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2 MARKUP OF H.R. 3921, THE "PROCEDURAL FAIRNESS  
3 FOR SEPTEMBER 11TH VICTIMS ACT OF 2007";  
4 H.R. 2405, THE "PROUD TO BE AN AMERICAN  
5 CITIZEN ACT"; H.R. 2884, THE "KENDELL FREDERICK  
6 CITIZENSHIP ASSISTANCE ACT"; H.R. 1512, TO  
7 AMEND THE IMMIGRATION AND NATIONALITY ACT TO  
8 PROVIDE FOR COMPENSATION TO STATES INCARCERATING  
9 UNDOCUMENTED ALIENS CHARGED WITH A FELONY OR  
10 TWO OR MORE MISDEMEANORS; H.R. 1312, THE "ARTS  
11 REQUIRE TIMELY SERVICE (ARTS) ACT"; H.R. 3609,  
12 THE "EMERGENCY HOME OWNERSHIP AND MORTGAGE  
13 EQUITY PROTECTION ACT OF 2007"; H.R. 2830, THE  
14 "COAST GUARD AUTHORIZATION ACT OF 2007";  
15 TO CONSIDER: A RESOLUTION THAT SUBMISSIONS  
16 TO THE COMMITTEE ON ITS WEBSITE TIP LINE FOR  
17 JUSTICE DEPARTMENT EMPLOYEES BE RECEIVED IN  
18 EXECUTIVE SESSION; AND H.R. 2128, THE  
19 "SUNSHINE IN THE COURTROOM ACT OF 2007"  
20 Wednesday, October 24, 2007  
21 House of Representatives,

22 Committee on the Judiciary,  
23 Washington, D.C.

24 The committee met, pursuant to call, at 10:24 a.m., in Room  
25 2141, Rayburn House Office Building, Hon. John Conyers  
26 [chairman of the committee] presiding.

27 Present: Representatives Conyers, Berman, Nadler,  
28 Scott, Watt, Lofgren, Jackson Lee, Waters, Delahunt, Wexler,  
29 Sanchez, Cohen, Johnson, Gutierrez, Sherman, Weiner, Schiff,  
30 Wasserman Schultz, Ellison, Baldwin, Sutton, Smith,  
31 Sensenbrenner, Coble, Gallegly, Goodlatte, Chabot, Lungren,  
32 Cannon, Keller, Pence, Forbes, King, Feeney, Franks, Gohmert,  
33 and Jordan.

34 Staff present: Perry Apfelbaum, Staff Director-Chief  
35 Counsel; Ted Kalo, General Counsel-Deputy Staff Director;  
36 Joseph Gibson, Chief Minority Counsel; George Slover,

37 Legislative Counsel-Parliamentarian; and Anita Johnson,  
38 Clerk.

39 Chairman Conyers. [Presiding.] Good morning. The  
40 committee will come to order.

41 Pursuant to notice, I call up H.R. 3921, the Procedural  
42 Fairness for September 11th Victims Act, for purposes of  
43 markup, and ask the clerk to report the bill.

44 The Clerk. H.R. 3921, a bill to provide nationwide  
45 subpoena authority for actions brought under the September  
46 11th Victim Compensation Fund of 2001.

47 [The bill follows:]

48 \*\*\*\*\* INSERT \*\*\*\*\*

49 Chairman Conyers. Without objection, the bill will be  
50 considered as read and open for amendment at any point.  
51 Members of the committee, the bill we are marking up today  
52 ensures that all parties involved have an opportunity for a  
53 fair day in court for compensation related to the September  
54 11th tragedy. The Transportation Safety and Systems  
55 Stabilization Act passed in 2001 provided for civil  
56 litigation only in the United States District Court for the  
57 Southern District of New York, so that one court could  
58 adjudicate all the claims fairly and efficiently.

59 The unintended consequence due to the Federal Rules of  
60 Civil Procedure was that subpoena power to secure testimony  
61 or documents from nonparty witnesses has generally been  
62 limited to persons and documents located within 100 miles of  
63 the Southern District of New York. The legislation did not  
64 take this 100-mile limit into account. The 100-mile limit is  
65 contrary to the fact that many of the events relevant to the  
66 September 11 tragedy occurred in Boston, where flights,  
67 American Airlines 11 and United Airlines 175 originated, and  
68 the Washington, D.C., area where the Pentagon is located, and  
69 the American Airlines flight 77 originated.

70 The bill before us remedies this problem by providing  
71 for nationwide subpoena service for all parties in the  
72 litigation—victims, victims' families and defendants—so that  
73 they have access to all pertinent information. We also make

74 clear in the bill that the court has the power to make sure  
75 that those being subpoenaed are not unduly burdened by the  
76 nationwide subpoena power. The court will have the authority  
77 to quash or modify subpoenas if compliance would create a  
78 hardship.

79 It is a noncontroversial common sense measure, and I  
80 hope to enjoy the support of my colleagues on both sides of  
81 the aisle.

82 I am now pleased to recognize Lamar Smith, the ranking  
83 minority member from Texas, for his opening remarks.

84 Mr. Smith. Thank you, Mr. Chairman. Mr. Chairman, like  
85 you, I support the Procedural Fairness Act for September 11th  
86 Victims Act of 2007. In the wake of the 9/11 terrorist  
87 attacks, Congress created an optional alternative  
88 compensation program for victims killed or injured during the  
89 attacks. This statute mandates that liability for all claims  
90 resulting from the 9/11 attacks are limited to an amount no  
91 greater than the limits of liability coverage maintained by  
92 the air carriers involved.

93 The statute further provides that compensation may only  
94 be obtained pursuant to a federal cause of action brought in  
95 U.S. District Court for the Southern District of New York,  
96 where a consolidated action is already pending.  
97 Representatives of several passengers, ground victims, and  
98 others are suing airline companies, airport security firms,

99 airport authorities and other defendants. The litigation  
100 focuses on events in New York, Washington, D.C., Boston Logan  
101 Airport, and other areas across the country.

102 In most civil litigation brought in federal court, Rule  
103 45 of the Federal Rules of Civil Procedure limits the service  
104 of trial subpoenas to nonparty witnesses to the district and  
105 state where the case was filed or at anyplace without the  
106 district that is within 100 miles of the place of trial.  
107 This limitation precludes the issuance of some subpoenas in  
108 the 9/11 litigation.

109 However, Rule 45 also states that service may take place  
110 elsewhere pursuant to another federal statute. For example,  
111 Congress allows for nationwide service under the False Claims  
112 Act, the Veterans Benefits Act, and the Civil RICO statute.  
113 If this nationwide service feature is not extended to the  
114 9/11 victims compensation law, a number of important  
115 witnesses will not be able to testify in person during the  
116 litigation.

117 Alternatives to enactment of H.R. 3921, such as  
118 conducting pretrial, nonparty witness depositions around the  
119 country and videoconferencing, might prove too costly and  
120 will deny the jury the benefit of live, first-hand testimony.

121 Mr. Chairman, the bill applies equally to plaintiffs and  
122 defendants. The legislation promotes fairness and is based  
123 on federal precedent in other areas of the law. So I urge

124 the committee to report the bill favorably, and I will yield  
125 back the balance of my time.

126 Chairman Conyers. I thank the gentleman for his  
127 comments.

128 All other statements of members of the committee will be  
129 included in the record.

130 Are there any amendments to the measure? If not,  
131 because a reporting quorum is not present, and so we will  
132 hold this measure and bring it back at the appropriate time.

133 Ladies and gentlemen, pursuant to notice, I call up H.R.  
134 2405, the Proud To Be An American Citizen Act, for purposes  
135 of markup and ask the clerk to report the bill.

136 The Clerk. H.R. 2405, a bill to require the Secretary  
137 of Homeland Security to provide for ceremonies on or near  
138 Independence Day for administering oaths of allegiance to  
139 legal immigrants whose applications for naturalization have  
140 been approved. "Be it enacted by the Senate—"

141 [The bill follows:]

142 \*\*\*\*\* INSERT \*\*\*\*\*



143 Chairman Conyers. Without objection, the bill will be  
144 considered as read and open for amendment at any point.

145 I would like to recognize the chairwoman of the  
146 Immigration Committee, Zoe Lofgren, to make her opening  
147 remarks about the measure.

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

149 H.R. 2405, the Proud To Be An American Citizen Act,  
150 directs the Department of Homeland Security to make funds  
151 available each fiscal year to the U.S. Citizenship and  
152 Immigration Services or to public or private nonprofit  
153 entities, to support naturalization ceremonies on or around  
154 Independence Day. Each naturalization ceremony would receive  
155 a maximum of \$5,000. Such funds would be used only for  
156 government personnel costs associated with the ceremony, site  
157 rental and other logistical requirements, and printing  
158 brochures about the naturalization process.

159 Public or private entities seeking to receive funds  
160 under this Act would go through an application process  
161 specified by DHS. H.R. 2405 would not authorize any new  
162 expenditures, since the funds allocated under this Act would  
163 be made available only from funds already available to DHS to  
164 carry out naturalization activities.

165 The Judiciary Committee previously considered the Proud  
166 To Be An American Citizen Act in the 109th Congress, and  
167 ordered it to be reported by a voice vote. The House passed

168 that bill through the suspension calendar and by voice vote  
169 in March of 2006. On September 25, the Immigration  
170 Subcommittee marked up H.R. 2405 and reported the bill  
171 favorably to the full committee by a voice vote without  
172 amendment.

173 I urge my colleagues to join me in supporting this bill.

174 Chairman Conyers. Thank you so much.

175 The chair recognizes the ranking member of the  
176 committee, Lamar Smith.

177 Mr. Smith. Thank you, Mr. Chairman.

178 I support this legislation. The bill requires U.S.  
179 Citizenship and Immigration Services, in conjunction with  
180 nonprofit entities, to conduct naturalization ceremonies in  
181 or near Independence Day each year. It will make available  
182 funds already possessed by the Department of Homeland  
183 Security to cover some of the costs of these ceremonies.

184 Our country can bestow no greater honor than that of  
185 citizenship. We should strive to make naturalization  
186 ceremonies fitting remembrances of these special occasions.  
187 The Proud To Be An American Citizen Act helps accomplish that  
188 goal.

189 Mr. Chairman, I will yield my remaining time to the  
190 gentleman from Iowa, Mr. King, the ranking member of the  
191 Immigration Subcommittee.

192 Mr. King. I thank the gentleman for yielding, Ranking

193 Member Smith.

194 I also thank Chairman Conyers for bringing this bill. I  
195 am happy to support the Proud To Be An American Citizen Act.  
196 This bill requires U.S. Citizenship and Immigration Services  
197 to conduct naturalization ceremonies on or near Independence  
198 Day each year. I can think of no more appropriate or  
199 inspiring time of year for legal immigrants to declare their  
200 allegiance to the United States and become naturalized  
201 citizens of our nation.

202 The bill will direct the Department of Homeland Security  
203 to make available up to \$5,000 per ceremony from funds  
204 already available to the department. The funds can be used  
205 only for the cost of government personnel needed to  
206 administer the oath of allegiance, including travel,  
207 facilities, brochures and other logistics such as sanitation.  
208 Any nongovernment entity seeking to organize a naturalization  
209 ceremony must receive approval under an application process  
210 prescribed by the Department of Homeland Security.

211 While \$5,000 is not an enormous amount of money, it  
212 provides enough to cover the basics for ceremony to honor  
213 those who have worked hard and meet the legal standards to  
214 become United States citizens. The money takes the burden  
215 off of nonprofit organizations to raise such funds.

216 I would like to reflect upon one of those experiences  
217 that I had as I joined the Director of U.S. Citizenship and

218 Immigration Services, Emilio Gonzalez, over in the Old  
219 Executive Office Building on the Friday before this past  
220 Fourth of July in a naturalization ceremony there for 25 new  
221 Americans. That ceremony I think was the most moving that I  
222 have been to as far as naturalization ceremonies are  
223 concerned.

224         Director Gonzalez made two points that I think are  
225 important for this committee to reflect upon at this time.  
226 One is, he said, "Look out the window of this building, and  
227 when you look out the window you see the White House, the  
228 south lawn, the West Wing." He said to the newly naturalized  
229 citizens, "From this day forward, the occupant of that house  
230 next door is no more American than you are."

231         And the second point that he made was a point that I  
232 think that reflecting upon that statement "no more American  
233 than you are," was perhaps the most important of all of the  
234 points that he made that day. But I think that Gonzalez,  
235 being someone who is an American by choice, who is a  
236 naturalized American citizen, conveyed that thought as well  
237 as anybody that I have heard.

238         So I urge adoption of this Act. I am pleased to join my  
239 colleagues in a bipartisan effort to help us celebrate the  
240 naturalization ceremonies that take place across this country  
241 and to facilitate that with a token of \$5,000 to take care of  
242 those expenses.

243 I urge the adoption and I yield back the balance of my  
244 time.

245 Chairman Conyers. I thank the gentleman, because we  
246 have all been moved by these ceremonies. I have had some in  
247 Detroit at the United States District Courthouse, where my  
248 office happens to be, and I share the feelings that the  
249 gentleman recited in his comments.

250 Mr. King. Would the chairman yield?

251 Chairman Conyers. Of course. Let me strike the last  
252 word.

253 Mr. King. Thank you, Mr. Chairman.

254 I embarrassed myself because I forgot my second point.  
255 I wanted to bring that one back up again. He said, "the  
256 second thing that you should remember is, people will ask you  
257 'who are your ancestors?' As a naturalized American citizen,  
258 your answer is, you are the ancestor, you are the first  
259 American." I wanted to make that point, and I thank you for  
260 yielding. I yield back.

261 Chairman Conyers. Thank you. I return my unused time.

262 All members are invited to submit their statements in  
263 the record.

264 Are there any amendments that anyone would like to make?  
265 Since we do not have a reporting quorum, we will defer  
266 further action on H.R. 2405 until we get the requisite number  
267 of members of the committee.

268 Pursuant to notice, I now call up H.R. 2884, the Kendell  
269 Frederick Citizenship Assistance Act, for purposes of markup  
270 and ask the clerk to report the bill.

271 The Clerk. Amendment in the nature of a substitute to  
272 H.R. 2884, as reported by the Subcommittee on Immigration,  
273 Citizenship, Refugees, Border Security and International Law.  
274 "Strike all after the enacting clause and insert the  
275 following: Section 1—"

276 [The bill follows:]

277 \*\*\*\*\* INSERT \*\*\*\*\*

278 Chairman Conyers. Without objection, the bill will be  
279 considered as read and open to amendment at any point.

280 I would like to invite the chair of the Immigration  
281 Committee, the gentlelady from California, Zoe Lofgren, for a  
282 description of the measure before us.

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

284 H.R. 2884, the Kendell Frederick Citizenship Assistance  
285 Act, honors the memory of 21-year-old Army Reserve Specialist  
286 Kendell K. Frederick. Specialist Frederick was born in  
287 Trinidad. He immigrated to the United States when he was 15  
288 to join his mother, stepfather and two sisters. He attended  
289 Randallstown Senior High in Baltimore County, Maryland, where  
290 he joined the school's ROTC program.

291 Specialist Frederick decided to enlist in the Army  
292 Reserves in his senior year and he was deployed to Iraq in  
293 December, 2004. As he was serving our country, Specialist  
294 Frederick decided to apply for U.S. citizenship, but one  
295 bureaucratic snafu after another delayed his application.  
296 First, the U.S. Citizenship and Immigration Service failed to  
297 route his application to the unit that processed citizen  
298 applications from members of the military. The USCIS  
299 rejected his application for failure to file an application  
300 fee, despite the fact that active military personnel applying  
301 for U.S. citizenship do not need to pay a filing fee.

302 Then USCIS directed Specialist Frederick to get his

303 fingerprints taken in Maryland, despite the fact that he was  
304 serving our country in Iraq at that time. Also, he recently  
305 had had his fingerprints taken and had undergone a background  
306 check when he enlisted in the Army Reserves. When his mother  
307 called the USCIS help line, they told her there was nothing  
308 that they could do.

309       On October 19, 2005, after trying for more than a year  
310 to become a U.S. citizen and having his application rejected  
311 and delayed due to bureaucratic bungling and misinformation,  
312 Specialist Frederick was forced to travel in a convoy to base  
313 so that he could get his fingerprints taken for the  
314 citizenship application. Tragically, he was killed en route  
315 by a roadside bomb. Specialist Frederick was posthumously  
316 granted U.S. citizenship a week after his death.

317       H.R. 2884 would prevent such needless tragedies by  
318 reducing procedural hurdles for naturalization applicants who  
319 are serving or have recently served in the military. It  
320 would allow the Department of Homeland Security to use the  
321 fingerprints provided by military naturalization applicants  
322 at the time of their enlistment in the armed forces if the  
323 applicants were fingerprinted in accordance with the  
324 Department of Defense's requirements and if the  
325 naturalization applications were filed with 24 months of  
326 enlistment.

327       It would also require DHS to update the naturalization



328 application, naturalization instructions and guidebooks, and  
329 relevant DHS Internet websites within 30 days of any  
330 modification to naturalization law or regulation. Finally,  
331 the legislation would ensure agency accountability to  
332 Congress by requiring the Government Accountability Office to  
333 report on the naturalization process for armed services  
334 members.

