the manager's amendment
5083 provides that these local law enforcement enforces. I
5084 oppose the gentleman's amendment that strikes local law
5085 enforcement's ability to enforce.

5086 And I wanted to just remind the committee that my
5087 overall position is that I am concerned that the Federal
5088 government, after the passage of this underlying bill, might

5089 just simply do what happened with the Morton memos. When
5090 the Morton memos were written, it was to ICE and other
5091 Federal agents, you shall not enforce these versions of the
5092 Federal law that the President disagrees with.

5093 I am concerned that this bill, as good as it is, might
5094 leave itself open to that kind of Federal preemption by
5095 edict. And so, that is the reason that I support local
5096 authority to mirror Federal immigration laws. It is also
5097 the reason that I oppose the gentleman's amendment.

5098 But I am going to support the underlying bill, and I
5099 would yield to the chairman.

5100 Chairman Goodlatte. If the gentleman would yield, I
5101 share the gentleman's concern that the bill be written in
5102 such a way to assure that local and State government
5103 authority to help enforce these E-Verify laws is not
5104 preempted by the Federal government. So if there is
5105 additional work that needs to be done to make sure that is
5106 the case, I would join the gentleman in working on that with
5107 him.

5108 But I would also say that we have to have one E-Verify
5109 system, and not having 50 different systems is also an

5110 important principle for making the system work. So that is
5111 where the idea of allowing State and local law enforcement
5112 to work with the Federal government and independently, if
5113 necessary, of the Federal government if the Federal
5114 government does not do its job, to enforce these laws to
5115 check on whether or not employees are in compliance with the
5116 law. And I will join with the gentleman in making sure that
5117 the language in this bill is the best possible to assure
5118 that.

5119 Mr. King. And in reclaiming my time, I would make the
5120 point that the president of the ICE union sat down at this
5121 table just a couple of weeks ago, and under oath, when asked
5122 how do you enforce the law even if people are unlawfully
5123 present in this building, and he said, I cannot. I am
5124 prohibited from it by the Morton memo.

5125 So I think that this underlying bill and the theme and
5126 the flow that comes with it is good, but I would just
5127 caution this Congress that we probably cannot write a law
5128 strong enough to make the President keep his oath office.
5129 But this moves us in the right direction.

5130 I oppose the gentleman's amendment. I yield back the

5131 balance of my time.

5132 Chairman Goodlatte. The chair thanks the gentleman.

5133 The question occurs on the amendment offered by the

5134 gentleman from New York.

5135 All those favor, respond by saying aye.

5136 Those opposed, no.

5137 In the opinion of the chair, the noes have it, and the

5138 amendment is not agreed to.

5139 Are there further amendments?

5140 [No response.]

5141 Chairman Goodlatte. A reporting quorum being present,

5142 the question is -- actually I believe the gentleman from

5143 Michigan had a unanimous consent request.

5144 Mr. Conyers. I do, Mr. Chairman, and thank you. I

5145 would like unanimous consent to include in the record a

5146 letter received today from the International Laborers Union

5147 of North America, as well as a letter from the National

5148 Immigration Forum received today as well, both opposing the

5149 bill under consideration, H.R. 1772.

5150 And I would additionally like to remind and include in

5151 the record the organizations and individuals that were

5152 opposed to this bill in the last session of Congress, in the
5153 112th session, to the Legal Workforce Act, some 156 in
5154 number.

5155 And I ask unanimous consent that they be included in the
5156 record.

5157 Chairman Goodlatte. Without objection, they will be
5158 included in the record.

5159 [The information follows:]

5160

5161 Chairman Goodlatte. And I ask unanimous consent to
5162 introduce the following letters supporting H.R. 1772 into
5163 the record from the following associations: Associated
5164 Builders and Contractors, Incorporated, a joint letter from
5165 the National Restaurant Association, the Association of
5166 Chief Human Resource Officers, the National Retail
5167 Federation, and the International Franchise Association, a
5168 separate letter from the International Franchise
5169 Association, the Essential Worker Immigration Coalitions
5170 letter, Numbers USA, and the U.S. Chamber of Commerce.

