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2 MARKUP OF: REAUTHORIZING ANTITRUST TASK  
3 FORCE; H.R. 6598, THE "PREVENTION OF EQUINE  
4 CRUELTY ACT OF 2008"; AND H.R. 6020, TO AMEND  
5 THE IMMIGRATION AND NATIONALITY ACT TO  
6 PROTECT THE WELL-BEING OF SOLDIERS AND THEIR  
7 FAMILIES, AND FOR OTHER PURPOSES  
8 Wednesday, September 10, 2008  
9 House of Representatives,  
10 Committee on the Judiciary,  
11 Washington, D.C.

12 The committee met, pursuant to call, at 10:27 a.m., in Room  
13 2141, Rayburn House Office Building, Hon. John Conyers  
14 [chairman of the committee] presiding.

15 Present: Representatives Conyers, Berman, Nadler, Watt,  
16 Lofgren, Jackson Lee, Waters, Wexler, Sanchez, Cohen,  
17 Johnson, Gutierrez, Sherman, Baldwin, Schiff, Davis,  
18 Wasserman Schultz, Ellison, Smith, Coble, Gallegly,  
19 Goodlatte, Chabot, Lungren, Cannon, Keller, Issa, Pence,  
20 Forbes, King, Feeney, Franks, and Jordan.

21 Staff present: Perry Apelbaum, Staff Director/Chief  
22 Counsel; Ted Kalo, General Counsel/Deputy Staff Director;  
23 George Slover, Legislative Counsel/Parliamentarian; Sean  
24 McLaughlin, Minority Chief of Staff/General Counsel; Allison  
25 Halataei, Minority Deputy Chief of Staff/Parliamentarian; and  
26 Anita L. Johnson, Clerk.

27 Chairman Conyers. [Presiding.] Good morning. The  
28 committee will come to order.

29 We welcome everyone here. Before we begin our work this  
30 morning, I would like to say a few words about our dearly  
31 departed friend, Rachel King, who passed away in her home in  
32 Wayne, Maine, overlooking Dexter Pond, surrounded by friends  
33 and family after a long battle with cancer. She was a very  
34 able staffer to the House Judiciary Committee, and she worked  
35 on the Crime Subcommittee, and it was in fact Chairman Bobby  
36 Scott that brought her to our attention.

37 Many of us knew her from her previous employment with  
38 the American Civil Liberties Union, but what many didn't know  
39 is that right up until the time she returned to Maine for the  
40 last time, she was pursuing a master's degree in creative  
41 writing at Johns Hopkins University.

42 She was well known and well loved in the criminal  
43 justice and civil rights community, admired for her steadfast  
44 dedication to criminal justice reform and her tireless  
45 advocacy against capital punishment. Author of two books  
46 about the death penalty, and we will remember her not only  
47 for her experienced counsel she gave us on issues going to  
48 the heart of what a criminal justice system ought to be like  
49 in a civilized society and a democracy like ours.

50 We will also remember her gentle, but indefatigable  
51 spirit. We are grateful that she chose to spend the last

52 year of her life working with us. I ask that we all pause.

53 I yield to Lamar Smith.

54 Mr. Smith. Thank you, Mr. Chairman.

55 On behalf of the Republican members and staff of the  
56 Judiciary Committee, I too want to express our condolences on  
57 the passing of Rachel King. In addition to the work  
58 highlighted by you, Rachel served as the counsel for the  
59 Child Soldiers Accountability Act of 2008, which the House  
60 passed on Monday by a vote of 371 to 0. This bill is just  
61 one example of her commitment to human rights issues.

62 Even when Rachel's health began to deteriorate, she  
63 continued to work to complete the Child Soldiers bill. It is  
64 a tribute to her and her dedication to her work. I know my  
65 staff, in particular on the Crime Subcommittee, Caroline  
66 Lynch and Kimani Little, have worked closely with Rachel, but  
67 we all will miss her.