335       Approximately 35,000 lawful permanent residents are  
336 currently serving in our armed services. More than 13,000  
337 noncitizen members of the military have applied for U.S.  
338 citizenship since 2002. We can and must do everything we can  
339 for these brave men and women to achieve their dream of  
340 becoming U.S. citizens while they risk their lives for our  
341 country.

342       On September 25, 2007, the Immigration Subcommittee  
343 marked this bill up and reported the bill favorably to the  
344 full committee by voice vote, with one amendment striking the  
345 requirement for a military naturalization hotline, as the  
346 hotline has already been established and is no longer  
347 necessary to be part of this bill. After lengthy discussion  
348 with the author of this bill, the committee minority, the  
349 committee majority and DHS, some changes have been suggested,  
350 and I will offer an amendment after the discussion of the  
351 bill has concluded, to reflect the agreed-upon changes by the  
352 minority and the majority.

353 With that, I would urge my colleagues to support this  
354 important bill, as well as the amendment, the consensus  
355 amendment I will offer in a moment.

356 I yield back.

357 Chairman Conyers. I thank the gentlelady.

358 I recognize now Lamar Smith, ranking member of the  
359 committee.

360 Mr. Smith. Thank you, Mr. Chairman.

361 Mr. Chairman, I, too, support H.R. 2884. This bill  
362 eliminates a bureaucratic hurdle that has impeded the efforts  
363 of lawful permanent resident servicemen and servicewomen to  
364 become United States citizens. This bill allows soldiers who  
365 apply for naturalization within 24 months of enlistment to  
366 use the same fingerprints they provided when they enlisted.  
367 This is the least we can do for those who have demonstrated  
368 their patriotism by serving in our military.

369 I will now yield the balance of my time to the gentleman  
370 from Iowa, Mr. King, the ranking member of the Immigration  
371 Subcommittee.

372 Mr. King. I thank Ranking Member Smith for yielding,  
373 and the chairman for bringing this bill, as well as the chair  
374 of the Immigration Subcommittee, Ms. Lofgren, for bringing  
375 this bill as well.

376 At Immigration Subcommittee markup 2 weeks ago, I voiced  
377 my support for the Kendell Frederick Citizenship Assistance

378 Act. This bill provides a way to honor Specialist Frederick,  
379 who made the ultimate sacrifice for his country. We do it by  
380 smoothing the naturalization process for other servicemen and  
381 women who share his dream of becoming an American citizen.

382 Twenty-one-year-old Specialist Frederick was killed in  
383 Iraq while traveling in a convoy to a base to have his  
384 fingerprints re-taken for his naturalization application. It  
385 was because of some bureaucratic snafus that this took place,  
386 and yet his determination to become an American citizen was  
387 manifested at an early age. He came to the United States at  
388 age 15. He joined ROTC in high school, enlisted in the Army  
389 immediately after graduating, and he started the application  
390 process to become a naturalized citizen while he was still in  
391 training in the Army.

392 He did everything he could to complete his application  
393 paperwork after he deployed to Iraq, but after several rounds  
394 of misinformation, he had to go have his fingerprints re-  
395 taken, and that is when he was killed in the convoy. He was  
396 granted citizenship posthumously, and we can take a lesson  
397 from the price that he paid, and we can expedite this so that  
398 the people who follow in Specialist Frederick's footsteps  
399 will have an opportunity to expedite this bureaucratic  
400 procedure and utilize the fingerprints that were taken within  
401 24 months of the time that their application is reviewed.

402 I appreciate the thought that went into this

403 legislation, and I anticipate supporting the changes that  
404 will come to improve it even further.

405 I thank the chairman, and I yield back the balance of my  
406 time.

407 Chairman Conyers. I thank the gentleman from Iowa.

408 All other members are invited to include their  
409 statements in the record.

410 The chair asks the gentlelady from California for what  
411 purpose does she seek recognition?

412 Ms. Lofgren. I have an amendment at the desk, Mr.  
413 Chairman.

414 Chairman Conyers. The clerk will report the amendment.

415 The Clerk. Amendment to H.R. 2884 offered by Ms. Zoe  
416 Lofgren of California, as reported by the Subcommittee on  
417 Immigration, Citizenship, Refugees, Border Security and  
418 International law.

419 [The amendment by Ms. Lofgren follows:]

420 \*\*\*\*\* INSERT \*\*\*\*\*

421 Chairman Conyers. Without objection, the amendment is  
422 considered read, and the gentlelady is recognized in support  
423 of her amendment.

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

425 After discussion between the author of the bill, Mr.  
426 Cummings, and the committee minority and the Department of  
427 Homeland Security, this amendment is being offered to reflect  
428 this change. The amendment would continue to require DHS to  
429 use the fingerprints provided by military naturalization  
430 applicants at the time of their enlistment. However, the  
431 amendment would make it clear that where DHS determines that  
432 the fingerprints submitted to the armed forces are not  
433 sufficient to adjudicate the applicant's naturalization  
434 application, the applicant would submit new fingerprints.

435 This would ensure that in circumstances where the  
436 fingerprints are ineligible or have other problems, an  
437 applicant would be required to submit new prints. In  
438 addition, the amendment would ensure that when DHS determines  
439 that submitting new fingerprints would result in more timely  
440 and effective adjudication, the DHS is required to inform the  
441 individual that submitting new fingerprints would result in  
442 more timely and effective adjudication.

443 The amendment would also ensure that DOD complies with  
444 the requirements of this bill so that fingerprints held by  
445 the DOD are sent to DHS. And finally, the amendment would

446 clarify the timeframe in which DHS is required to publicize  
447 changes in regulations regarding the naturalization of  
448 members of the armed forces.

449 I would urge my colleagues to support this amendment. I  
450 believe it is supported by the minority as well as the  
451 department. I yield back.

452 Chairman Conyers. I thank the gentlelady.

453 I recognize the ranking minority member, Lamar Smith.

454 Mr. Smith. Thank you, Mr. Chairman.

455 As I understand it, this amendment does expedite the  
456 process of securing fingerprints and it also makes some  
457 technical corrections as well. I support it and yield back.

458 Chairman Conyers. Thank you very much.

459 Is there any other discussion? The question is on the  
460 amendment offered by the gentlelady from California.

461 All those in favor signify by saying "aye."

462 All opposed say "no."

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

464 Are there any further amendments? If not, we will hold  
465 the completion of this measure until the requisite number of  
466 members are here.

467 We turn now pursuant to notice to call up H.R. 2830, the  
468 Coast Guard Authorization Act of 2007, for purposes of  
469 markup, and invite the clerk to report the bill.

470 The Clerk. H.R. 2830, a bill to authorize

471 appropriations for the Coast Guard for fiscal year 2008 and  
472 for other purposes. "Be it enacted by the Senate and the  
473 House of Representatives of the United States of America in  
474 Congress assembled--"

475 [The bill follows:]

476 \*\*\*\*\* INSERT \*\*\*\*\*

477 Chairman Conyers. Without objection, the bill will be  
478 considered as read and the text of the bill as reported by  
479 the Committee on Homeland Security, as shown in the document  
480 before the members, is considered original text for purposes  
481 of amendment. Without objection, it will be considered as  
482 read and open for amendment at any point.

483 May I begin the discussion of H.R. 2830 by pointing out  
484 that we are considering this bill on sequential referral from  
485 the Committee on Transportation and Infrastructure, and the  
486 Committee on Homeland Security, and focusing our jurisdiction  
487 narrowly on provisions within our committee's Rule 10  
488 jurisdiction. I will shortly offer an amendment addressing  
489 two sets of provisions, both contained in the bill as  
490 reported by the Transportation Committee.

491 First is Title VI dealing with prohibitions and  
492 enforcement powers against alien smuggling. Our committee  
493 worked with Congressman Bilbray and others in May to address  
494 this issue in a comprehensive and well-considered manner, and  
495 we succeeded in crafting a bill that passed the House on May  
496 22 by a vote of 412 to 0. The alien smuggling provision in  
497 the bill before us, while well intentioned, retains some of  
498 the shortcomings that we corrected in May. Given the more  
499 limited scope of the bill before us, we have worked closely  
500 with our Republican colleagues and with the Department of  
501 Justice and the Coast Guard to determine an appropriate



502 alternative in the context of this bill.

503       The amendment I will offer contains two provisions from  
504 the bill we passed in May. One amends the "failure to heave  
505 to" statute, 18 United States Code 2237, to strengthen Coast  
506 Guard enforcement tools against alien smuggling on the high  
507 seas, including tough penalties for those who lead the Coast  
508 Guard on dangerous chases and for those who risk their  
509 passengers' lives by intentionally ramming their boats onto  
510 shore at high speed in an attempt to discharge their human  
511 cargo.

512       It makes it a 10-year felony to flee from the Coast  
513 Guard in the course of alien smuggling, human trafficking, or  
514 narcotics smuggling offenses, and creates the first federal  
515 crime that recognizes smuggling in inhumane conditions as a  
516 grounds for an increased sentence.

517       The other provision from the House-passed bill directs  
518 the Sentencing Commission to adopt appropriate sentencing  
519 enhancements for alien smuggling involving terrorism, moving  
520 large groups of aliens, or abandoning aliens in harsh  
521 conditions.

522       Too often, the Coast Guard has had to deal with the  
523 tragic aftermath of smugglers abandoning aliens in rickety  
524 boats or on sand bars, knowing that they will die when the  
525 sea takes them. I am proud to join with our ranking member,  
526 Lamar Smith, to put an end to these heinous practices.

527           Finally, the amendment also restores a phrase that was  
528 omitted in a section of the bill transferring certain Coast  
529 Guard law enforcement authority from one title of the United  
530 States Code to another title that the Transportation  
531 Committee believes is a more appropriate place for it. This  
532 phrase was included in existing law to clarify the authority  
533 of Coast Guard personnel to make arrests without a warrant is  
534 not unlimited, but applies only when the crime occurs in the  
535 presence of the Coast Guard member.

536           That concludes my statement. I am now pleased to  
537 recognize the ranking minority member of the Judiciary  
538 Committee for his comments.

539           Mr. Smith. Mr. Chairman, first of all, I want to thank  
540 you for actively seeking and receiving a referral on H.R.  
541 2830, the Coast Guard Authorization Act of 2007. This bill  
542 contains several provisions that are within the jurisdiction  
543 of the Judiciary Committee. First, Title VI contains  
544 provisions dealing with alien smuggling. Alien smuggling is  
545 a serious problem, one that this committee has addressed on  
546 numerous occasions and continues to monitor.

547           However, the Judiciary Committee has jurisdiction over  
548 this issue, and we should consider any legislation that makes  
549 changes in this area of the law. Furthermore, any changes to  
550 penalties for alien smuggling must take into account existing  
551 laws. Second, the Judiciary Committee has jurisdiction over

552 Section 208 of this bill. This section expands the law  
553 enforcement authority of members of the Coast Guard. While  
554 this section may be well intentioned, it requires a technical  
555 fix to address constitutional concerns.

556 For these reasons, I will also support the chairman's  
557 amendment to H.R. 2830. First, this amendment keeps alien  
558 smuggling penalties where they belong, in the criminal title  
559 of the U.S. Code. The amendment increases penalties for  
560 alien smugglers who fail to heave to, particularly for those  
561 alien smugglers who endanger the lives of the aliens they are  
562 smuggling to evade capture and prosecution.

563 I also strongly support the provisions in this amendment  
564 that clarifies that members of the Coast Guard are authorized  
565 to make warrantless arrests for offenses committed in their  
566 presence. This is in keeping with the requirements of the  
567 Fourth Amendment and decades of accepted jurisprudence.

568 Mr. Chairman, I thank you and your staff for working in  
569 a bipartisan manner to amend this bill. I yield back the  
570 balance of my time. Before I do, I want to point out to my  
571 colleagues that a member of the Judiciary Committee, the  
572 gentleman from North Carolina, Mr. Coble, is to my knowledge  
573 the only member of Congress who served in the Coast Guard. I  
574 know he is going to have some comments of his own, and I  
575 yield back.

576 Chairman Conyers. I thank the gentleman, and recognize

577 the distinguished gentleman from North Carolina, Howard  
578 Coble.

579 Mr. Coble. Thank you, Mr. Chairman.

580 The ranking member rarely makes mistakes, but  
581 conspicuously absent from your comments, Lamar, was Bill  
582 Delahunt as a Coast Guardsman, who also sits on this  
583 committee. Mr. Smith, I think you will have something for  
584 him later today, but we can get to that later.

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

586 Chairman Conyers. Without objection. The gentleman is  
587 recognized.

588 Mr. Coble. Mr. Chairman, I support your efforts to  
589 maintain the committee's jurisdiction and appreciate the work  
590 of you and your staff, as well as the efforts of Ranking  
591 Member Smith and his staff to work with the Coast Guard to  
592 address the growing problem of maritime alien smuggling.

593 I am particularly pleased that we were able to agree to  
594 an effective alien smuggling provision that is both germane  
595 to the Coast Guard authorization and fully vetted and  
596 supported by the Judiciary Committee. The numbers speak  
597 volumes, Mr. Chairman. Maritime alien smuggling events  
598 involving the Coast Guard are called "get and go fast" boats,  
599 instead of rundown wooden boats, have increased in just the  
600 last 3 years from 27 percent to nearly 51 percent.

601 At the same time, the flow of undocumented aliens

602 attempting to enter the U.S. by sea has increased from 48  
603 percent to almost 67 percent. Why? Because maritime alien  
604 smuggling has become a business, where the smugglers have  
605 gamed the system and have little to lose under the current  
606 law. The Coast Guard has to deal with smugglers on a routine  
607 basis who know they can use a lack of authority to their  
608 advantage. To add to their frustration, interdicting  
609 smugglers on the high seas can be very dangerous.

610 I support the amendment offered by Chairman Conyers  
611 because it provides the tools for the Coast Guard and the  
612 Department of Justice to ensure the integrity of our maritime  
613 borders. Currently, there are enormous procedural and  
614 jurisdictional hurdles that protect and actually embolden  
615 alien smugglers. Simply put, this language would extend the  
616 long arm of the law to cover these smugglers and begin to  
617 deter smuggling.

618 It will begin to deter unsafe and inhumane smuggling by  
619 sea by delivering enhanced consequences to those who flee  
620 from or lie to our federal law enforcement officers. The  
621 amendment is the result of a collaborative effort between the  
622 Department of Justice and the Coast Guard, and is based upon  
623 broader legislation that passed the House by a vote of 412 to  
624 0. That is the bill, Mr. Chairman, you referred to earlier.

625 Further, the amendment is limited to the apprehension  
626 and prosecution of maritime smugglers, which makes it

627 appropriate for consideration in the context of the Coast  
628 Guard authorization. While this amendment differs somewhat  
629 from the Maritime Law Enforcement Improvement Act currently  
630 in Title VI of the Coast Guard's bill, it addresses some of  
631 the most important operational concerns raised by the Coast  
632 Guard.

633       It will provide the enhanced penalties necessary to  
634 deter dangerous high-speed pursuits and other patently unsafe  
635 activity associated with maritime smuggling. By adopting  
636 this language, we are supporting the vital efforts of the  
637 Coast Guard and the United States Attorneys who are  
638 responsible for prosecuting maritime smuggling cases as they  
639 confront this pressing and growing maritime safety and  
640 security problem.

641       I have been told by the Coast Guard, Mr. Chairman, that  
642 closing this loophole is their number one operational  
643 legislative priority. Mr. Chairman and Ranking Member Smith,  
644 I am proud that the committee has demonstrated a genuine  
645 willingness to be a part of the solution. Finally, I urge  
646 all members of the committee to support this amendment.

647       Maritime alien smuggling is a real-time problem that is  
648 screaming for a solution. Every little bit helps at the  
649 maritime borders of our nation. Our failure to adopt this  
650 amendment will leave our maritime borders less secure and  
651 will result in the continuation of severe consequences for

652 our law enforcement officers, instead of delivering  
653 consequences where they belong to maritime alien smugglers.

654 I yield back and I thank the chairman and the ranking  
655 member.

656 Chairman Conyers. Thank you very much, Mr. Coble.

657 All other members are invited to include their  
658 statements in the record.

659 The chair asks that his amendment be reported by the  
660 clerk.

661 The Clerk. Amendment to H.R. 2830 as reported, offered  
662 by Mr. Conyers of Michigan. "Strike Title VI and insert the  
663 following: Title VI, Alien Smuggling—"

664 [The amendment by Chairman Conyers follows:]

665 \*\*\*\*\* INSERT \*\*\*\*\*

666 Chairman Conyers. Without objection, the amendment will  
667 be considered as read.

668 I will only say that I have described the modest changes  
669 in the amendment, directing the Sentencing Commission to  
670 adopt appropriate sentencing enhancements and restoring a  
671 phrase that was omitted in the section of the bill  
672 transferring certain Coast Guard law enforcement authorities  
673 to another title that the Transportation Committee desired.  
674 And the two provisions from the bill we passed in May—one  
675 amends the failure to heave to statute, to strengthen the  
676 Coast Guard, and we make it a 10-year felony to flee from the  
677 Coast Guard in the course of alien smuggling.