5171 Without objection, those will be made a part of the
5172 record.

5173 [The information follows:]

5174

5175 Chairman Goodlatte. A reporting quorum being present,
5176 the question is on the motion to report the bill, H.R. 1772,
5177 as amended, favorably to the House.

5178 Those in favor will say aye.

5179 Those opposed, no.

5180 In the opinion of the chair, the ayes have it, and the
5181 bill, as amended, is reported favorably.

5182 Mr. Conyers. Could I ask for a recorded vote?

5183 Chairman Goodlatte. A recorded vote is requested, and
5184 the clerk will call the roll.

5185 Ms. Deterding. Mr. Goodlatte?

5186 Chairman Goodlatte. Aye.

5187 Ms. Deterding. Mr. Goodlatte votes aye.

5188 Mr. Sensenbrenner?

5189 Mr. Sensenbrenner. Aye.

5190 Ms. Deterding. Mr. Sensenbrenner votes aye.

5191 Mr. Coble?

5192 [No response.]

5193 Ms. Deterding. Mr. Smith of Texas?

5194 Mr. Smith of Texas. Aye.

5195 Ms. Deterding. Mr. Smith of Texas votes aye.

5196 Mr. Chabot?

5197 Mr. Chabot. Aye.

5198 Ms. Deterding. Mr. Chabot votes aye.

5199 Mr. Bachus?

5200 [No response.]

5201 Ms. Deterding. Mr. Issa?

5202 Mr. Issa. Aye.

5203 Ms. Deterding. Mr. Issa votes aye.

5204 Mr. Forbes?

5205 [No response.]

5206 Ms. Deterding. Mr. King?

5207 Mr. King. Aye.

5208 Ms. Deterding. Mr. King votes aye.

5209 Mr. Franks?

5210 Mr. Franks. Aye.

5211 Ms. Deterding. Mr. Franks votes aye.

5212 Mr. Gohmert?

5213 [No response.]

5214 Ms. Deterding. Mr. Jordan?

5215 Mr. Jordan. Yes.

5216 Ms. Deterding. Mr. Jordan votes aye.

5217 Mr. Poe?

5218 [No response.]

5219 Ms. Deterding. Mr. Chaffetz?

5220 Mr. Chaffetz. Aye.

5221 Ms. Deterding. Mr. Chaffetz votes aye.

5222 Mr. Marino?

5223 Mr. Marino. Aye.

5224 Ms. Deterding. Mr. Marino votes aye.

5225 Mr. Gowdy?

5226 Mr. Gowdy. Yes.

5227 Ms. Deterding. Mr. Gowdy votes aye.

5228 Mr. Amodei?

5229 Mr. Amodei. Yes.

5230 Ms. Deterding. Mr. Amodei votes aye.

5231 Mr. Labrador?

5232 Mr. Labrador. Yes.

5233 Ms. Deterding. Mr. Labrador votes aye.

5234 Mr. Farenthold?

5235 Mr. Farenthold. Aye.

5236 Ms. Deterding. Mr. Farenthold votes aye.

5237 Mr. Holding?

5238 Mr. Holding. Aye.

5239 Ms. Deterding. Mr. Holding votes aye.

5240 Mr. Collins?

5241 Mr. Collins. Aye.

5242 Ms. Deterding. Mr. Collins votes aye.

5243 Mr. DeSantis?

5244 Mr. DeSantis. Aye.

5245 Ms. Deterding. Mr. DeSantis votes aye.

5246 Ms. Deterding. Mr. Smith of Missouri?

5247 Mr. Smith of Missouri. Aye.

5248 Ms. Deterding. Mr. Smith of Missouri votes aye.

5249 Mr. Conyers?

5250 Mr. Conyers. No.

5251 Ms. Deterding. Mr. Conyers votes no.

5252 Mr. Nadler?

5253 [No response.]