68 I yield back.

69 Chairman Conyers. Could we all pause for a moment of  
70 silence in memory of Rachel?

71 (MOMENT OF SILENCE)

72 Thank you.

73 Pursuant to notice, I call up the resolution to  
74 establish a task force on antitrust competition for  
75 consideration. Everyone has a copy of the resolution. So  
76 without objection, the resolution will be considered as read

77 and open for amendment at any point.

78 [The resolution follows:]

79 \*\*\*\*\* INSERT \*\*\*\*\*

80 Chairman Conyers. Antitrust laws are the chief  
81 protector of competition, which brings consumers better  
82 products, lower prices, more innovation. The Supreme Court  
83 has called the antitrust laws the Magna Carta of our free  
84 enterprise system. Vigorous antitrust enforcement is vital  
85 to maintaining the competitive marketplace that has helped  
86 create the most innovative and resilient economy in all of  
87 history.

88 The task force helps ensure that we are organized in the  
89 most effective way to conduct oversight into antitrust and  
90 competition policy issues that warrant our attention,  
91 including oversight of the antitrust enforcement agencies, as  
92 well as competition issues that arise regarding specific  
93 industries, technologies or market practices.

94 The committee has adopted similar resolutions in  
95 previous Congresses. Unlike a subcommittee, the task force  
96 is of course limited to conducting oversight. Any antitrust-  
97 related legislation will continue to originate in the full  
98 committee of Judiciary itself. The task force will have a  
99 life-span that ends with the 110th Congress in January.

100 I am now pleased to recognize Lamar Smith, ranking  
101 member.

102 Mr. Smith. Thank you, Mr. Chairman.

103 I join you in support of this resolution. Vigorous,  
104 unimpeded competition sustains our economy and keeps it

105 strong. It leads to innovative products that better our  
106 lives and keep prices low. The antitrust laws ensure that  
107 competition can continue without interference.

108 This committee has a long history of working in a  
109 bipartisan fashion to support and maintain the antitrust  
110 laws. This tradition continues today with the adoption of  
111 this resolution. The three prior task forces held a total of  
112 14 hearings on a variety of subjects, so this committee's  
113 task forces have been very productive. As was the case with  
114 the previous task forces, I understand that this task force  
115 will exist for purposes of conducting oversight only, and  
116 that any efforts to pass legislation in this area will remain  
117 at the full committee level.

118 Mr. Chairman, I support this resolution and look forward  
119 to continuing the important oversight work that the task  
120 force will do.

121 I yield back.

122 Chairman Conyers. I thank my colleague.

123 Are there any other members that would like to just make  
124 a very brief statement? If not, are there any amendments?  
125 If not, the question is on the adoption of the resolution.

126 All in favor signify by saying "aye."

127 [A chorus of ayes.]

128 All opposed by saying "no."

129 [A chorus of noes.]

130 The ayes have it, and the resolution is adopted.

131 Pursuant to notice, I call up the bill H.R. 6598,  
132 Prevention of Equine Cruelty Act of 2008, for purposes of  
133 markup and ask the clerk to report the bill.

134 The Clerk. H.R. 6598, a bill to amend Title 18, United  
135 States Code, to prevent certain conduct relating to the use  
136 of hormones for human consumption.

137 Chairman Conyers. H.R. 6598, okay, then I ask—

138 The Clerk. The short title, this act may be cited as  
139 the Prevention of Equine Cruelty Act of 2008.

140 [The bill follows:]

141 \*\*\*\*\* INSERT \*\*\*\*\*



142 Chairman Conyers. All right. Without objection, the  
143 bill will be considered read. Allow me to begin our  
144 discussion on this measure.

145 The bill, H.R. 6598, the Prevention of Equine Cruelty  
146 Act, is one that is intended to remedy the problems that have  
147 been raised at our hearings that make this legislation  
148 necessary. I recall Dr. John Boyd, the president of the  
149 National Black Farmers Association, who at the Crime  
150 Subcommittee earlier this year said that the slaughter of  
151 horses for human consumption is a right and wrong issue.