678 Would the gentleman from Texas or the gentleman from  
679 North Carolina have any comments on this amendment?

680 Mr. Smith. Mr. Chairman, very briefly, I support the  
681 amendment and thank you for offering it.

682 Chairman Conyers. The gentleman from North Carolina?

683 Mr. Coble. No further comments, Mr. Chairman.

684 Chairman Conyers. Thank you.

685 Is there any other discussion on the amendment?

686 If not, all in favor of the amendment will indicate by  
687 saying "aye."

688 All opposed to amendment will say "no."

689 The ayes have it and the amendment is adopted.

690 Are there any other amendments? If not, a reporting



691 quorum is now present, and the question is on reporting the  
692 bill as amended favorably to the House.

693 All those in favor signify by saying "aye."

694 All those opposed say "no."

695 The ayes have it and the bill as amended is ordered  
696 reported favorably to the House.

697 Without objection, the bill be reported favorably to the  
698 House in the form of a single amendment in the nature of a  
699 substitute incorporating amendments adopted here today.

700 Without objection, the staff is authorized to make technical  
701 and conforming changes and members will have 2 days to submit  
702 additional views.

703 Now, we can vote on the previous bills that we had  
704 concluded. The first is H.R. 3921, the Procedural Fairness  
705 for September 11th Victims Act. A reporting quorum being  
706 present, the question is on reporting the bill favorably to  
707 the House.

708 All those in favor please signify by saying "aye."

709 Those opposed say "no."

710 In the opinion of the chair, the ayes have it, the ayes  
711 have it, and the bill is ordered reported favorably to the  
712 House.

713 All members will have, of course, 2 days provided by the  
714 House rules to submit additional views.

715 We are now prepared to take a vote on the Kendell

716 Frederick Citizenship Assistance Act, H.R. 2884. A reporting  
717 quorum being now present, the question is on reporting the  
718 bill as amended favorably to the House.

719 All those in favor signify by saying "aye."

720 All those opposed say "no."

721 In the opinion of the chair, the ayes have it, and the  
722 bill as amended in ordered reported favorably to the House.

723 Without objection, the bill will be reported favorably  
724 to the House in the form of a single amendment in the nature  
725 of a substitute, incorporating amendments adopted here today.

726 Without objection, the staff is authorized to make any  
727 technical and conforming changes. All members will have 2  
728 days in which to submit additional views.

729 Now, we are prepared to take a vote on H.R. 2405, Proud  
730 To Be An American Citizen Act. A reporting quorum being  
731 present, the question is on reporting the bill favorably to  
732 the House.

733 All those in favor will signify by saying "aye."

734 Those opposed say "no."

735 In the opinion of the chair, the ayes have it. The ayes  
736 have it, and the bill is reported favorably to the House.

737 All members will have 2 days provided by House rules to  
738 submit additional views.

739 Pursuant to notice, members of the committee, I now call  
740 up a resolution that submissions to this committee on its Web

741 site tip-off line for Justice Department employees be  
742 received in executive session for purposes of markup. The  
743 clerk will report the resolution.

744       The Clerk. Resolution regarding receipt and handling of  
745 submissions to committee Web site tip-line for Department of  
746 Justice employees. "Resolved (1), that the committee shall  
747 receive in executive session e-mails submitted prior to—"

748       [The resolution follows:]

749 \*\*\*\*\* INSERT \*\*\*\*\*

750 Chairman Conyers. Without objection, the resolution  
751 will be considered as read. Members of the committee, as you  
752 may recall in connection with our investigation into the  
753 firing of U.S. Attorneys and related matters, the committee  
754 established a tip-line on the committee Web site in June,  
755 2007 for Department of Justice employees to report  
756 allegations or concerns regarding possible wrongdoing  
757 involving the department.

758 At the time, the committee pledged to keep any e-mails  
759 we received in confidence. This resolution puts form on that  
760 pledge by providing e-mails submitted on the Web site to date  
761 will be received in executive session. This triggers  
762 established safeguards under House rules to ensure  
763 confidentiality of the submissions. Access will be limited  
764 to members of the committee, the committee staff, designated  
765 by the chairman and ranking minority member, on committee  
766 premises. Any broader disclosure will be prohibited unless  
767 the committee votes later to release submissions to the  
768 public.

769 The resolution also provides for notice to individuals  
770 who have submitted e-mails as to the confidentiality  
771 safeguards that have been established, and an opportunity for  
772 them to withdraw their submissions before they are made  
773 available to the committee members and staff pursuant to the  
774 resolution.

775           The resolution requires anyone who wishes to withdraw  
776 their submission to notify the committee within 3 business  
777 days of receiving notice. Finally, the resolution provides  
778 that any new e-mails that might be submitted after our vote  
779 will be withheld from review pending another vote or other  
780 arrangement between myself and the ranking member of this  
781 committee.

782           I am now happy to recognize the ranking member of this  
783 committee, the gentleman from Texas.

784           Mr. Smith. Thank you, Mr. Chairman. I do appreciate  
785 your addressing how the committee reviews information it has  
786 received in response to the committee's Web site solicitation  
787 of confidential information. However, I would like to voice  
788 my concern, a concern that I have had throughout the life of  
789 this investigation, that this committee be careful not to  
790 interfere with or undermine the work of DOJ's Inspector  
791 General or its Office of Professional Responsibility. Both  
792 of these offices are already investigating the same  
793 allegations.

794           Since the IG and OPR investigations are ongoing, I have  
795 to wonder what the committee can add to the process by  
796 establishing an anonymous tip-line. That being said, I  
797 support moving forward to review the materials we receive in  
798 executive session, where we can be assured that the material  
799 would be handled in a fair and equitable manner. It is also

800 my hope that this information has been handled with integrity  
801 until now, and will be handled with integrity as we move  
802 forward.

803 With those concerns expressed, Mr. Chairman, I support  
804 the resolution and yield back the balance of my time.

805 Chairman Conyers. Would the gentleman just allow me to  
806 reassure him on this point, that all of the matters that we  
807 take up pursuant to this resolution are done in consultation  
808 and cooperation with the office that you referred to. I  
809 thank you for emphasizing the point.

810 Mr. Smith. And thank you, Mr. Chairman, for that  
811 reassurance. I will yield back.

812 Chairman Conyers. I thank the gentleman.

813 Other members' statements are invited to be included in  
814 the record.

815 Are there any amendments? Then if not, the question is  
816 on adopting this resolution.

817 All those in favor will signify by saying "aye."

818 Those opposed, "no."

819 In the opinion of the chair, the ayes have it. The ayes  
820 have it, and the resolution is agreed to and is adopted.

821 The chair, pursuant to notice, calls up H.R. 1512,  
822 Compensation to States Incarcerating Undocumented Aliens  
823 Charged With A Crime.

824 I ask the clerk to report the bill.

825           The Clerk. H.R. 1512, a bill to amend the Immigration  
826 and Nationality Act to provide for compensation to states  
827 incarcerating undocumented aliens charged with a felony or  
828 two or more misdemeanors.

829           [The bill follows:]

830 \*\*\*\*\* INSERT \*\*\*\*\*

831 Chairman Conyers. Without objection, the bill will be  
832 considered as read and open for amendment at any point.

833 I invite the chair of the Subcommittee on Immigration,  
834 Zoe Lofgren, to describe the measure before us.

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

836 The State Criminal Aliens Assistance Program, or SCAAP,  
837 was created in 1994 to reimburse states and localities for  
838 the arrest, incarceration and transportation costs associated  
839 with criminal aliens. The SCAAP Program is administered by  
840 the Bureau of Justice Assistance, or BJA, which is part of  
841 the Department of Justice's Office of Justice Programs. The  
842 Department of Homeland Security aids BJA in administering the  
843 program.

844 In 2003, the Department of Justice reinterpreted the  
845 SCAAP statute in a way that caused a drop in every state's  
846 reimbursement. Today, states no longer receive reimbursement  
847 unless, one, the criminal alien is convicted of a felony or  
848 two misdemeanors; and two, the alien's arrest and conviction  
849 occurred in the same fiscal year.

850 H.R. 1512 is a bipartisan bill introduced by  
851 Congresswoman Linda Sanchez that would amend the Immigration  
852 and Nationality Act to return the SCAAP Program to its  
853 original congressional intent. Under H.R. 1512, states and  
854 localities would be reimbursed for the cost of incarcerating  
855 aliens who are either charged with or convicted of a felony



856 or two misdemeanors regardless of the fiscal year of the  
857 incarceration and conviction.

858         H.R. 1512 would correct the current administration's  
859 errant reinterpretation of the law and provide needed  
860 reimbursement to states and localities burdened by the cost  
861 of jailing criminal aliens. This bipartisan bill has been  
862 endorsed by the National Sheriffs' Association, the Sheriffs'  
863 Association of Texas, the Virginia Sheriffs' Association, the  
864 California State Sheriffs' Association, the Los Angeles  
865 County Sheriffs' Department, the California State Association  
866 of Counties, the U.S.-Mexico Border Counties Coalition,  
867 Sheriff Sigifredo Gonzalez of Zapata County, Texas, who is  
868 also vice chair of the Southwestern Border Sheriffs'  
869 Coalition, Sheriff John Cary Bittick of Monroe County,  
870 Georgia, who is past president of the National Sheriffs'  
871 Association and the current chair of the NSA's Legislative  
872 Affairs Committee.

873         H.R. 1512 has 56 bipartisan cosponsors, including the  
874 chair of the Immigration Reform Caucus, Congressman Brian  
875 Bilbray. On September 25, 2007, the Immigration Subcommittee  
876 marked up H.R. 1512 and reported the bill favorably to the  
877 full committee by voice vote unamended. I urge my colleagues  
878 to adopt this bill unamended as requested by the sheriffs who  
879 have written to us. I would yield back the balance of my  
880 time.

881 Chairman Conyers. Thank you, Chairwoman Lofgren.

882 The chair recognizes the ranking minority member, Lamar  
883 Smith.

884 Mr. Smith. Thank you, Mr. Chairman.

885 I support this legislation, but do so with reservations.  
886 H.R. 1512 makes a well-intentioned change to the category of  
887 incarcerated criminal illegal immigrants for which states and  
888 localities can receive compensation from the State Criminal  
889 Alien Assistance Program. The ranking member of the  
890 Immigration Subcommittee, and I both believe that the  
891 available statistics on criminal illegal immigrants in the  
892 United States leave much to be desired. There is too little  
893 data on illegal immigrants imprisoned in the United States.

894 We don't really know how many there are, what crimes  
895 they are charged with and convicted of, or how long they  
896 spend in our prison system. So we tried to work with the  
897 majority to add some reporting requirements to this bill.  
898 Specifically, the subcommittee ranking member requested that  
899 the majority add language that would require states and  
900 localities that receive SCAAP funding to collect data on the  
901 illegal immigrants they arrest and report that data to the  
902 Department of Homeland Security. DHS would, in turn, report  
903 the information to Congress. This seems to me like an  
904 obvious and necessary step to take.

905 The subcommittee ranking member also requested the

906 inclusion of a provision to require GAO to report information  
907 on illegal immigrants in the federal prison system. The  
908 majority refused to accept either of these reporting  
909 requirements. Their lack of willingness to gather  
910 information and require reporting on illegal immigrants who  
911 commit crimes in the United States is curious. Those who  
912 oppose such reporting requirements apparently don't want  
913 criminal illegal immigrants deported as quickly as possible.  
914 Yet people who choose to violate the laws of this country  
915 should be deported as quickly as possible.

916       Some may say the reporting requirements lessen the  
917 probability that victims will report crimes because they do  
918 not want to be deported themselves. However, the reporting  
919 requirements rejected by my colleagues on the other side of  
920 the aisle would apply only to the perpetrator upon arrest.  
921 So it is a little late to be worried about fear of  
922 deportation.

923       I support this legislation, Mr. Chairman, but do so with  
924 reservations because we are not willing to obtain information  
925 about criminal illegal immigrants.

926       I yield the balance of my time to the gentleman from  
927 Iowa, Mr. King, the ranking member of the Immigration  
928 Subcommittee.

929       Mr. King. I thank Ranking Member Smith for yielding. I  
930 believe that he spoke very well to the issue with regard to

931 the reporting requirements.

932       It does strike me as curious that we are a body here  
933 that should be gathering all of the data we can and making  
934 empirical decisions upon it. Immigration issues often come  
935 down to the question of numbers and dollars. I would submit  
936 that if we really understood the numbers of crimes committed  
937 against people who are lawfully present in the United States,  
938 both American citizens and those who are here by another  
939 lawful means, and we can put a dollar value on those crimes.

940       There is a dollar value on a study that was done for the  
941 Department of Justice just a few years ago. It puts a dollar  
942 figure on murder victims, a dollar figure on violent crime,  
943 rape for example, armed robbery, assault, manslaughter. We  
944 can put a dollar figure on this cost of crime if we just can  
945 quantify the numbers of crimes committed against people that  
946 are lawfully present in the United States.

947       This is the perfect vehicle to debate that subject  
948 matter. It is a perfect vehicle to adopt an amendment to  
949 require the reporting. I asked for a GAO report here about 3  
950 or 4 years ago to give us those numbers. It took 18 months  
951 to get the report out. The tangible data in there says that  
952 25 percent of the inmates within our institutions, other than  
953 federal, only 25 percent of the SCAAP funding is being  
954 reimbursed by the federal government, and when you calculate  
955 that out to a number of inmates, it is about \$23,000 per

956 inmate.

957         So one can presume that we have a massive amount of  
958 crime. But why are we afraid to know what that is? If I am  
959 wrong, I will adjust my intensity down. If I am right, I  
960 trust you will adjust your intensity up.

961         Another point that I believe needs to be considered here  
962 is that we have sanctuary cities, and a growing number of  
963 sanctuary cities that refuse to allow their law enforcement  
964 officers to enforce federal immigration law or even inquire  
965 as to the status. As I listened to Ranking Member Lofgren  
966 make her statement and opening remarks, she said we want to  
967 return SCAAP to its original congressional intent.

968         I would point the committee's direction to the original  
969 congressional intent, which is embodied in the Illegal  
970 Immigration Reform and Immigration Responsibility Act of  
971 1996, which says that notwithstanding any other statute, a  
972 government entity may not prohibit in any way or in any way  
973 restrict any government entity from sending to or receiving  
974 information regarding citizenship or immigration status,  
975 lawful or unlawful, of any individual. That is the ban on  
976 sanctuary, and that is congressional intent. That is current  
977 law. It is being circumvented today by local governments  
978 that have gotten together and found a way to address the  
979 language. They prohibit their law enforcement officers from  
980 gathering information.

981           So they have violated the intent of this statute and we  
982 would be, under this bill, rewarding them with federal  
983 subsidies for enforcing the law when they choose. I will  
984 submit that this Congress should hold them accountable to the  
985 law and the intent of the law before we subsidize them at the  
986 local level. Although I agree with the spirit of this  
987 proposal that is here today, I agree with the intent of it.  
988 If the federal government doesn't enforce their immigration  
989 laws and that burden falls upon local law enforcement, we  
990 have an obligation to fund that for local law enforcement,  
991 but they have an obligation to follow federal law and follow  
992 the intent of the ban on sanctuary cities.

993           So that is where I stand on this issue. I intend to  
994 offer a couple of amendments, and I yield back to the  
995 gentleman from Texas.

996           Mr. Smith. Mr. Chairman, I yield back.

997           Chairman Conyers. I thank both gentlemen for yielding  
998 back.

999           Other members' statements are welcome into the record at  
1000 this point.

1001           The chair inquires, are there any amendments? The  
1002 gentleman from Iowa?

1003           Mr. King. Thank you. I have an amendment at the desk,  
1004 number one.

1005           Ms. Lofgren. Mr. Chairman, I reserve a point of order.

1006 Chairman Conyers. A point of order is reserved by the  
1007 gentlelady from California.

1008 The clerk will report the amendment.

1009 The Clerk. Amendment number one to H.R. 1512 offered by  
1010 Mr. King of Iowa. "Page two, after line six, add the  
1011 following: Section Two, eligibility requirements for SCAAP  
1012 funding—"

1013 [The amendment by Mr. King follows:]

1014 \*\*\*\*\* INSERT \*\*\*\*\*

1015 Mr. King. Mr. Chairman, I ask unanimous consent the  
1016 amendment be considered as read.

1017 Chairman Conyers. Without objection, so ordered. The  
1018 gentleman is recognized in support of his amendment.

1019 Mr. King. I thank you, Mr. Chairman. This is one of  
1020 the two amendments I alluded to in the opening remarks on  
1021 this overall bill. This is the amendment, and I recognize a  
1022 point of order has been reserved, but this is the amendment  
1023 that can be adopted by this committee. All it takes is for  
1024 each of us to recognize we are not afraid of information. We  
1025 ought to be out there desiring, reaching for information, and  
1026 being able to quantify the effect of illegal immigration on  
1027 this society.