5254 Ms. Deterding. Mr. Scott?

5255 Mr. Scott. No.

5256 Ms. Deterding. Mr. Scott votes no.

5257 Mr. Watt?

5258 [No response.]

5259 Ms. Deterding. Ms. Lofgren?

5260 Ms. Lofgren. No.

5261 Ms. Deterding. Ms. Lofgren votes no.

5262 Ms. Jackson Lee?

5263 [No response.]

5264 Ms. Deterding. Mr. Cohen?

5265 [No response.]

5266 Ms. Deterding. Mr. Johnson?

5267 [No response.]

5268 Ms. Deterding. Mr. Pierluisi?

5269 Mr. Pierluisi. No.

5270 Ms. Deterding. Mr. Pierluisi votes no.

5271 Ms. Chu?

5272 Ms. Chu. No.

5273 Ms. Deterding. Ms. Chu votes no.

5274 Mr. Deutch?

5275 Mr. Deutch. No.

5276 Ms. Deterding. Mr. Deutch votes no.

5277 Mr. Gutierrez?

5278 [No response.]

5279 Ms. Deterding. Ms. Bass?

5280 [No response.]

5281 Ms. Deterding. Mr. Richmond?

5282 [No response.]

5283 Ms. Deterding. Ms. DelBene?

5284 Ms. DelBene. No.

5285 Ms. Deterding. Ms. DelBene votes no.

5286 Mr. Garcia?

5287 Mr. Garcia. No.

5288 Ms. Deterding. Mr. Garcia votes no.

5289 Mr. Jeffries?

5290 Mr. Jeffries. No.

5291 Ms. Deterding. Mr. Jeffries votes no.

5292 Chairman Goodlatte. The gentleman from Virginia, Mr.

5293 Forbes.

5294 Mr. Forbes. Aye.

5295 Ms. Deterding. Mr. Forbes votes aye.

5296 Chairman Goodlatte. The gentleman from Alabama, Mr.

5297 Bachus.

5298 Mr. Bachus. Aye.

5299 Ms. Deterding. Mr. Bachus votes aye.

5300 Chairman Goodlatte. The gentleman from Texas, Mr. Poe.

5301 Mr. Poe. Yes.

5302 Ms. Deterding. Mr. Poe votes aye.

5303 Chairman Goodlatte. The gentleman from North Carolina,

5304 Mr. Coble.

5305 Mr. Coble. Aye.

5306 Ms. Deterding. Mr. Coble votes aye.

5307 Chairman Goodlatte. Are there additional members who

5308 have not voted who wish to vote?

5309 [No response.]

5310 Chairman Goodlatte. If not, the clerk will report.

5311 Ms. Deterding. Mr. Chairman, 22 members voted aye, and

5312 9 members voted nay.

5313 Chairman Goodlatte. The ayes have it, and the bill, as

5314 amended, is ordered reported favorably.

5315 Members will have 2 days to submit views.

5316 [The information follows:]

5317

5318 Chairman Goodlatte. Without objection, the bill will be
5319 reported as a single amendment in the nature of a substitute
5320 incorporating all adopted amendments. And staff is
5321 authorized to make technical and conforming changes.

5322 I want to thank all the members of the committee for
5323 their participation in today's markup, and thank our
5324 intrepid members of the staff on both sides of the aisle for
5325 their hard work on this bill.

5326 This concludes our business today. We will reconvene at
5327 10:00 a.m. tomorrow to consider one more immigration bill.

5328 Thanks to all our members for attending, and the meeting
5329 is adjourned.

5330 Mr. Sensenbrenner. And I want to thank the chairman
5331 publicly.

5332 [Whereupon, at 6:00 p.m., the committee was adjourned.]