152 Our national culture is that we as Americans do not  
153 raise horses for the purpose of human consumption. Although  
154 the last few remaining facilities which were foreign-owned in  
155 Texas and Illinois were shut down pursuant to state law, the  
156 slaughterhouses have simply moved across the border into  
157 Mexico and other places.

158 The process involved in the slaughter of horses for  
159 human consumption is unquestionably cruel and inhumane.  
160 These unfortunate creatures are transported long distances,  
161 often for more than 24 hours without water, food or rest.  
162 After they arrive at the slaughterhouse, they are frequently  
163 brutally killed.

164 The San Antonio Express News, for example, Mr. Smith,  
165 reported that a terrified horse was repeatedly stabbed to the  
166 point of paralysis and then hoisted up by one of its legs

167 while it was still alive. It was thereafter slashed in its  
168 neck so that it could then bleed to death.

169 I am skeptical about claims that this legislation may  
170 result in unwanted horses being abandoned, although this  
171 claim has been made. Although the number of horses going to  
172 slaughter decreased from a high of more than 350,000 in 1990,  
173 to about 120,000 last year, which is a dramatic reduction, we  
174 are unaware of any current epidemic of unwanted horses  
175 roaming loose.

176 Indeed, the Committee on Judiciary has received  
177 countless letters from horse rescue organizations across the  
178 nation describing their efforts to buy so-called "unwanted"  
179 horses at local auctions, but being repeatedly outbid by  
180 horse slaughter buyers. We have been assured by such  
181 organizations as the National Black Farmers Association,  
182 Animal Welfare League and others, that they will work to find  
183 homes for many such horses.

184 At our Crime Subcommittee hearing, Judge Gohmert posed  
185 an interesting question. What would be acceptable in the  
186 eyes of most people with caring hearts and common sense? My  
187 bill, I think, our bill brought before the full committee  
188 today, I think answers that question.

189 So I conclude my statement, urging support for the bill,  
190 and recognize once again the distinguished ranking member of  
191 the Judiciary Committee, Lamar Smith.

192 Mr. Smith. Thank you, Mr. Chairman.

193 This bill makes it a federal crime to transport,  
194 purchase or sell a horse in interstate or foreign commerce  
195 that is intended to be slaughtered for human consumption. A  
196 person convicted of this offense will face from 1 to 3 years  
197 in prison. This is a broad expansion of the federal criminal  
198 code. There are no slaughter plants operating within the  
199 United States today. The three remaining plants were closed  
200 just in the last few years.

201 What this bill actually attempts to do is extend federal  
202 jurisdiction into foreign countries, particularly Canada and  
203 Mexico, by way of the criminal code. Proponents of this bill  
204 are motivated by their desire for the humane treatment of  
205 horses. According to industry experts, there are as many as  
206 100,000 unwanted horses in this country every year, yet this  
207 legislation makes no provision for the housing, care or  
208 disposal of unwanted horses, or horses whose owners can no  
209 longer afford to care for them. It simply prohibits the sale  
210 of horses for slaughter.

211 The conduct criminalized by H.R. 6598 will expose horse  
212 owners across the country to unwarranted persecution. Rather  
213 than criminalizing the sale of horses to foreign countries,  
214 our efforts would be better focused on addressing the  
215 insufficient number of shelters and other rescue facilities  
216 across the country to provide care to abandoned and unwanted

217 horses.

218       The impact of this bill will be far-reaching. Many  
219 horses will be abandoned or neglected by their owners.  
220 Advocates of this bill argue that owners who no longer want  
221 their horses should euthanize the animals, rather than  
222 abandon or neglect them. However, the process to euthanize  
223 an animal and dispose of its carcass can be very expensive,  
224 costing over \$1,000 in some states.

225       I believe that this bill would lead to unwarranted  
226 prosecutions, exacerbate the problem of unwanted and  
227 abandoned horses, and would place a significant burden on  
228 America's ranchers and farmers. So I urge my colleagues to  
229 oppose this bill, and I yield back the balance of my time.