1028 We are only addressing the crime committed by those who  
1029 are unlawfully present in the United States. So this report  
1030 directs that local law enforcement produce a report of those  
1031 illegal aliens, both those who are criminal aliens and also  
1032 report back to us on how such aliens came to reside in the  
1033 United States. I draw that distinction because about 60  
1034 percent, as our hearings in the Immigration Subcommittee tell  
1035 us, about 60 percent come across the border illegally. About  
1036 40 percent overstay their visa—come into the United States  
1037 legally, and then come in contact with the law, violate the  
1038 law, and by that their visa expires, or by their criminal  
1039 activity they have lost their lawful presence.



1040 We need to have a report on that, not just from our  
1041 federal prison system. We need to have reporting for our  
1042 political subdivisions, all of them—our states, our cities,  
1043 our counties. If they are going to receive SCAAP funding,  
1044 the least we can ask back from them is give us the data. Let  
1045 us know what the crimes are that are committed in your  
1046 communities so we can get a handle on it and lend you a hand.

1047 I get frustrated appropriating dollars into a treasury  
1048 without knowing what we are actually buying. If we adopt  
1049 this amendment, this amendment will require the reporting and  
1050 it also requires a Comptroller General report from the  
1051 Federal Prison System that will give us this data that we  
1052 need. Then we can sit back, look at the data, have hearings,  
1053 and make a solid decision on how we are going to address  
1054 SCAAP. But if the last GAO report shows that only 25 percent  
1055 of the costs of incarcerating criminal aliens is being  
1056 reimbursed by SCAAP funding to our political subdivisions,  
1057 that should tell us something.

1058 It should tell us either those numbers are a lot  
1059 greater, or the bureaucracy is so thick that it burdens the  
1060 political subdivisions they choose not to apply. Ms. Sanchez  
1061 gets to something that is important here. It is costing our  
1062 political subdivisions in law enforcement for criminal  
1063 aliens. But if we allow without the report, then it is those  
1064 political subdivisions that pick and choose which laws they

1065 want to enforce, which they want to reimburse for. It  
1066 provides a reward, but there is not a piece on the other  
1067 side.

1068 We need to have a report. I simply would ask the  
1069 members of this committee to consider the necessity to have  
1070 real hard data and make objective decisions here on this  
1071 committee. All it takes for us is just to simply withdraw  
1072 the reserve point of order, and have a debate on this  
1073 amendment, and perhaps adopt this amendment so that we can  
1074 demonstrate to the American people we are serious about  
1075 policy.

1076 I yield back the balance of my time.

1077 Chairman Conyers. I thank the gentleman.

1078 Does the gentlelady withdraw her reservation?

1079 Ms. Lofgren. No, Mr. Chairman, I insist on my point of  
1080 order.

1081 Chairman Conyers. The gentlelady will be heard on her  
1082 point of order.

1083 Mr. Sensenbrenner. Mr. Chairman?

1084 Chairman Conyers. Yes?

1085 Mr. Sensenbrenner. I demand a division of the question  
1086 between section two and section three.

1087 Ms. Lofgren. Let me find that.

1088 Chairman Conyers. The gentleman is apparently entitled  
1089 to that division.

1090 Mr. Berman. A point of parliamentary inquiry, Mr.  
1091 Chairman?

1092 Chairman Conyers. Inquiry, yes?

1093 Mr. Berman. Is he entitled to the division before a  
1094 ruling on the pending point of order?

1095 Chairman Conyers. I think we should dispose probably of  
1096 that first, and then get to the gentleman's point.

1097 Mr. Sensenbrenner. Will the gentleman yield to a  
1098 question, to ask the gentlewoman from California whether her  
1099 point of order applies to section three, as well as section  
1100 two?

1101 Ms. Lofgren. Yes, it does.

1102 Chairman Conyers. The gentlelady then is recognized  
1103 pursuant to her reservation.

1104 Ms. Lofgren. If I may ask, I am prepared to discuss the  
1105 germaneness issue as to both section one and two. Should I  
1106 do it under separate 5-minute sections procedurally or handle  
1107 both together, and we will vote on them separately?

1108 Chairman Conyers. No. I think we should take them up  
1109 seriatim.

1110 Ms. Lofgren. All right, then, Mr. Chairman.

1111 Mr. King introduced his amendment at the subcommittee  
1112 markup where it was ruled nongermane based on an opinion  
1113 obtained from the parliamentarian. The King amendment would  
1114 require states and localities to notify, at least section

1115 one, to notify DHS about incarceration of criminal aliens,  
1116 and it would require—well, the GAO study I will talk about in  
1117 a minute.

1118         H.R. 1512 contains a three-word insertion that merely  
1119 reinstates the original intent of SCAAP by allowing states  
1120 and localities to seek money from the Department of Justice  
1121 for the cost of jailing criminal aliens who are charged with  
1122 crimes. The King amendment in section two goes well beyond  
1123 this narrow fix to SCAAP, which has never contained a  
1124 requirement that states and localities notify DHS. They are  
1125 only required to notify the Department of Justice.

1126         I would note also that the states and localities are  
1127 already only being reimbursed for a small portion of what  
1128 they are spending. For example, it is estimated in 2006 that  
1129 Texas spent \$130.6 million incarcerating criminal aliens, but  
1130 the state only received \$17.6 million in reimbursements. I  
1131 think that is why the sheriffs from Virginia, Texas,  
1132 California so strongly object to the King amendment because  
1133 this would be an unfunded mandate.

1134         For example, the vice chair of the Southwestern Border  
1135 Sheriffs' Coalition has said in order to effectively  
1136 implement Congressman King's proposed amendment, local law  
1137 enforcement agencies would have to receive proper training  
1138 and have a clear delineation on liability. Those issues  
1139 aren't addressed in the amendment and it would place

1140 unnecessary impediments to locals receiving SCAAP funding  
1141 when local law enforcement agencies along the border are  
1142 already over-extended in securing the border and trying to  
1143 cope with overcrowded jails, while never being fully  
1144 reimbursed by SCAAP.

1145       They say the focus should be on assisting right now  
1146 local law enforcement, rather than additional burdens. Those  
1147 are really the policy reasons why the germaneness ruling is  
1148 correct. This is a narrow fix. Section two eligibility goes  
1149 way beyond the underlying bill. Similarly, section three,  
1150 the GAO study amendment would require a study of criminal  
1151 aliens in federal, not state or local jails. This is way  
1152 beyond the very narrow fix that is included in the underlying  
1153 bill and is therefore not germane.

1154       I would, however, suggest that the ranking member and I  
1155 have a discussion to talk about what he is seeking to find  
1156 out and that we might jointly send a letter to the GAO, if we  
1157 can agree on what we want to find out, and that might be a  
1158 more appropriate way to proceed with the General  
1159 Accountability Office.

1160       With that, I would suggest that both sections of the  
1161 amendment are not germane, and I would yield back.

1162       Chairman Conyers. Thank you.

1163       Who would like to be heard? Steve King would be  
1164 recognized in this debate about the germaneness of his

1165 amendment. You are recognized.

1166 Mr. King. Thank you, Mr. Chairman.

1167 In listening to the argument of the gentlelady from  
1168 California, I reflect upon the statement that it is an  
1169 unfunded mandate. The argument went well into policy  
1170 complications and costs involved in submitting a bill to the  
1171 federal government to be reimbursed for enforcing the law in  
1172 a locale.

1173 Now, I don't know that the gentlelady submits the idea  
1174 that it should just be a lump sum that comes here to the  
1175 federal government and we cut a check and mail it back to the  
1176 political subdivision, but I would say that if I am going to  
1177 pay any bills, I want to know what they are based on. I will  
1178 say that there is an implication here that if the federal  
1179 government is going to take taxpayer dollars and distribute  
1180 those to political subdivisions for enforcing the law, which  
1181 is the intent of SCAAP, then we have to have an accounting of  
1182 the basis for that billing.

1183 The technicality of whether the bill goes to the  
1184 Department of Justice or the Department of Homeland Security,  
1185 I would be happy to work that out with the gentlelady from  
1186 California. But with concern about liability for providing  
1187 statistical data with law enforcement, I would also submit  
1188 that that may well be a red herring. I recognize that this  
1189 is a narrowly drafted bill, that is narrowly crafted for the

1190 reasons I believe to perhaps avoid such amendments. But I  
1191 will submit that this amendment that I have is consistent  
1192 with the intent of this legislation. It is necessary to have  
1193 accurate data.

1194       If we are going to transfer taxpayer dollars to  
1195 political subdivisions through Washington, D.C., we have to  
1196 have an honest accounting of that. That is what this  
1197 reporting document does. I think it is by implication, if  
1198 not directly, by the statutory structure that we have here,  
1199 and I would urge the chairman to consider this argument.

1200       I would yield back the balance of my time.

1201       Chairman Conyers. I thank the gentleman from Iowa, and  
1202 recognize the gentleman from Wisconsin.

1203       Mr. Sensenbrenner. Mr. Chairman, I want to state  
1204 specifically that section three is very clearly germane to  
1205 this legislation. I don't take a position on whether section  
1206 two is germane or not. This committee has always appended,  
1207 without objection, GAO studies to legislation of matters  
1208 within the jurisdiction of the committee. During my  
1209 chairmanship, I accepted without real criticism numerous  
1210 amendments from the gentlewoman from Texas, Ms. Jackson Lee,  
1211 on GAO studies.

1212       Now, the title of the bill amends the Immigration and  
1213 Nationality Act relating to the SCAAP Program. A GAO study  
1214 on how much the SCAAP Program costs and why people are

1215 eligible under the SCAAP Program is very clearly germane  
1216 since this legislation opens up the definition of  
1217 "eligibility" for SCAAP. I would urge that, with the  
1218 question being divided, that the chair overrule the point of  
1219 order relative to section three as proposed in the amendment.

1220 Ms. Lofgren. Would the gentleman yield?

1221 Mr. Sensenbrenner. I am happy to yield.

1222 Ms. Lofgren. Mr. King's amendment specifies that the  
1223 GAO should study the number of aliens in federal  
1224 incarceration, and the underlying bill relates to  
1225 reimbursement of states and localities for inmates in state  
1226 and local.

1227 Mr. Sensenbrenner. I would ask unanimous consent that  
1228 the word "federal" be stricken from section three of the  
1229 amendment.

1230 Ms. Lofgren. I object.

1231 Chairman Conyers. We can't do it right now. We are  
1232 deciding the germaneness question, sir. We might do it  
1233 afterward.

1234 Mr. Sensenbrenner. You can do anything by unanimous  
1235 consent.

1236 Ms. Lofgren. If the gentleman would further yield?

1237 Mr. Sensenbrenner. I am happy to yield. What I can see  
1238 is you are talking a lot of us into opposing this legislation  
1239 that didn't come in to do that.



1240 Ms. Lofgren. I would, if the gentleman would be  
1241 interested in working with me, I would like to craft an  
1242 inquiry to the GAO that we would do on a bipartisan basis  
1243 that would capture all of the information that we want to  
1244 get. I think that we would be more satisfied with the scope  
1245 of the GAO study than we would merely by an amendment here  
1246 today. As the gentleman knows, if the majority and minority  
1247 of the committee of jurisdiction ask for such a study, they  
1248 will accomplish that. I would like to submit to the  
1249 gentleman to doing that.

1250 Mr. Sensenbrenner. Well, reclaiming my time, I have  
1251 found that statutory commands for GAO studies result in much  
1252 quicker responses than members sending letters to the GAO.  
1253 This is an important issue. I think that the GAO study part  
1254 is very clearly germane based upon the precedent that we have  
1255 had for at least the last 10 years of amendments being  
1256 offered to provide for GAO studies.

1257 Ms. Lofgren. Would the gentleman yield further?

1258 Mr. Sensenbrenner. I am happy to yield again.

1259 Ms. Lofgren. I would suggest we might proceed in this  
1260 manner. If we cannot get a commitment from the GAO prior to  
1261 this appearing on the floor, that I would withdraw any  
1262 germaneness objections and encourage that the study be put  
1263 into the manager's amendment. I would like to work with the  
1264 gentleman, as you know, and I am wondering if that might be a

1265 fair and reasonable approach.

1266 Mr. Sensenbrenner. Reclaiming my time on that, I think  
1267 that with the word "federal" taken out of section three of  
1268 the bill, we have something that we really need and we would  
1269 not have to deal with a germaneness complaint in the Rules  
1270 Committee or on the floor. Again, I would really strongly  
1271 urge the chair to declare the point of order overruled for  
1272 section three, and as far as I am concerned the chair can do  
1273 what he wants on section two.

1274 Chairman Conyers. Well, I would like to advise both the  
1275 gentleman from Wisconsin and the gentlelady from California  
1276 that a GAO letter may be more expeditious than waiting for  
1277 this statute to come if it were included. Now, this matter  
1278 of germaneness on the King amendment has come up under the  
1279 State Criminal Alien Assistance Program, SCAAP, before.

1280 This has been, of course, checked with the House  
1281 parliamentarian that advises me that pursuant to House Rule  
1282 16(7) and related precedents, that the parliamentarian, in  
1283 consultation with the chair, we continue to rule that this  
1284 amendment is not germane to the bill. The amendment goes  
1285 beyond the scope of this very, very narrow bill. So the  
1286 amendment is found to be nongermane.

1287 Are there any other amendments before we retire for a  
1288 vote? If not—

1289 Mr. King. Mr. Chairman?

1290 Chairman Conyers. Yes, the chair recognizes the  
1291 gentleman from Iowa.

1292 Mr. King. I do have another amendment at the desk. I  
1293 believe it is amendment number 262.

1294 Ms. Lofgren. Mr. Chairman, I reserve a point of order.

1295 Chairman Conyers. The gentlelady from California  
1296 reserves a point of order on the amendment.

1297 Rather than report at this time, we will ask the clerk  
1298 to suspend now. We will recess for the votes. We can throw  
1299 in a lunch period at the request of the ranking member, and  
1300 we will return at 1 o'clock.

1301 We stand in recess.

1302 [Recess.]

1303 Chairman Conyers. Good afternoon. The committee will  
1304 come to order.

1305 The chair--

1306 Mr. Smith. Mr. Chairman, may I ask unanimous consent to  
1307 speak for 1 minute out of order.

1308 Chairman Conyers. Absolutely.

1309 Mr. Smith. Thank you, Mr. Chairman.

1310 Mr. Chairman, may I have my colleagues' attention for a  
1311 minute? It has come to my attention, and I think the  
1312 attention of members of the Judiciary Committee, and frankly  
1313 many members of the House and probably thousands of his  
1314 constituents, that a colleague of ours on the Judiciary

1315 Committee has regrettably been wearing the same stained  
1316 threadbare Massachusetts-motif tie now for several years.

1317 [Laughter.]

1318 I think, Mr. Chairman, we want to uphold the high  
1319 standard of the Judiciary Committee, so I would like to  
1320 recommend to our colleague from Massachusetts that we  
1321 consider a "tie makeover." To that end, and in the spirit of  
1322 bipartisanship, Mr. Chairman, in the spirit of bipartisanship  
1323 and in an effort to try to reduce the embarrassment of his  
1324 friends and colleagues, I would like to present the gentleman  
1325 from Massachusetts with a new "Vineyard Vines" tie with a  
1326 Massachusetts motif on it, which I will do right now.

1327 Chairman Conyers. Without objection, so ordered.

1328 [Laughter.]

1329 [Applause.]

1330 Nice going.

1331 [Laughter.]

1332 Ms. Lofgren. The Ethics Committee does not preclude  
1333 gifts between members. We should note that.

1334 Mr. Schiff. Mr. Chairman, I would just hope this is  
1335 without prejudice to giving him a Red Sox tie after the Red  
1336 Sox win the World Series.

1337 [Laughter.]

1338 Mr. Chabot. Would the gentleman yield?

1339 Mr. Smith. I actually favor the Red Sox, to tell you

1340 the truth.

1341 Mr. Chabot. Would the gentleman yield?

1342 Chairman Conyers. OF course.

1343 Mr. Chabot. I would just note that once we have cameras  
1344 in the courtroom, the gentleman will look much nicer on  
1345 television, too.

1346 [Laughter.]

1347 Mr. Delahunt. Let me express my profound gratitude. As  
1348 many of you have noted over the course of my almost 12 years  
1349 here, that I only have one tie. Having two is rather an  
1350 exciting experience.

1351 [Laughter.]

1352 I can now go to some of the dining establishments that  
1353 some of my more affluent colleagues frequently attend. Some  
1354 of the stains have become irremovable at this point in time.  
1355 But I really accept this gift with a sense of gratitude. I  
1356 am with Steve Chabot on this bill. What more can I say?

1357 With that, I will yield back. Thank you.

1358 Chairman Conyers. Thank you.

1359 The gentleman from Massachusetts has taken this in very  
1360 good humor.

1361 Pursuant to notice, I now call up the bill H.R. 2128,  
1362 the Sunshine In The Courtroom Act, for purposes of a markup  
1363 and invite the clerk to report the bill.