230       Chairman Conyers. Thank you.

231       Are there amendments to the bill?

232       Mr. Issa. Mr. Chairman?

233       Chairman Conyers. Yes? Darrell Issa has an amendment.

234       Mr. Issa. No. Actually, I move to strike the last  
235 word.

236       Chairman Conyers. Oh, all right. The gentleman is  
237 recognized.

238       Mr. Issa. Mr. Chairman, I will be brief. I have  
239 previously supported legislation to try to get a handle on  
240 the exploitation of wild mustangs and burros. I have  
241 previously been involved in legislation to end horse

242 slaughter. I will not be supporting this bill, and I say  
243 this with great regret, for a much more technical reason than  
244 the underlying compassion of those who would like to end some  
245 of the types of cruelty that you described in your opening  
246 statement.

247 In a nutshell, Mr. Chairman, it is beyond my  
248 comprehension of how I can criminalize the conduct in support  
249 of something which is not criminal. We in America have a  
250 right to take our horse, slaughter it, and eat it. That has  
251 not been taken away. It is not criminal.

252 So our fundamental problem is, if in fact the underlying  
253 consumption is not criminal, and the earlier bills that were  
254 worked on did not make it illegal or criminal to export for  
255 that purpose, as was sought in earlier legislation, quite  
256 candidly, although I am not an eater of horse meat, I wanted  
257 to make that very clear to the gentleman from FedEx's  
258 hometown. As we saw yesterday in the hearing, we have to  
259 look at what laws we pass and criminalize in light of the  
260 underlying conduct.

261 So although I know many people have amendments and there  
262 will be a lot of discussion, unless we can get to the  
263 underlying challenge that the trafficking for something which  
264 is not illegal cannot be made illegal, in my mind, then, Mr.  
265 Chairman, I will not be able to support the bill. If the  
266 chairman knows of some underlying precedent, I would

267 appreciate hearing it, because that is my frustration this  
268 morning.

269 Chairman Conyers. I thank the gentleman. About that  
270 luncheon appointment we had today, I am not going to be able  
271 to make it.

272 [Laughter.]

273 Sorry.

274 Mr. Issa. You know, regardless of what we are serving,  
275 Mr. Chairman?

276 Chairman Conyers. Yes.

277 [Laughter.]

278 Mr. Issa. Thank you, Mr. Chairman. I regretfully am  
279 not able in the present form to support the bill, and I yield  
280 back.

281 Mr. Nadler. Mr. Chairman?

282 Chairman Conyers. Yes? Jerry Nadler of New York?

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

284 Chairman Conyers. The gentleman is recognized.

285 Mr. Nadler. Thank you, Mr. Chairman.

286 I have to reply or comment, rather, on what Mr. Issa  
287 just said. We have innumerable laws in this country that  
288 regulate or prohibit the shipment of various things in  
289 interstate commerce for various purposes. In many cases, the  
290 underlying purpose may not be illegal in a given state, but  
291 we do regulate the shipment in interstate commerce of

292 anything for that purpose, or prohibit it.

293       This is common to our law. Congress has the power  
294 granted by the Constitution to regulate interstate commerce.  
295 It does not have general police power. Only the states have  
296 general police power. Congress does not have general police  
297 power to regulate certain things, but it does have the power  
298 in effect to regulate them by regulating the interstate  
299 commerce as it affects them. We do that all the time.

300       In fact, this Congress with certainly I believe the  
301 support of the Republican members of this committee, if not  
302 the Democratic members of this committee, a couple of years  
303 ago passed legislation to criminalize "transporting" a person  
304 across state lines for the purpose of getting an abortion, if  
305 the circumstances of that abortion would have been illegal in  
306 the state in which that person was leaving, but not in the  
307 state to which she was going.

308       Now, forgetting the merits of that whole question, which  
309 I don't want to re-debate now—

310       Mr. Goodlatte. Would the gentleman yield?

311       Mr. Nadler. In a minute.

312       But there was an instance of our regulating through  
313 interstate commerce power something that on a local level is  
314 the state's power. So I mean, if you want to make an  
315 argument on the merits of the legislation, fine, but the  
316 argument that we shouldn't regulate through interstate

317 commerce something that isn't underlyingly illegal under  
318 federal law, although it may be in many state laws, is simply  
319 an argument that we don't do. We pass laws like that all the  
320 time.

321 I yield to whoever sought yielding.

322 Mr. Goodlatte. I thank the gentleman for yielding.

323 Is the gentleman suggesting that while he favors  
324 allowing laws that would transport women across state line  
325 for performing abortions, he opposes laws that would permit  
326 transporting—

327 Mr. Nadler. Reclaiming my time, I did not say that.  
328 Reclaiming my time, as the gentleman should remember, I did  
329 not favor that law for other reasons, for lots of reasons. I  
330 don't want to re-debate the abortion issue. I simply wanted  
331 to point out that the argument that you don't regulate  
332 through or prohibit through interstate commerce what Congress  
333 hasn't prohibited in the underlying conduct, I mean, we do  
334 that all the time.

335 So if you want to make an argument, make an argument on  
336 the merits of the legislation, not on the interstate commerce  
337 power, because that basically was settled 200 years ago.

338 I yield.

339 Mr. Issa. I thank the gentleman.

340 My question was much more narrow than that. I  
341 appreciate that there are numerous examples in which there



342 are differences between states, and even two states in which  
343 it is legal, you could still regulate, with alcohol being a  
344 good example where we further limit than any one state.

345 My challenge is more specific. California has no  
346 prohibition on these horse activities, including slaughter.  
347 If an operation, and I have many in my district, and I have  
348 race tracks in my district, produces a horse and sells it to  
349 Mexico, or five horses, and sells it to Mexico for any  
350 purpose, it is currently okay. We are picking one purpose,  
351 which is not illegal in California or in Mexico, and picking  
352 on it without an underlying finding in either California or  
353 this jurisdiction that this consumption is wrong.

354 I share with the gentleman a lot of his concerns—  
355 Mr. Nadler. Let me reclaim my time. I understand the  
356 argument of the gentleman. I would simply say that by  
357 passing this legislation, we are making clear our underlying  
358 determination as to the morality or desirability, whatever  
359 you want to call it, of the underlying conduct. Not being a  
360 state or the federal government, or a part of the federal  
361 government, we are using interstate commerce power to  
362 regulate or prohibit the interstate shipment of something for  
363 a purpose that we don't like. We are entitled to do that as  
364 a power of Congress.

365 Now, even if a state hasn't illegalized it internally,  
366 that is their privilege. But we can certainly prohibit

367 interstate commerce in something that we don't approve or  
368 that we want to stop. We do that all the time. Again, I  
369 don't understand the argument here.

370 Chairman Conyers. Does the gentleman yield back?

371 Mr. Nadler. I yield back.

372 Mr. Forbes. Mr. Chairman?

373 Chairman Conyers. Yes? Mr. Forbes?

374 Mr. Forbes. Mr. Chairman, I move to strike the last  
375 word.

376 Chairman Conyers. The gentleman is recognized.

377 Mr. Forbes. Mr. Chairman, sometimes I do not totally  
378 follow the logic of what we are trying to do in this  
379 committee, and this happens to be one of those. Like  
380 Congressman Issa, I favored legislation where we are trying  
381 to reduce funding for federal facilities that are  
382 slaughtering horses for human consumption, but over and over  
383 again I hear our friends on the other side of the aisle  
384 coming to this committee and bemoan the fact that when it  
385 comes to violent crimes in this country, we are locking up  
386 far too many people, that we lock up more people than any  
387 nation in the world, that we are concerned about the number  
388 of people that we have in our prisons.

389 And yet we come in with a piece of legislation like this  
390 that could put farmers or other people across the country in  
391 jail, federal jails, for 3 years, prisons for 3 years, and

392 there is no concern at all. There is no one coming in and  
393 saying, I am concerned about all the people we may lock up.