1364 The Clerk. H.R. 2128, a bill to provide for media

1365 coverage of federal court proceedings. "Be it enacted by the  
1366 Senate and House of Representatives of the United States of  
1367 America in Congress assembled, Section one, short title.  
1368 This Act may be cited as the--"

1369 [The bill follows:]

1370 \*\*\*\*\* INSERT \*\*\*\*\*

1371 Chairman Conyers. Without objection, the bill will be  
1372 considered read and open to amendment at any point.

1373 For what purpose does the gentleman from Massachusetts  
1374 seek recognition?

1375 Mr. Delahunt. I move to strike the last word.

1376 Chairman Conyers. The gentleman is recognized.

1377 Mr. Delahunt. Let me begin, Mr. Chairman, by  
1378 acknowledging my friend and colleague from Ohio, Mr. Chabot,  
1379 as the driving force behind this legislation, which I think  
1380 will not only introduce the American people to our federal  
1381 judiciary, but will educate many Americans in terms of the  
1382 necessity of a strong and healthy, viable judiciary in a  
1383 democracy.

1384 In the course of the past several years, there have been  
1385 numerous observations about the order of magnitude of  
1386 secrecy, particularly in the executive branch. But removing  
1387 the barriers to secrecy, or mystery if you will, in opening  
1388 up all of the processes of government for review by the  
1389 American people I think strengthens our democracy.

1390 That is what this bill is about. Nearly every state in  
1391 the nation, including my own, permits cameras in their courts  
1392 in some form or another. The bill we are considering in this  
1393 hearing today would make it possible for equal openness to  
1394 exist in our federal court system at the careful discretion  
1395 of federal judges.

1396           The bill that Mr. Chabot and I have introduced doesn't  
1397 force a camera into any judge's courtroom. It merely gives  
1398 federal judges the discretion to decide whether or not it is  
1399 appropriate on a case-by-case basis. When I was district  
1400 attorney many years ago in Massachusetts, I chose to  
1401 participate in a pilot program undertaken by the  
1402 commonwealth. In fact, I prosecuted the first case to go to  
1403 trial under cameras in the courtroom initiative in  
1404 Massachusetts.

1405           It was an enormous success and led to the adoption of a  
1406 court rule instructing judges to permit electronic coverage  
1407 of public proceedings, subject to appropriate limitations  
1408 designed to ensure fairness to the parties and to safeguard  
1409 the integrity of the proceedings. Naturally, there are some  
1410 cases in which trial participants have an overriding need for  
1411 anonymity and, in such cases, the judge must have the  
1412 discretion to bar cameras from the courtroom.

1413           Some 15 years after that first televised trial, I was  
1414 the prosecutor in a very highly publicized trial involving  
1415 the murder of two young women at a family planning clinic.  
1416 In order to protect the victims' families and witnesses who  
1417 were clinic patients and employees, I on that occasion filed  
1418 a motion asking the court to exercise its discretion to  
1419 exclude cameras from the trial. That motion was granted  
1420 because of the special circumstances in the case.



1421           This bill provides for such situations by giving federal  
1422 judges unfettered discretion to exclude cameras at any time  
1423 and for any reason, and it permits witnesses to have their  
1424 identities obscured and their voices disguised, and it  
1425 forbids the televising of jurors.

1426           As I suggested, most Americans had little direct  
1427 exposure to the judicial process and derived their  
1428 impressions from fictional court dramas and sensational  
1429 coverage of high-profile trials. I would say that this is  
1430 tantamount to having C-SPAN in the courtroom. I think we can  
1431 all attest to the fact that C-SPAN has been an unqualified  
1432 success in terms of providing to the American people how  
1433 Congress works, how the first branch of government operates.

1434           An educated and informed citizenry is essential, as I  
1435 indicated, to a healthy functioning democracy. With this  
1436 legislation, we are trying to enhance public understanding of  
1437 a central pillar of democracy, which is the judicial system.

1438           I would ask my colleagues to support this bill, and  
1439 again let me conclude by acknowledging and congratulating the  
1440 gentleman from Ohio and his leadership in this regard. I  
1441 know our other colleagues such as Judge Paul, who testified  
1442 before the committee, and others have indicated not just  
1443 their support for this bill, but other such initiatives. I  
1444 think it is only fair to acknowledge them.

1445           With that, I yield back my time.

1446 Chairman Conyers. I thank the gentleman from  
1447 Massachusetts.

1448 I recognize the ranking member of the Judiciary  
1449 Committee, Lamar Smith.

1450 Mr. Smith. Thank you, Mr. Chairman.

1451 Mr. Chairman, legislation to authorize television  
1452 cameras in the Supreme Court and federal appellate and  
1453 district courts raises many difficult questions. The  
1454 Judicial Conference and the Department of Justice have  
1455 testified before the Judiciary Committee and explained that  
1456 placing cameras in federal courtrooms harms the  
1457 administration of justice.

1458 In support of its claim, the Judicial Conference cites  
1459 studies conducted on the issue for many years that have  
1460 reached the same conclusion. The Judicial Conference is  
1461 concerned about protecting each citizen's right to a fair and  
1462 impartial legal proceeding. The Judicial Conference argues  
1463 that the right to justice in a courtroom, especially a trial,  
1464 distinguishes the use of cameras in a judicial setting from  
1465 their use in legislative, administrative and ceremonial  
1466 proceedings.

1467 As we have seen in some high-profile cases, lawyers and  
1468 judges are often tempted and do succumb to the temptation to  
1469 play to the cameras. Witnesses might refuse to cooperate for  
1470 fear of harm or intimidation as a result of televised

1471 proceedings. Either outcome—grandstanding or intimidation—  
1472 will diminish the ability of a court to seek the truth and  
1473 administer justice.

1474         Several months ago, the House passed with bipartisan  
1475 support the Court Security Improvement Act of 2007. That  
1476 legislation was intended to protect judges, prosecutors,  
1477 jurors, witnesses and courthouse personnel from violence and  
1478 threats, a growing problem in our judicial system. It  
1479 concerns me, but after acting to protect courthouse  
1480 participants earlier this year, the committee could reverse  
1481 direction and report legislation that takes away the relative  
1482 anonymity of judges, prosecutors, jurors, witnesses and other  
1483 courtroom participants.

1484         By publicly identifying them, we are increasing the risk  
1485 that they will be targets for intimidation, influence and  
1486 even retaliation. The public has a right to know what is  
1487 said and what happens in courtrooms, but televising court  
1488 proceedings is not the only way to inform the public. For  
1489 more than 200 years, the print, news, radio and other media  
1490 have provided the public with in-depth coverage of judicial  
1491 events.

1492         I know the intent of the supporters of this legislation  
1493 is to create greater transparency in the federal judiciary,  
1494 and their motives are worthy. However, this legislation has  
1495 the potential to weaken our court system by denying litigants

1496 and the public fair trials and just outcomes.

1497 For these reasons, Mr. Chairman, I oppose the bill, and  
1498 I will yield back the balance of my time.

1499 Chairman Conyers. I thank the gentleman from Texas.

1500 For what purpose does the gentleman from Ohio seek  
1501 recognition?

1502 Mr. Chabot. I move to strike the last word, Mr.  
1503 Chairman.

1504 Chairman Conyers. The gentleman is recognized.

1505 Mr. Chabot. Thank you, Mr. Chairman. I will be brief,  
1506 because we have had this before us a number of times in the  
1507 past. I originally introduced this six or seven Congresses  
1508 ago. It has passed this committee before and has had for the  
1509 most part bipartisan and pretty substantial support.

1510 I want to thank you, Mr. Chairman, for your support of  
1511 this bill and this markup today. I appreciate it greatly. I  
1512 want to thank Mr. Delahunt especially for his leadership and  
1513 his guidance in this area over the years. I can't tell you  
1514 the number of times in the gym and other places he has  
1515 brought to my attention, "hey, where are we on the cameras  
1516 bill" in the past several years. He has really been a  
1517 bulldog on this because having served as a district attorney  
1518 in the courtroom, the federal courts, he knows probably as  
1519 well as anybody if it was dangerous, if it was a problem, he  
1520 would have seen it. He would know about it and he knows how

1521 important this bill is. So I want to thank him publicly for  
1522 his support and his leadership on this.

1523 The gentleman from Texas, the ranking member who I have  
1524 the utmost respect for and who has impeccable taste in ties  
1525 and who has generally been right on just about every issue  
1526 that I can think of, he is uncharacteristically, shall we  
1527 say, misguided, I believe, in his opposition, but he is  
1528 always a consummate gentleman in his opposition, and I want  
1529 to thank him for his support on so many important things, but  
1530 I think he is unfortunately just wrong on this one. But  
1531 everybody is wrong once in a while.

1532 I think C-SPAN's president and co-chief operating  
1533 officer Susan Swain in the hearing that we had this Congress,  
1534 although we have had many hearings over the years, said it  
1535 best in her testimony before this committee just a few weeks  
1536 ago. She said, "It is in the best interests of the American  
1537 public for the federal courts to be more fully open to audio  
1538 and video coverage." I think that is absolutely correct. It  
1539 is in the public's best interest. They pay for the courts.  
1540 They ought to have access to the courts. It has been said  
1541 true access nowadays means television, a federal judge said  
1542 that. I think she was right.

1543 Lifetime tenure for unelected officials conveys a  
1544 tremendous amount of power. This bill sends the message that  
1545 as a co-equal branch of government, the judiciary is not

1546 above the other two, and that the citizens of this nation  
1547 have a right to see how the courts conduct their business.  
1548 They can see it in Congress. The president is on television  
1549 all the time, but not the federal courts.

1550       The discretion provided to federal judges by this bill  
1551 is not unchecked. The bill incorporates necessary safeguards  
1552 to ensure that courtrooms remain professional and respectful.  
1553 For example, district judges are authorized to prohibit  
1554 televising a proceeding if the due process rights of any  
1555 party to the proceeding would be violated. The judges must  
1556 inform all nonparty witnesses that they have the right to  
1557 have their face and voice disguised if there should be some  
1558 concern in that area. I believe the gentleman from New York,  
1559 Mr. Nadler, offered that amendment some years back, so this  
1560 bill has gotten better over the years through the efforts of  
1561 both Republicans and Democrats to make it a better bill.

1562       At this point, it is a perfect bill and doesn't need to  
1563 be amended at all, except for maybe a couple of slight  
1564 tweaks, which I think are probably helpful. But when  
1565 requested by any nonparty witness, a district judge, for  
1566 example, must make their face and voice unrecognizable to the  
1567 television audience if there would be a danger—a Mafia-type  
1568 case or something along those lines, or some reason for a  
1569 witness to be concerned.

1570       The bill also prohibits televising of jurors. And

1571 finally, the authority provided to judges sunsets in 3 years.  
1572 So if Mr. Smith is correct and this is a bad idea, it sunsets  
1573 after 3 years. We could see the problems we have had. I  
1574 don't think there is going to be any problem. No state has  
1575 ever gone back and said, "this was a big problem," and gone  
1576 back and taken the courts off TV. But if that was a problem  
1577 in the federal courts, which I don't think it will be, but it  
1578 sunsets in 3 years.

1579       So let me close by saying, as the gentleman from  
1580 Massachusetts mentioned, virtually all the states have some  
1581 form of TV coverage in the courtrooms. If audio or video  
1582 coverage is good enough for the states, it sure as heck ought  
1583 to be good enough for the federal courts. I urge my  
1584 colleagues to support this bill, and I yield back the balance  
1585 of my time.

1586       Chairman Conyers. I thank the gentleman.

1587       For what purpose does the gentleman from California, Mr.  
1588 Adam Schiff, seek recognition?

1589       Mr. Schiff. Mr. Chairman, I have an amendment at the  
1590 desk.

1591       Chairman Conyers. The clerk will report the amendment.

1592       The Clerk. Amendment to H.R. 2128 offered by Mr. Schiff  
1593 of California. "Page four, add the following after line 24,  
1594 and redesignate the succeeding paragraph accordingly--"

1595 [The amendment by Mr. Schiff follows:]

1596 \*\*\*\*\* INSERT \*\*\*\*\*



1597 Mr. Schiff. Mr. Chairman, I would request consent to  
1598 have the amendment deemed as read.

1599 Chairman Conyers. The amendment will be considered as  
1600 read. The gentleman is recognized in support of his  
1601 amendment.

1602 Mr. Schiff. Thank you, Mr. Chairman.

1603 I want to thank the authors of this bill, which I think  
1604 is a very important step forward. I know that there are  
1605 certainly some judges that have resisted the prospect of  
1606 cameras in the courtroom. But I happen to think there is a  
1607 great deal of poor public information out there about how the  
1608 courts function that can be addressed by having cameras in  
1609 the courtroom.

1610 I think judges will find that it is not the great  
1611 impediment to the smooth operation of a court that some fear,  
1612 and that there are considerable salutary effects of having a  
1613 better informed public about what goes on in the courts as we  
1614 debate issues of courthouse construction and compensation for  
1615 judges. Demystifying the process of the courts I think will  
1616 be helpful. So I support very strongly the passage of the  
1617 bill.

1618 I have a couple of minor changes that this amendment  
1619 would make to the bill. The first amendment, or first part  
1620 of this amendment, would prohibit interlocutory appeals of a  
1621 judge's determination as to whether electronic media coverage

1622 should be permitted in a particular case. Allowing this  
1623 decision to be challenged through an interlocutory appeal is  
1624 likely to cause unnecessary delays in resolving the  
1625 underlying issues in the case.

1626       But I want to be clear, this is not intended to preclude  
1627 a challenge of a judge's decision either to allow electronic  
1628 media or not to allow it. Rather, it is designed to ensure  
1629 that we don't slow down the process of justice through  
1630 interlocutory appeals on the subject.

1631       The second amendment sharpens the language used in the  
1632 provision barring the televising of jurors. While this  
1633 provision refers to televising of jurors, it doesn't include  
1634 other forms of electronic media coverage such as photographs  
1635 or audio recordings. I think we have to be careful to  
1636 prevent pictures of jurors and potential jurors from  
1637 appearing on the Internet and in the print media. This  
1638 amendment would simply expand the bar of televising jurors to  
1639 include all forms of electronic media coverage, tracking the  
1640 same language used elsewhere in H.R. 2128.

1641       The amendment would also bar electronic media coverage  
1642 of potential jurors and the jury selection process. This  
1643 would help prevent any intimidation of jurors or jurors being  
1644 reluctant to respond to a summons, particularly in light of  
1645 the fact that personal and sensitive information is often  
1646 revealed during the voir dire. I think these changes,

1647 although minor, are sound changes to the bill and I would  
1648 urge my colleagues to support them.

1649 Mr. Chairman, I yield back the balance of my time.

1650 Chairman Conyers. I thank the gentleman.

1651 Mr. Gohmert. Mr. Chairman?

1652 Chairman Conyers. Does the ranking member seek  
1653 recognition?

1654 Mr. Smith. Yes, I do, Mr. Chairman.

1655 Mr. Chairman, I believe this is a good amendment, but I  
1656 regret we didn't have more time to look at it before the  
1657 gentleman decided to offer it. We were told that there were  
1658 no other amendments, and it would have been nice to have seen  
1659 it beforehand. That having been said, though, I agree with  
1660 the gentleman from California that it is not good to slow  
1661 down the process. You don't want to have an appeal perhaps  
1662 slow down the process for days or weeks. So I support the  
1663 amendment.

1664 Chairman Conyers. I thank the gentleman.

1665 Mr. Chabot. Mr. Chairman?

1666 Chairman Conyers. Who seeks recognition? Mr. Chabot.

1667 Mr. Chabot. Thank you, Mr. Chairman. I will be very  
1668 brief.

1669 I would welcome the gentleman's helpful amendment and do  
1670 not oppose it in any way.

1671 I yield back.

1672 Chairman Conyers. Thank you.

1673 Judge Louie Gohmert?

1674 Mr. Gohmert. Thank you, Mr. Chairman.

1675 I would rise in support of this amendment. If I might  
1676 just also very briefly say, our friend from Massachusetts,  
1677 Mr. Delahunt, had mentioned a case in which he was involved  
1678 where the presiding judge had indicated that it was not  
1679 appropriate, and granted the motion not to allow cameras in  
1680 that one case. Without Mr. Schiff's thoughtful amendment,  
1681 you could expect that there would be lots of appeals that  
1682 would have occurred had they been allowed, to keep appealing  
1683 to try to get a camera in there despite the judge's ruling.

1684 So this shores this up. The judge makes the decision  
1685 because he knows most about the case. He knows the  
1686 parameters of the courtroom, the physical constraints, the  
1687 parties involved, and would be the best one, without having  
1688 to worry about being taken up on appeal and delaying a case  
1689 with witnesses and whatnot coming in, jurors being selected.

1690 So I think this is not just helpful, but it really is  
1691 almost imperative in order to make the bill what it should  
1692 be. So I appreciate the amendment and I would encourage my  
1693 colleagues to vote for it.

1694 Chairman Conyers. I thank the gentleman.

1695 The question is on the amendment offered by the  
1696 gentleman from California.

1697 Those in favor will signify by saying "aye."

1698 Those opposed signify by saying "no."

1699 The ayes have it and the amendment is agreed to.

1700 The chair recognizes the gentleman from Texas, Mr.

1701 Gohmert.

1702 Mr. Gohmert. Thank you, Mr. Chairman.

1703 I do have an amendment. I have two. This is the  
1704 amendment to page five, which would be our amendment one.

1705 Chairman Conyers. The clerk will report the amendment.

1706 Mr. Gohmert. Normally, you might ask that unanimous  
1707 consent be allowed to waive the reading, but she has a so  
1708 much more pleasant voice than I do, I would ask that it be  
1709 read and then it will cut down the length that I will need to  
1710 speak on my amendment.