394 My biggest concern with this legislation, Mr. Chairman,  
395 is we all know that we are going to have people that could  
396 very easily ship an animal out of the country with no  
397 intention at all for that animal to be used for human  
398 consumption. I know this requires "knowingly," but they have  
399 to go through a federal trial with all of the costs and all  
400 the money that is involved, and having the risk of  
401 imprisonment over their head. And we know that kind of thing  
402 is going to happen, and yet we rush to pass this kind of  
403 legislation.

404 Mr. Chairman, it just doesn't make any sense to me, but  
405 hopefully we will have some amendments to make it better.

406 Mr. Cannon. Will the gentleman yield?

407 Mr. Forbes. I would be happy to yield.

408 Mr. Cannon. Thank you, and thank you, Mr. Goodlatte.

409 Look, I love horses. My current occupation doesn't  
410 allow me to spend much time with horses, but I do have on any  
411 given day three to five in my front yard. I probably have  
412 about as many horses in my district as anybody in the country  
413 has.

414 It is absolutely clear that we can do what this bill  
415 purports to do. But let me just tell you that you are going  
416 to cause more pain and anguish to horses by doing this than

417 you are by letting owners who love their horses take care of  
418 them in a way that is the most humane. We have interfered  
419 already with the process of dealing with horses. This takes  
420 it one step further.

421       It is possible to do this. It is appropriate to do  
422 this, but let me just suggest to people who don't have horses  
423 in their district, even though the horse is this great  
424 American icon, and we love horses in America, and I love them  
425 personally, but in fact what we are doing is likely to lead  
426 to greater suffering to horses and the possibility of  
427 criminalizing people who tend and love their horses.

428       So I would deeply encourage the gentleman to re-think  
429 this whole bill and the whole approach.

430       Chairman Conyers. Thank you. I thank the gentleman.  
431 Would he yield?

432       Mr. Forbes. Reclaiming my time, Mr. Chairman.

433       I agree with the gentleman. I have three horses, love  
434 them, I have always loved them, but I would be very concerned  
435 under legislation like this that if I sold them, and they  
436 were transferred. I have no intention of what was going to  
437 happen to them, and I get caught up in some web of some  
438 federal case that is coming down that I have to spend a half-  
439 million dollars trying to defend myself.

440       Mr. Lungren. To the gentleman's point about horses  
441 being exported form the country for other purposes and then

442 winding up in slaughter, there is a very famous case of a  
443 derby winner, Ferdinand, a very successful race horse  
444 exported to Japan for stud purposes, was not too successful  
445 in that regard, and wound up being slaughtered in Japan for  
446 consumption.

447         So I would hate to think that the person who had  
448 originally exported that without that intention would wind up  
449 being a part of a lawsuit which they might be able to prevail  
450 upon and prove that they didn't export for the purpose of  
451 slaughter, but wound up in that situation.

452         Mr. Forbes. Mr. Chairman, reclaiming my time. I have a  
453 few seconds left.

454         As the gentleman knows from all his work on federal  
455 judiciary, and certainly the former attorney general from  
456 California, many times you are caught up in this web and this  
457 net and part of a criminal litigation that you have to try to  
458 defend against, that it is not even the outcome of the  
459 litigation, but it is the enormous cost, and that cloud that  
460 hangs over you, that we are putting farmers under in  
461 situations like this, and ranchers under, and people who are  
462 just private owners of horses like me and the gentleman from  
463 Utah, that makes very little sense for us at a time when we  
464 bemoan the number of people we are locking up and putting in  
465 jail for violent crimes, but we don't hesitate or blink an  
466 eye at doing it for situations like this.

467 Mr. Chairman, I yield back.

468 Chairman Conyers. I thank the gentleman.

469 We are going to, members of the committee, stand in  
470 recess for the memorial of Stephanie Tubbs Jones that is  
471 taking place in Statuary Hall at 11 o'clock. We are going to  
472 come back and resume at 1 p.m.

473 Could I say to Chris Cannon, if he is still here, I  
474 would like to go to lunch with him instead of Darrell Issa at  
475 noon, if it is okay?