1711 Chairman Conyers. We will hold you to that commitment  
1712 and allow it to be read in full.

1713 The Clerk. Amendment to H.R. 2128 offered by Mr.  
1714 Gohmert of Texas. "Page five, add the following after line  
1715 10: (5) procedures. In the interests of justice and  
1716 fairness, the presiding judge of the court in which media use  
1717 is desired has discretion to promulgate rules and  
1718 disciplinary measures for the courtroom use of any form of  
1719 media or media equipment and the acquisition or distribution  
1720 of any of the images or sounds obtained in the courtroom.  
1721 The presiding judge shall also have discretion to require

1722 written acknowledgement of the rules by anyone individually  
1723 or on behalf of any entity before being allowed to acquire  
1724 any images or sounds from the courtroom."

1725 [The amendment by Mr. Gohmert follows:]

1726 \*\*\*\*\* INSERT \*\*\*\*\*

1727 Chairman Conyers. I thank the gentlelady.

1728 If the gentleman would yield, I want him to know that,  
1729 first of all I recognized the gentleman in support of his  
1730 amendment, if he would yield to me. We think this is an  
1731 acceptable amendment because it is reasonable and perfects  
1732 the bill. I thank him for yielding.

1733 Mr. Gohmert. Thank you, Mr. Chairman. I do appreciate  
1734 that very much.

1735 When I was a state district judge, there was another  
1736 judge in our county who had forged the way in controlling  
1737 media, but allowing the controlled media into the courtroom.  
1738 That was Judge Cynthia Kent. I took her guidelines and  
1739 actually her orders and requests and modified them as would  
1740 fit my own district court, and had copies of them. They may  
1741 be close to 20 pages. But there was a request for an order  
1742 to allow media coverage that had to be signed by an  
1743 individual who wanted to be allowed to have a camera either  
1744 still or television.

1745 What so many judges who oppose this don't realize that  
1746 with this, they have control of the media not merely in the  
1747 courtroom. Without this bill and without this amendment,  
1748 they are allowed to say yes or no to cameras in the  
1749 courtroom, but if you say you will allow them sometimes, it  
1750 allows you to control the media's treatment of everybody in  
1751 the case outside the courtroom.

1752           It is a good thing. It allows you to control how people  
1753 are treated or mistreated in and outside the courtroom  
1754 because if a media person is not, or a station or entity is  
1755 not willing to observe the court's order, then the court has  
1756 the ability to sanction them. They will have entered an  
1757 appearance in the case by making the request. They are  
1758 before the court, both for contempt of court and for such  
1759 other orders as the court might enter.

1760           So it really adds great control. I know that there is  
1761 concern among many who say, well, if you put television  
1762 cameras—a camera, that is all I ever allowed is one—you put a  
1763 camera in there, then it is going to cause lawyers to be  
1764 showboats. I found just the contrary. It caused them to  
1765 have to prepare better than they would otherwise because  
1766 nobody wants to be humiliated on television.

1767           And also when you do have the occasional attorney who  
1768 wants to showboat, the difference that I enjoyed about the  
1769 courtroom that I miss greatly at times in this august body is  
1770 as a judge when somebody showboated, I could tell him to sit  
1771 down and be quiet, I had heard quite enough, and I haven't  
1772 gotten to that place in Congress at this point.

1773           So it is a great tool for the judges. I know that the  
1774 Judicial Conference is not supporting the overall bill, but I  
1775 think once they see what this does and what it allows them in  
1776 the way of power to actually control things better, and as



1777 Mr. Schiff and Mr. Delahunt and Mr. Chabot have pointed out,  
1778 giving the public the ability to see that these are not star  
1779 chambers, this is a courtroom, and it is well run, and I  
1780 think it gives them more confidence in our system.

1781         With that, I yield back without ever getting to the  
1782 yellow light.

1783         Mr. Delahunt. Would my friend yield, from Texas?

1784         Mr. Gohmert. I have yielded back. If the chairman  
1785 allows, I would certainly yield to my friend.

1786         Mr. Delahunt. Yes, Mr. Chairman. I am inclined to  
1787 accept this amendment, but I would also for the record note  
1788 that I would hope that the Judicial Conference would reflect  
1789 and reexamine its position and use the states as an example  
1790 to emulate, and maybe the good judge and the primary sponsor,  
1791 Mr. Chabot and I could have a conversation prior to this  
1792 legislation going to the floor with representatives of the  
1793 Judicial Conference to determine whether they have had an  
1794 awakening.

1795         I yield back.

1796         Mr. Gohmert. If I could, in furtherance of that  
1797 comment, we have a couple of representatives from the  
1798 Judicial Conference. I have been conferring with them, but  
1799 it would be wonderful if we could confer with some of the  
1800 judges themselves at the leadership of the conference. I  
1801 think that is a great idea.

1802 With that, I yield back.

1803 Chairman Conyers. The gentleman yields back.

1804 If there is no further—

1805 Mr. Johnson. I move to strike the last word, Mr.

1806 Chairman.

1807 Chairman Conyers. All right. Mr. Johnson is

1808 recognized.

1809 Mr. Johnson. Thank you.

1810 In looking at the amendment offered by Mr. Gohmert, it

1811 certainly appears to be reasonable. I just have a question

1812 about some language in line five. It says "of any form of

1813 media or media equipment." I was just wondering, what is

1814 meant by "of any form of media"? Does that include courtroom

1815 sketches or writings that would emanate from an eyewitness

1816 inside the courtroom?

1817 Mr. Gohmert. The gentleman yields for an answer?

1818 Mr. Johnson. Yes, I do.

1819 Mr. Gohmert. Actually, that would be a form of media,

1820 and I think it is always basically within the inherent power

1821 of a court to control if somebody comes in with a huge sketch

1822 pad, but they should be able to control it. That would be

1823 one form that would be considered. You wouldn't want

1824 somebody, or at least I wouldn't as a judge, coming in with a

1825 huge four-by-eight piece of canvas. But I was also trying to

1826 anticipate things that I hadn't thought of.

1827 Mr. Johnson. Well, if I may reclaim my time, this  
1828 amendment would provide for disciplinary measures for  
1829 courtroom use of any form of media, and also distribution of  
1830 any of the images or sounds obtained in the courtroom. So  
1831 that answers my question, Mr. Gohmert.

1832 Mr. Gohmert. Would the gentleman yield for just a  
1833 second?

1834 Mr. Johnson. I do.

1835 Mr. Gohmert. Yes. And here again, that discipline, if  
1836 I could give you an example, the rules are very clear that  
1837 were in my court. You don't film jurors. We had somebody  
1838 that messed up and did that, and so I said under the rules,  
1839 you get no more footage that you can use for your news.

1840 We had two other stations with whom that station was  
1841 competing who had footage and complied with the rules and  
1842 didn't use such footage, and even had someone come and  
1843 complain, "well, the person that signed the request for media  
1844 coverage didn't actually have authority." But we got that  
1845 worked out because I made it clear if they were going to ever  
1846 get footage from that courthouse again, then they couldn't be  
1847 sending somebody over to sign a request and then not.

1848 And when they realized they could be shut out from any  
1849 footage ever because they were not following the rules or  
1850 misrepresented apparent authority, then they became very  
1851 compliant. That is the kind of thing I am talking about.

1852 And the power in a competitive TV market to say "you won't  
1853 get footage because you don't play by the rules" really makes  
1854 people comply and observe those kind of rights of jurors and  
1855 important witnesses.

1856 Mr. Johnson. Thank you, Mr. Gohmert. Lord help us when  
1857 Mr. Gohmert becomes chairman of this committee.

1858 [Laughter.]

1859 Chairman Conyers. His brevity will then come to the  
1860 fore, and you will be very pleased and surprised.

1861 I thank the gentleman.

1862 There being no further discussion on the gentleman from  
1863 Texas's amendment, the question is on it.

1864 All those in favor will signify by saying "aye."

1865 Those that oppose say "no."

1866 The ayes have it and the amendment is agreed to.

1867 The gentleman from Texas?

1868 Mr. Gohmert. Thank you, Mr. Chairman.

1869 I have a second amendment regarding page five.

1870 Chairman Conyers. The clerk will report the amendment.

1871 The Clerk. Amendment to H.R. 2128 offered by Mr.

1872 Gohmert of Texas. "On page five, line one, strike

1873 "advisory." On page five, lines two to three, strike

1874 "advisory." On page five, lines three to five, strike "to

1875 which a presiding judge at the discretion of that judge, may

1876 refer in making decision."

1877 [The amendment of Mr. Gohmert follows:]

1878 \*\*\*\*\* INSERT \*\*\*\*\*

1879 Chairman Conyers. Thank you.

1880 The committee advises the gentleman that there are final  
1881 votes at 2:15 p.m., and the ranking member and I have agreed  
1882 that we will accept the amendment if there is no further  
1883 discussion on it.

1884 Mr. Gohmert. If I could just use two sentences.

1885 The Judicial Conference representatives who do not  
1886 support the bill have pointed out that if this housecleaning  
1887 measure were not done, it creates not merely guidelines which  
1888 are in place, but advisory guidelines with which they have  
1889 never dealt. So they really wanted this to be consistent if  
1890 it is going to become law with the guidelines and rules they  
1891 already have.

1892 With that, I yield back.

1893 Chairman Conyers. Well, we will reconsider whether we  
1894 accept this amendment now. I am sorry.

1895 [Laughter.]

1896 The question occurs on Gohmert amendment number two.

1897 All those in favor indicate by saying "aye."

1898 Those opposed indicate by saying "no."

1899 The ayes have it. It is agreed to.

1900 Are there further amendments? The gentlelady from Ohio  
1901 is recognized, for what purpose?

1902 Ms. Sutton. I have an amendment at the desk, Mr.

1903 Chairman.

1904 Chairman Conyers. The clerk will report the amendment.

1905 The Clerk. Amendment to H.R. 2128 offered by Ms. Sutton

1906 of Ohio. "Page two, line 24, insert—"

1907 [The amendment by Ms. Sutton follows:]

1908 \*\*\*\*\* INSERT \*\*\*\*\*

1909 Ms. Sutton. Mr. Chairman, I request consent to have the  
1910 amendment considered as read.

1911 Chairman Conyers. Without objection, so ordered.

1912 The gentlelady is recognized in support of her  
1913 amendment.

1914 Ms. Sutton. Thank you, Mr. Chairman.

1915 As has been pointed out here today, the Judicial  
1916 Conference of course is opposed to this bill. In their  
1917 testimony, one of the things that they said is the paramount  
1918 question in determining whether cameras should be used in  
1919 federal courts should not be whether the openness would be  
1920 enjoyed by the public and media. Virtually all court  
1921 proceedings are public and open today, with very limited  
1922 exceptions, such as those related to juveniles.

1923 Rather, the Judicial Conference believes that the  
1924 question is whether the presence of cameras has the potential  
1925 to deprive citizens of their ability to have a claim or right  
1926 fairly resolved in the United States District Courts.  
1927 Although the legislation gives the presiding judge the  
1928 discretion to deny the use of cameras, the potential for  
1929 compromising a citizen's right to a fair trial may not become  
1930 evident until a televised trial is underway.

1931 Mr. Chairman, this is the sentiment that underlies my  
1932 amendment. While I certainly support the idea that is  
1933 embodied in the legislation of more sunshine in our



1934 government institutions, these efforts cannot eclipse the  
1935 fundamental purpose of our criminal justice system, which is  
1936 not education and it is not entertainment. Instead, it is  
1937 justice.

1938         So this amendment is about that. Nowhere is that more  
1939 paramount as when somebody's personal liberty is at stake.  
1940 So this amendment would require that in the case of  
1941 interlocutory appeals in criminal cases or at the trial  
1942 level, that the consent of both parties would be necessary if  
1943 a judge does determine that cameras in that courtroom would  
1944 be appropriate.

1945         Chairman Conyers. I thank the gentlelady for yielding  
1946 back.

1947         The chair recognizes the gentleman from Ohio.

1948         Mr. Chabot. I move to strike the last word, Mr.

1949 Chairman.

1950         Chairman Conyers. The gentleman is recognized.

1951         Mr. Chabot. Thank you, Mr. Chairman.

1952         Whereas I have supported all the amendments on both  
1953 sides that have come up thus far, I would urge my colleagues  
1954 in the strongest way possible to oppose this particular  
1955 amendment. I would like to be supportive since the  
1956 gentlelady is from my state and hasn't been on this committee  
1957 too long yet, and I wish her the best on the committee. I  
1958 just think that this amendment is not at all helpful. It

1959 really undermines the bill and sends the message that we  
1960 don't trust our judges to exercise their discretion in their  
1961 own courtroom.

1962 Judges should be given, I believe, the respect and the  
1963 deference to determine what is in the best interest of  
1964 justice, particularly after hearing from the parties and  
1965 considering whether the due process rights of any party may  
1966 be impacted or violated from having cameras in the courtroom.

1967 Parties should not be given the unfettered unilateral  
1968 right to veto cameras. In criminal proceedings, we know that  
1969 consent would not likely be obtained, thus making it less  
1970 likely that criminal trials would ever be televised. We  
1971 should let the judges decide after hearing from the parties.  
1972 The judge can take into consideration the views of the both  
1973 parties, the defense and prosecutor. The judge will listen  
1974 to both sides and ultimately the judge should make that call.

1975 But a defendant, particularly a criminal defendant,  
1976 should not have veto power over that. I mean, we are talking  
1977 about federal cases here. We have criminal cases all over  
1978 the country in the states right now that take place with  
1979 cameras in the courtroom. The types of cases we are taking  
1980 about is like Timothy McVeigh, the Oklahoma City bomber. What  
1981 this amendment would do is it would say Timothy McVeigh would  
1982 have the right to say, "I would prefer not to be on TV." A  
1983 case like that, which obviously the public has the right, and

1984 those families have a right, that is the type of case that we  
1985 are talking about, a person like McVeigh.

1986 Mr. Gohmert. Will the gentleman yield?

1987 Mr. Chabot. Yes, I will be happy to yield to the  
1988 gentleman.

1989 Mr. Gohmert. Thank you for yielding. You mentioned  
1990 that criminal defendants may nix this. I would submit to you  
1991 what you will see in cases where the prosecutor is bringing a  
1992 weak case and he knows it is weak, he will object every time  
1993 to that being on television, because he is not going to want  
1994 people to know how weak his case is that he brought and  
1995 wasted federal funds to bring to court. I think the  
1996 prosecutor likewise should not be able to object. If he is  
1997 going to bring a weak case to court, he ought to be able to  
1998 sit there and be forced to sit there and let the public see  
1999 just what he brought to court.

2000 I yield back.

2001 Chairman Conyers. Would the gentleman yield to the  
2002 gentlelady from Ohio?

2003 Mr. Chabot. I would be happy to yield to the  
2004 gentlelady.

2005 Ms. Sutton. I thank the gentleman for yielding.

2006 At this time, on the belief and the condition and the  
2007 commitment of the sponsors of this bill and the chairman of  
2008 the committee and the ranking member of the committee that

2009 they are going to work with me to address this issue, I will  
2010 withdraw the amendment at this time.

2011 Chairman Conyers. The chair thanks the gentlelady for  
2012 her cooperation.

2013 Mr. Chabot. Reclaiming my time, I will yield back.

2014 Chairman Conyers. Are there any other amendments?

2015 That being the case, a reporting quorum being present,  
2016 the chair will ask all those in favor of reporting H.R. 2128  
2017 as amended would indicate by saying "aye."

2018 Those opposed indicate by saying "no."

2019 A recorded vote is requested. The clerk will call the  
2020 roll.

2021 The Clerk. Mr. Conyers?

2022 Chairman Conyers. Aye.

2023 The Clerk. Mr. Conyers votes aye.

2024 Mr. Berman?

2025 [No response.]

2026 Mr. Boucher?

2027 [No response.]

2028 Mr. Nadler?

2029 Mr. Nadler. Aye.,

2030 The Clerk. Mr. Nadler votes aye.

2031 Mr. Scott?

2032 Mr. Scott. No.

2033 The Clerk. Mr. Scott votes no.

2034 Mr. Watt?

2035 [No response.]

2036 Ms. Lofgren?

2037 Ms. Lofgren. No.

2038 The Clerk. Ms. Lofgren votes no.

2039 Ms. Jackson Lee?

2040 [No response.]

2041 Ms. Waters?

2042 [No response.]

2043 Mr. Delahunt?

2044 Mr. Delahunt. Aye.

2045 The Clerk. Mr. Delahunt votes aye.

2046 Mr. Wexler?

2047 [No response.]

2048 Ms. Sanchez?

2049 Ms. Sanchez. Aye.

2050 The Clerk. Ms. Sanchez votes aye.

2051 Mr. Cohen?

2052 [No response.]

2053 Mr. Johnson?

2054 Mr. Johnson. Aye.

2055 The Clerk. Mr. Johnson votes aye.

2056 Ms. Sutton?

2057 Ms. Sutton. No.

2058 The Clerk. Ms. Sutton votes no.

2059 Mr. Gutierrez?  
2060 [No response.]  
2061 Mr. Sherman?  
2062 [No response.]  
2063 Ms. Baldwin?  
2064 [No response.]  
2065 Mr. Weiner?  
2066 [No response.]  
2067 Mr. Schiff?  
2068 Mr. Schiff. Aye.  
2069 The Clerk. Mr. Schiff votes aye.  
2070 Mr. Davis?  
2071 [No response.] .  
2072 Ms. Wasserman Schultz?  
2073 [No response.]  
2074 Mr. Ellison?  
2075 Mr. Ellison. Aye.  
2076 The Clerk. Mr. Ellison votes aye.  
2077 Mr. Smith?  
2078 Mr. Smith. No.  
2079 The Clerk. Mr. Smith votes no.  
2080 Mr. Sensenbrenner?  
2081 Mr. Sensenbrenner. No.  
2082 The Clerk. Mr. Sensenbrenner votes no.  
2083 Mr. Coble?

2084 Mr. Coble. Aye.

2085 The Clerk. Mr. Coble, aye.

2086 Mr. Gallegly?

2087 [No response.]

2088 Mr. Goodlatte?

2089 Mr. Goodlatte. Aye.

2090 The Clerk. Mr. Goodlatte votes aye.

2091 Mr. Chabot?

2092 Mr. Chabot. Aye.

2093 The Clerk. Mr. Chabot votes aye.

2094 Mr. Lungren?

2095 [No response.]

2096 Mr. Cannon?

2097 Mr. Cannon. No.

2098 The Clerk. Mr. Cannon votes no.

2099 Mr. Keller?

2100 Mr. Keller. Aye.

2101 The Clerk. Mr. Keller votes aye.

2102 Mr. Issa?

2103 [No response.]

2104 Mr. Pence?

2105 Mr. Pence. No.

2106 The Clerk. Mr. Pence votes no.

2107 Mr. Forbes?

2108 Mr. Forbes. No.

2109 The Clerk. Mr. Forbes votes no.  
2110 Mr. King?  
2111 Mr. King. Aye.  
2112 The Clerk. Mr. King votes aye.  
2113 Mr. Feeney?  
2114 [No response.]  
2115 Mr. Franks?  
2116 Mr. Franks. Aye.  
2117 The Clerk. Mr. Franks votes aye.  
2118 Mr. Gohmert?  
2119 Mr. Gohmert. Aye.  
2120 The Clerk. Mr. Gohmert votes aye.  
2121 Mr. Jordan?  
2122 Mr. Jordan. Aye.  
2123 The Clerk. Mr. Jordan votes aye.  
2124 Chairman Conyers. Are there any members who wish to  
2125 cast their ballot?  
2126 Mr. Berman?  
2127 Mr. Berman. Aye.  
2128 The Clerk. Mr. Berman votes aye.  
2129 Chairman Conyers. Ms. Waters?  
2130 Ms. Waters. Aye.  
2131 The Clerk. Ms. Waters votes aye.  
2132 Chairman Conyers. Mr. Watt?  
2133 Mr. Watt. No.



2134 The Clerk. Mr. Watt votes no.  
2135 Chairman Conyers. Mr. Weiner?  
2136 Mr. Weiner. No.  
2137 The Clerk. Mr. Weiner votes no.  
2138 Chairman Conyers. Are there any other members?  
2139 Yes, Mr. Feeney?  
2140 Mr. Feeney. No.  
2141 The Clerk. Mr. Feeney votes no.  
2142 Chairman Conyers. Ms. Sanchez?  
2143 The Clerk. Ms. Sanchez voted aye.  
2144 Ms. Sanchez. No.  
2145 The Clerk. Ms. Sanchez now votes no.  
2146 Chairman Conyers. Mr. Weiner?  
2147 The Clerk. Mr. Weiner voted no.  
2148 Mr. Weiner. Aye.  
2149 The Clerk. Mr. Weiner now votes aye.  
2150 Chairman Conyers. Are there any members that wish to  
2151 cast their vote that haven't?  
2152 The clerk will report.  
2153 The Clerk. Mr. Chairman, 17 members voted aye; 11  
2154 members voted no.  
2155 And the bill as amended is agreed to and reported  
2156 favorably to the House. Without objection, it will be  
2157 reported favorably in the form of a single amendment in the  
2158 nature of a substitute, incorporating amendments adopted here

2159 today. Without objection, the staff is authorized to make  
2160 any technical and conforming changes, and members will have 2  
2161 additional days to submit additional views.

2162 The chair points out we have only one bill left.

2163 For what purpose does the gentleman from New York seek  
2164 recognition?

2165 Mr. Nadler. Mr. Chairman, I ask unanimous consent to  
2166 say a few words in recognition of one of the committee's  
2167 staff who will be retiring today. Susana Gutierrez has  
2168 worked for the Congress for more than 20 years, in recent  
2169 years for the Subcommittee on the Constitution, Civil Rights  
2170 and Civil Liberties. She has been the glue that has held our  
2171 committee together. I want to thank her for her many years  
2172 of service and wish her well in the years to come. I know  
2173 that everyone will join in this.

2174 Chairman Conyers. Would you raise your hand young lady?  
2175 You have served the committee well.

2176 [Applause.]

2177 We are proud of you. We wish you well. We know you are  
2178 leaving for Texas. Our best wishes will go with you, and our  
2179 gratitude for the service you rendered the committee across  
2180 the years.

2181 Ms. Lofgren. Mr. Chairman?

2182 Chairman Conyers. We will now return to H.R. 1512. I  
2183 will recognize the gentleman from Iowa, Mr. King, for an

2184 amendment.

2185 Mr. King. Thank you, Mr. Chairman.

2186 If I have picked up this up where we left off, I believe

2187 I had offered an amendment number 262.

2188 Chairman Conyers. The clerk will report the amendment.

2189 The Clerk. Amendment to H.R. 1512 offered by—

2190 Ms. Lofgren. I have reserved a point of order.

2191 Chairman Conyers. The gentlelady from California

2192 reserves a point of order.

2193 The Clerk. —by Mr. King of Iowa, "Page two after line

2194 six, add the following: Section two, eligibility

2195 requirements for SCAAP funding. Section 241(I) of the

2196 Immigration and Nationality Act (8 USC 1231)—"

2197 [The amendment by Mr. King follows:]

2198 \*\*\*\*\* INSERT \*\*\*\*\*

2199 Chairman Conyers. Without objection, the amendment will  
2200 be considered as read.

2201 The gentleman is recognized in support of his amendment.

2202 Mr. King. Thank you, Mr. Chairman.

2203 This is an amendment that addresses, of course, the bill  
2204 before us that provides SCAAP funding for political  
2205 subdivisions when they have those incarcerated that are  
2206 eligible for reimbursement under SCAAP. It goes to the  
2207 point, the issue that we have a significant number—one is too  
2208 many—but a significant number of political subdivisions,  
2209 mostly cities, that have passed a sanctuary policy. That  
2210 sanctuary policy is sometimes written and sometimes an  
2211 unwritten policy that directs their law enforcement officers  
2212 and forbids them from gathering information on the lawful  
2213 present status of those that they detain or they arrest and  
2214 sometimes those that they indict.

2215 This amendment goes to this and speaks to it directly.  
2216 It prohibits the funding under this bill from going to those  
2217 political subdivisions that have sanctuary policies. For the  
2218 information of this committee, the effect of it is this.  
2219 Current law is a law that was passed in 1996, the Illegal  
2220 Immigration Reform and Immigrant Responsibility Act. Current  
2221 law says, in summary, "a government entity may not prohibit  
2222 any official from sending or receiving information regarding  
2223 the citizenship of immigration status of any individual."

2224 That is in summary, not in its entirety, but it is  
2225 essentially correct.

2226         So what has happened is, we have political subdivisions  
2227 who direct their law enforcement people and forbid them, even  
2228 though they can't forbid them from sending to or receiving  
2229 information regarding the citizenship or immigration status,  
2230 they prohibit them from gathering information. Now, that  
2231 defeats the spirit of this law, if not the letter of this  
2232 law. In fact, I believe if we could challenge this, we may  
2233 find out that the prohibition for gathering is at least the  
2234 loophole that they are sliding through.

2235         My amendment addresses that loophole, and it addresses  
2236 those political subdivisions that forbid the gathering of  
2237 information and those who circumvent this 1996 law. If we  
2238 are going to take our federal tax dollars and use those to  
2239 reimburse political subdivisions for the costs associated  
2240 with arrest, detention, indictment, incarceration and also  
2241 conviction of criminal aliens here in the United States, we  
2242 ought to at least ask those political subdivisions, do not  
2243 defy the federal law on sanctuaries, the prohibition on  
2244 sanctuary cities; do not circumvent that law; do not adopt  
2245 policy that forbids the gathering of information because that  
2246 defeats the intent of the anti-sanctuary law that went into  
2247 federal statute in 1996, much of it underneath the direct  
2248 efforts of our ranking member, Mr. Smith of Texas.

2249           So I am seeking to defend this language laws. Sanctuary  
2250 laws defy federal law. We should not reward those political  
2251 subdivisions with federal dollars in order to subsidize. I  
2252 agree with the SCAAP funding intent of Ms. Sanchez's bill. I  
2253 believe it is important for us if we are not able to control  
2254 our borders and if we are not able to as a federal entity  
2255 enforce our immigration laws, then illegal immigrants—

2256           Mr. Nadler. Would the gentleman yield for questions?

2257           Mr. King. I would yield for questions.

2258           Mr. Nadler. On your amendment, you have two paragraphs.  
2259 You say the states shall not be eligible to enter into a  
2260 contractual arrangement under paragraph one if the state, (a)  
2261 has in effect any law, policy, or procedure in contravention  
2262 of certain subsections. What kind of laws are you talking  
2263 about that would be in contravention of this?

2264           Mr. King. I would presume the gentleman knew, but a  
2265 policy that is in effect that would be either a written  
2266 policy which had been adopted by city ordinances, for  
2267 example, cities like Denver.

2268           Mr. Nadler. But what is in contravention of these  
2269 specific provisions?

2270           Mr. King. The specific provision is the one I  
2271 referenced. I will reference the exact provision here, and  
2272 that is—let us see, that should be—that is the provision  
2273 under 1996 8 USC 1373. And that is what I quoted a little

2274 bit ago in part.

2275 Mr. Nadler. But what is it? Not a number. What is it?

2276 Mr. King. Okay. That is the language, and I can

2277 briefly just quote it, "notwithstanding any other provision

2278 of federal, state or local law, a federal, state or local

2279 government entity or official may not prohibit or in any way

2280 restrict any government entity or official from sending to or

2281 receiving information regarding the citizenship or

2282 immigration status, lawful or unlawful, or any individual."

2283 Mr. Nadler. And that is current law.

2284 Mr. King. That is current law.

2285 Mr. Nadler. Thank you.

2286 Mr. King. Yes, thanks.

2287 Chairman Conyers. Thank you.

2288 Has the gentleman concluded?

2289 Mr. King. Mr. Chairman, if I could just briefly

2290 conclude. I would state that the point of order that has

2291 been reserved, if we are interested in protecting current

2292 federal law instead of allowing it to be circumvented, it

2293 could easily be withdrawn and this committee can approve this

2294 type of an amendment. I believe it is in the spirit of the

2295 law. I hope it is in the spirit of this committee, and I

2296 hope the spirit of this committee can be reflected.

2297 I yield back the balance of my time.

2298 Chairman Conyers. I thank the gentleman.

2299           The gentlelady from California is recognized in support  
2300 of her reservation and point of order.

2301           Ms. Lofgren. Mr. Chairman, Mr. King's amendment is not  
2302 germane, and I do insist on my point of order. The amendment  
2303 is unrelated to H.R. 1512. The amendment steps outside the  
2304 very narrow scope of the bill. The operative text of H.R.  
2305 1512 is three words, which merely reinstate the original  
2306 intent of SCAAP, allowing states and localities to seek money  
2307 from the Department of Justice for the costs of jailing  
2308 criminal aliens who are charged with crimes.

2309           The amendment's scope is exceptionally broad. It  
2310 relates to the immigration and citizenship status of all  
2311 those who come into contact with the criminal justice system,  
2312 including citizens, not just the undocumented or, even more  
2313 narrowly, criminal aliens. The amendment would undercut  
2314 cities and states who have decided crime fighting is a higher  
2315 local priority than enforcement of the federal law.

2316           I would add also that at the request of Congress, the  
2317 Department of Justice audited local confidentiality policies  
2318 described as "sanctuary" by the author of the amendment, and  
2319 determined that they do not preclude cooperation with ICE or  
2320 information sharing as the federal law requires.

2321           I would note again that we have received pleas from a  
2322 variety of sheriffs' departments asking that we do not adopt  
2323 amendments such as this, and those sheriffs' organizations



2324 include the Sheriffs' Association of Texas, the Sheriffs'  
2325 Association of Virginia, the Sheriff of Los Angeles, the  
2326 Border Sheriffs' Association, the California State Sheriffs'  
2327 Association, the U.S. Border Counties Coalition, and the  
2328 California State Association of Counties.

2329       So I do not believe this is germane. I also think it is  
2330 unwise, and I yield back.

2331       Chairman Conyers. I thank the gentlelady.

2332       Mr. Feeney. Mr. Chairman, on the point—?

2333       Chairman Conyers. Yes. Mr. Feeney?

2334       Mr. Feeney. Thank you, Mr. Chairman.

2335       To the point of germanity, I don't know anything could  
2336 be more precisely germane. This is a restrictive or limiting  
2337 application of the funds that we would reimburse localities  
2338 for. The actual bill itself reimburses for localities that  
2339 have to deal with confinement of criminal aliens. Obviously,  
2340 if we can enact policies that will have fewer aliens in the  
2341 country, we will have fewer criminal aliens and there will be  
2342 less federal money that is needed to reimburse localities for  
2343 jailing criminal aliens.

2344       I think in the general rules of germanity, what this  
2345 amendment does is to merely restrict application of  
2346 reimbursements to those cities that are in compliance with  
2347 federal law. The bill specifically deals with criminal  
2348 aliens that are in jail, and I don't know how it could

2349 possibly be more germane regardless of the merits of it.

2350 With that, I would yield time on the point to Mr. King,  
2351 if it pleases the chairman.

2352 Mr. King. I thank the gentleman from Florida for his  
2353 statement, and also for yielding.

2354 I would point out that the significant language in my  
2355 amendment says that it prohibits dollars from the federal  
2356 government through SCAAP to go to those political  
2357 subdivisions—and these are the words I wanted to point out,  
2358 Mr. Chairman—in contravention of.

2359 Now, this bill, Ms. Sanchez's bill, goes directly to  
2360 these funds that would be distributed to political  
2361 subdivisions, and my amendment goes to those political  
2362 subdivisions directly under this bill who are in  
2363 contravention of current federal statute. So I agree with  
2364 the gentleman from Florida. I don't know what could be more  
2365 germane.

2366 We have the situation where we have political  
2367 subdivisions that have stated policies that are designed to  
2368 contravene federal law, and their method of doing so is to be  
2369 very adept in the English language and use the word "prohibit  
2370 the gathering" of information. Now, a court might determine  
2371 that "gathering"—and the Justice Department might have a  
2372 different interpretation of this.

2373 But I have sat down with the Justice Department and

2374 turned this Rubik's cube around every way I can look at it,  
2375 and it comes back the word "gather." It is contravention of  
2376 federal law—the law that was brought forth here with great  
2377 effort by the gentleman from Texas in 1996. I believe this  
2378 goes specifically within the confines of this proposal today,  
2379 and I would ask that it be ruled germane and let this  
2380 committee vote on this amendment.

2381 I thank you, and I yield back to the gentleman from  
2382 Florida.

2383 Chairman Conyers. I thank the gentleman, and recognize  
2384 the author of the measure, the gentlelady from California,  
2385 Ms. Sanchez.

2386 Ms. Sanchez. Thank you, Mr. Chairman. I am speaking on  
2387 the issue of germaneness of the second amendment.

2388 H.R. 1512 is a very narrowly tailored bill that only  
2389 attempts to change the definition of what "criminal alien" is  
2390 under the SCAAP program. What it seeks to do, the intent of  
2391 the legislation, is to return to the definition that Congress  
2392 intended in 1994 when the SCAAP program was first instituted.  
2393 Back in 1994, whether or not a criminal alien was actually  
2394 ultimately convicted or not, states and local law enforcement  
2395 got their SCAAP funding.

2396 In 2003, the Department of Justice changed the  
2397 definition, and what H.R. 1512 simply seeks to do is return  
2398 it back to the definition in 1994 by inserting three little

2399 words into the bill. The King amendment number two is about  
2400 which state and local entities are eligible to participate in  
2401 the program. So it is well beyond modifying section  
2402 241(I)(3)(a) of the Immigration and Nationality Act which  
2403 deals specifically just with the definition.

2404 Therefore, I agree with Ms. Lofgren. This amendment is  
2405 not germane, and we should not consider it in this committee.

2406 I yield back.

2407 Chairman Conyers. The chair thanks all of the  
2408 commentators on the point of order. The chair is prepared to  
2409 rule. This amendment goes beyond the scope of this very  
2410 narrow bill, and pursuant to House Rule 16 (7) and related  
2411 precedents, and after consultation with the House  
2412 parliamentarian, the chair rules that the amendment is not  
2413 germane to this bill. Therefore, the chair will seek to  
2414 determine if there are any further amendments to H.R. 1512.

2415 Mr. King. Mr. Chairman?

2416 Chairman Conyers. The gentleman from Iowa is  
2417 recognized.

2418 Mr. King. Thank you, Mr. Chairman.

2419 I have an amendment at the desk, number three.

2420 Chairman Conyers. The clerk will report the amendment.

2421 The Clerk. Amendment to H.R. 1512 authored by Mr. King  
2422 of Iowa. "Section three, GAO study and report. The  
2423 Comptroller General shall issue an annual report to the

2424 Congress and the Secretary of Homeland Security specifying  
2425 the number of aliens detained in states or political—"

2426 [The amendment by Mr. King follows:]

2427 \*\*\*\*\* INSERT \*\*\*\*\*

2428 Chairman Conyers. I ask unanimous consent that the  
2429 amendment be considered as read, and advise its author that  
2430 this amendment is acceptable, and that we would like to vote  
2431 on it. We think we can finish up before we go any further.

2432 The question occurs on—

2433 Mr. King. Mr. Chairman?

2434 Chairman Conyers. Very briefly, the author of the  
2435 amendment is recognized.

2436 Mr. King. Thank you, Mr. Chairman. I recognize the  
2437 time constraints that we are on here, and yet this amendment  
2438 is something that we have worked out over lunch and tried to  
2439 get to a conclusion here between each side of the aisle  
2440 within this committee. It was my intent to have a dialogue  
2441 on this in an effort to—I understand the spirit that this is  
2442 brought in, and to try not to set a precedent with regard to  
2443 how we might accept amendments with a germaneness question.

2444 And yet, I think we recognize that we need more  
2445 information that we will be able to get with this amendment.  
2446 I have gone down this path with the GAO report and found out  
2447 that they didn't have access to all the information that we  
2448 need to make a reasoned judgment.

2449 Ms. Lofgren. Would the gentleman yield?

2450 Mr. King. I would be very happy to yield.

2451 Ms. Lofgren. I know we have votes on the floor, and we  
2452 want to get this bill done. I would be happy to continue our

2453 dialogue about what the GAO can and can't do without regard  
2454 to this amendment. I want to reassure the gentleman on that  
2455 point.

2456 Mr. King. Reclaiming my time, and I thank the  
2457 gentlelady.

2458 Chairman Conyers. I thank the author of the amendment  
2459 and the gentlelady from Ohio.

2460 The question occurs on the amendment of the gentleman  
2461 from Iowa.

2462 All those in favor indicate by saying "aye."

2463 All those opposed say "no."

2464 The ayes have it.

2465 If there are no further amendments, a reporting quorum  
2466 being present, the question is on reporting the bill  
2467 favorably to the house.

2468 All in favor signify by saying "aye."

2469 All opposed say "no."

2470 The ayes have it and H.R. 1512 is reported favorably to  
2471 the House. Members will have 2 days to submit additional and  
2472 dissenting views.

2473 The chair calls up H.R. 1312 pursuant to notice, the  
2474 Arts Require Timely Service, and ask the clerk to report it.

2475 The Clerk. H.R. 1312, a bill to expedite adjudication  
2476 of employer petitions for aliens of extraordinary artistic  
2477 ability. Section one, short title, this Act may be cited as

2478 the Arts Require Timely Service (ARTS) Act.

2479 [The bill follows:]

2480 \*\*\*\*\* INSERT \*\*\*\*\*



2481 Chairman Conyers. Okay. I thank the clerk.

2482 Without objection, the gentlelady from California, Zoe  
2483 Lofgren, will be allowed to put her statement into the  
2484 record.

2485 [The statement of Ms. Lofgren follows:]

2486 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

2487 Now, I turn to the ranking member of the committee,  
2488 Lamar Smith.

2489 Mr. Smith. Thank you, Mr. Chairman.

2490 Performing arts organizations use O and P visas to bring  
2491 many talented foreign artists to our country to perform  
2492 before American audiences. However, despite the fact that  
2493 the Immigration and Nationality Act provides that the  
2494 Department of Homeland Security shall adjudicate O and P  
2495 visas within 14 days, adjudication delays of up to 180 days  
2496 have been reported. These long delays create the risk that  
2497 performances involving international artists must be  
2498 cancelled, creating high economic risks to arts institutions  
2499 and the local economies they support.

2500 Henry Vogel, president of the American Symphony  
2501 Orchestra League, has stated that, "nonprofit arts  
2502 organizations confront long waits and uncertainty in gaining  
2503 approval for visa petitions for foreign guest artists." This  
2504 degree of uncertainty can prove too risky for many performing  
2505 arts organizations, and is having a direct impact on their  
2506 ability to present foreign guest artists. Orchestras must  
2507 sell tickets in advance, creating a financial obligation to  
2508 their audiences. Performances are date-, time- and location-  
2509 specific, and the nature of scheduling, booking and  
2510 confirming highly sought after guest soloists and performing  
2511 groups required that the timing of the visa process be

2512 efficient and reliable.

2513       The INA does provide that DHS can charge a fee of \$1,000  
2514 to provide premium processing for employment-based visa  
2515 petitions, with adjudication within 15 days. However, many  
2516 nonprofit arts organizations cannot afford to pay this extra  
2517 amount either because they are small, cash-strapped  
2518 institutions or because they sponsor many foreign artists  
2519 over a year's time. The Arts Require Timely Service Act  
2520 provides that if a nonprofit organization's petition for an O  
2521 visa for an alien with extraordinary ability in the arts, or  
2522 for a P visa, is not adjudicated within 30 days, they will  
2523 receive premium processing free of charge.

2524       I support this bill and I thank Mr. Berman for working  
2525 with me on an amendment that we will offer shortly to clarify  
2526 that only arts organizations that are qualified as tax exempt  
2527 under section 501(c) of the Internal Revenue Code can receive  
2528 the fee waiver and that organizations petitioning for  
2529 athletes do not qualify for the waiver.

2530       I yield the balance of my time to the gentleman from  
2531 Iowa, Mr. King.

2532       Chairman Conyers. Would you submit your statement, Mr.  
2533 King, so we can get the amendment up before we leave?

2534       Mr. King. Yes. I have several amendments, Mr.  
2535 Chairman.

2536       Chairman Conyers. I appreciate it. Yes, we want to get

2537 to them. That is why I am going to recognize Mr. Berman for  
2538 his amendment.

2539 Mr. King. I yield back.

2540 Chairman Conyers. Thank you.

2541 Mr. Berman. Mr. Chairman, I have an amendment at the  
2542 desk.

2543 Chairman Conyers. The clerk will report.

2544 The Clerk. Amendment to H.R. 1312 offered by Mr. Berman  
2545 of California.

2546 [The amendment by Mr. Berman follows:]

2547 \*\*\*\*\* INSERT \*\*\*\*\*

2548 Chairman Conyers. I ask unanimous consent the amendment  
2549 be considered as read.

2550 The gentleman is recognized.

2551 Mr. Berman. Mr. Chairman, the ranking member has quite  
2552 well described the bill. This amendment is to clarify two  
2553 issues: one, this only applies to nonprofit arts  
2554 organizations bringing in artists and performance groups; and  
2555 making it clear that only nonprofits organized under sections  
2556 501(c)(3) (5) and (6) of the Internal Revenue Code are  
2557 eligible for this expedited processing.

2558 I yield back and urge adoption.

2559 Chairman Conyers. Is there any further discussion?

2560 Mr. Smith. Mr. Chairman, I would like to be recognized.

2561 Chairman Conyers. Yes, the gentleman from Texas.

2562 Mr. Smith. Is this on Mr. Berman's amendment?

2563 Chairman Conyers. Yes.

2564 Mr. Berman. The Berman-Smith amendment.

2565 Mr. Smith. That makes it even more appealing.

2566 Thank you, Mr. Chairman. I will try to be short here.

2567 I am pleased to join with the gentleman from California, Mr.  
2568 Berman, in offering this amendment. It accomplishes the  
2569 goals that he has said, and as I described in my opening  
2570 statement.

2571 Mr. Chairman, I will yield back the balance of my time.

2572 Chairman Conyers. The question occurs on the Berman-

2573 Smith amendment.

2574 All those in favor say "aye."

2575 All those opposed say "no."

2576 The ayes have it. The amendment is agreed to.

2577 Now, there is a Republican conference after this vote,

2578 so we need to finish this up now or this will all be held

2579 until next week. So who has an amendment?

2580 Mr. King. Mr. Chairman?

2581 Chairman Conyers. Mr. King?

2582 Mr. King. Thank you, Mr. King. I have an amendment at

2583 the desk.

2584 Chairman Conyers. The clerk will report the amendment.

2585 Mr. King. Number one.

2586 The Clerk. Amendment to H.R. 1312 offered by Mr. King

2587 of Iowa. "Page three, line 10, after 'a qualified nonprofit

2588 organization,' insert 'whose total revenue in the taxable

2589 year preceding the calendar year in which the petition is

2590 submitted was less than \$1 million—"

2591 [The amendment by Mr. King follows:]

2592 \*\*\*\*\* INSERT \*\*\*\*\*

2593 Chairman Conyers. We ask unanimous consent the  
2594 amendment be considered as read, and the gentleman is  
2595 recognized in support of his amendment.

2596 Mr. King. Thank you, Mr. Chairman. I will just quickly  
2597 get to this. It recognizes there are foundations that have  
2598 upwards of \$300 million in assets or hundreds of millions of  
2599 dollars in revenue. This is an amendment that caps that and  
2600 will waive the \$1,000 fee up to \$1 million in revenue, and  
2601 recognizes the point made by Mr. Berman also of them being  
2602 not-for-profit organizations. I would call that technical.

2603 I would then yield back my time, and hopefully we will  
2604 be able to adopt my amendment.

2605 Mr. Smith. Mr. Chairman, I support the amendment as  
2606 well, and I will yield back my time.

2607 Chairman Conyers. Thank you so much.

2608 Mr. Berman?

2609 Mr. Berman. Yes, I urge the committee to oppose this  
2610 amendment. This is shocking coming from the minority side—  
2611 soak the vast majority of the significant nonprofit  
2612 organizations that sponsor out-of-country performers and  
2613 orchestras. With a standard of \$1 million of revenues, these  
2614 are nonprofit organizations, and some of them have 10, 15,  
2615 20, 30 groups a year coming into the country. The whole  
2616 purpose of this would be defeated if we exempt from the  
2617 premium processing these people because a \$1,000 fee for many

2618 of these groups is a significant portion of their operating  
2619 budget.

2620 I urge a no vote.

2621 For a symphony orchestra, you are talking about \$1,000  
2622 for every performer, all the supporting people. It is an  
2623 enormous—

2624 Ms. Jackson Lee. Would the gentleman yield?

2625 Chairman Conyers. The gentleman returns his time.

2626 All those in favor of the amendment by the gentleman  
2627 from Iowa say "aye."

2628 Those opposed say "no."

2629 The noes have it. The amendment is defeated.

2630 Mr. King. Mr. Chairman?

2631 Chairman Conyers. But the gentleman has three or four  
2632 more amendments?

2633 Mr. King. I have three or four more, but I request a  
2634 recorded vote.

2635 Chairman Conyers. Okay. Then we will have the recorded  
2636 vote, and this measure will be held over until next week for  
2637 its disposition.

2638 The clerk will call the roll on the amendment.

2639 The Clerk. Mr. Conyers?

2640 Chairman Conyers. No.

2641 The Clerk. Mr. Conyers votes no.

2642 Mr. Berman?



2643 Mr. Berman. No.,  
2644 The Clerk. Mr. Berman votes no.  
2645 Mr. Boucher?  
2646 [No response.]  
2647 Mr. Nadler?  
2648 Mr. Nadler. No.  
2649 The Clerk. Mr. Nadler votes no.  
2650 Mr. Scott?  
2651 Mr. Scott. No.  
2652 The Clerk. Mr. Scott votes no.  
2653 Mr. Watt?  
2654 [No response.]  
2655 Ms. Lofgren?  
2656 Ms. Lofgren. No.  
2657 The Clerk. Ms. Lofgren votes no.  
2658 Ms. Jackson Lee?  
2659 Ms. Jackson Lee. No.  
2660 The Clerk. Ms. Jackson Lee votes no.  
2661 Ms. Waters?  
2662 [No response.]  
2663 Mr. Delahunt?  
2664 [No response.]  
2665 Mr. Wexler?  
2666 [No response.]  
2667 Ms. Sanchez?

2668 Ms. Sanchez. No.

2669 The Clerk. Ms. Sanchez votes no.

2670 Mr. Cohen?

2671 Mr. Cohen. No.

2672 The Clerk. Mr. Cohen votes no.

2673 Mr. Johnson?

2674 Mr. Johnson. No.

2675 The Clerk. Mr. Johnson votes no.

2676 Ms. Sutton?

2677 Ms. Sutton. No.

2678 The Clerk. Ms. Sutton votes no.

2679 Mr. Gutierrez?

2680 [No response.]

2681 Mr. Sherman?

2682 [No response.]

2683 Ms. Baldwin?

2684 [No response.]

2685 Mr. Weiner?

2686 Mr. Weiner. No.

2687 The Clerk. Mr. Weiner votes no.

2688 Mr. Schiff?

2689 Mr. Schiff. No.

2690 The Clerk. Mr. Schiff votes no.

2691 Mr. Davis?

2692 [No response.]

2693 Ms. Wasserman Schultz?  
2694 Ms. Wasserman Schultz. No.  
2695 The Clerk. Ms. Wasserman Schultz votes no.  
2696 Mr. Ellison?  
2697 [No response.]  
2698 Mr. Smith?  
2699 Mr. Smith. Aye.  
2700 The Clerk. Mr. Smith votes aye.  
2701 Mr. Sensenbrenner?  
2702 [No response.]  
2703 Mr. Coble?  
2704 [No response.]  
2705 Mr. Gallegly?  
2706 [No response.]  
2707 Mr. Goodlatte?  
2708 Mr. Goodlatte. Aye.  
2709 The Clerk. Mr. Goodlatte votes aye.  
2710 Mr. Chabot?  
2711 [No response.]  
2712 Mr. Lungren?  
2713 Mr. Lungren. No.  
2714 The Clerk. Mr. Lungren votes no.  
2715 Mr. Cannon?  
2716 Mr. Cannon. Aye.  
2717 The Clerk. Mr. Cannon votes aye.

2718 Mr. Keller?

2719 Mr. Keller. Aye.

2720 The Clerk. Mr. Keller votes aye.

2721 Mr. Issa?

2722 [No response.]

2723 Mr. Pence?

2724 [No response.]

2725 Mr. Forbes?

2726 Mr. Forbes. Aye.

2727 The Clerk. Mr. Forbes votes aye.

2728 Mr. King?

2729 Mr. King. Aye.

2730 The Clerk. Mr. King votes aye.

2731 Mr. Feeney?

2732 Mr. Feeney. Aye.

2733 The Clerk. Mr. Feeney votes aye.

2734 Mr. Franks?

2735 Mr. Franks. Aye.

2736 The Clerk. Mr. Franks votes aye.

2737 Mr. Gohmert?

2738 [No response.]

2739 Mr. Jordan?

2740 Mr. Jordan. Aye.

2741 The Clerk. Mr. Jordan votes aye.

2742 Chairman Conyers. Are there any members that wish to

2743 cast their vote?

2744 Mr. Ellison?

2745 Mr. Ellison. No.

2746 The Clerk. Mr. Ellison votes no.

2747 Chairman Conyers. The clerk will report, if there are  
2748 no other members wishing to vote.

2749 The Clerk. Mr. Lungren?

2750 I have Mr. Lungren voting no.

2751 Chairman Conyers. That is correct.

2752 The clerk will report.

2753 The Clerk. Nine members voted aye and 15 members voted  
2754 nay.

2755 Chairman Conyers. The amendment failed.

2756 Ms. Jackson Lee. Mr. Chairman?

2757 Chairman Conyers. Just a moment. The chair profoundly  
2758 thanks the committee except, save one member, for getting  
2759 this bill through in a very hasty fashion.

2760 Ms. Jackson Lee. Mr. Chairman?

2761 Chairman Conyers. For what purpose does the lady seek  
2762 recognition?

2763 Ms. Jackson Lee. I missed roll call vote H.R. 2128, the  
2764 name of the bill, the Sunshine in the Courtroom Act. I ask  
2765 unanimous consent that my vote of "aye" be placed  
2766 appropriately in the record.

2767 Chairman Conyers. Without objection. And the committee

2768 stands adjourned. Thank you all very much.

2769 [Whereupon, at 2:38 p.m., the committee was adjourned.]