476 [Laughter.]

477 Mr. Issa. Because he loves horses more than I do?

478 Chairman Conyers. This is not a contest about that at  
479 all, sir.

480 Mr. Issa. Mr. Chairman, I was buying lunch. See if  
481 Chris will do that for you.

482 [Laughter.]

483 Chairman Conyers. Let's stand in recess anyway.

484 [Recess.]

485 Chairman Conyers. The committee will come to order.

486 Pursuant to notice, I now call up the bill, H.R. 6020,  
487 the Lance Corporal Jose Gutierrez Act of 2008, for purposes  
488 of markup, and ask the clerk to report the bill.

489 The Clerk. H.R. 6020, a bill to amend the Immigration  
490 and—

491 Chairman Conyers. Wait a minute. Is your mic on?

492           The Clerk. H.R. 6020, a bill to amend the Immigration  
493 and Nationality Act to protect the well-being of soldiers and  
494 their families and for other purposes.

495           [The bill follows:]

496 \*\*\*\*\* INSERT \*\*\*\*\*

497 Chairman Conyers. I ask unanimous consent that the bill  
498 be considered as read and open for mark up at any point.

499 I would invite the chair of the Immigration  
500 Subcommittee, Ms. Zoe Lofgren, to make the majority's opening  
501 statement.

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

503 Over the last 1 1/2 years as chair of the Immigration  
504 Subcommittee, we have heard many stories of soldiers,  
505 veterans, and their families trying to navigate our complex  
506 and dysfunctional immigration system that is unforgiving,  
507 even to those who serve our country.

508 Take Navy Airman Karla Arambula de Rivera. Airman  
509 Rivera was a little girl when she was brought to the United  
510 States. In 2004, she married a United States citizen and was  
511 given conditional permanent resident status based on her  
512 marriage. In 2007, she joined the United States Navy.  
513 Married to a U.S. citizen and serving our country, one would  
514 think that Airman Rivera would not have had any trouble with  
515 our immigration system, but nothing could be further from the  
516 truth.

517 When Airman Rivera could not file her application to  
518 remove the condition on her permanent residence because she  
519 was in the midst of Navy training, she was advised by the  
520 Navy lawyers that she could instead file to naturalize under  
521 the provisions of our current law. At the same time, the



522 Department of Homeland Security placed her in removal  
523 proceedings.

524         Despite the fact that she was eligible for U.S.  
525 citizenship because of her service in the Navy, the Homeland  
526 Security Department insisted that Airman Rivera go through  
527 removal proceedings at the same time that she was applying  
528 for naturalization. She was forced to appear at immigration  
529 court in L.A. when she was stationed in Norfolk, Virginia.

530         Airman Rivera was advised that if she had to be deployed  
531 overseas with her unit, the Navy would have to leave her  
532 behind in Kuwait because she would have been considered to  
533 have self-deported under our immigration laws. Luckily,  
534 Airman Rivera was able to become a U.S. citizen before she  
535 had to be deployed abroad and did not have to make the  
536 difficult choice between her duties to her country and fellow  
537 soldiers, and protecting her legal immigration status.

538         In another case, Air Force Captain Christine Navarro, a  
539 U.S. citizen, a graduate of the Air Force Academy, and a KC-  
540 135 aircraft commander, must now be permanently separated  
541 from her husband because once, a long time ago, he made the  
542 mistake of verbally claiming to be a U.S. citizen. For that  
543 one mistake, everyone must suffer permanently.

544         Captain Navarro, her high school sweetheart husband, and  
545 their son, who was recently diagnosed with cerebral palsy-  
546 they can never live as a family again in the United States

547 because our immigration laws do not forgive this mistake even  
548 for those who serve our country. Today, Captain Navarro and  
549 her husband live separate lives—he in Mexico and she in the  
550 United States—trying to care for their child as a de facto  
551 single parent, while faithfully serving the country who  
552 deported her husband.

553       After listening to one too many of these stories from  
554 our soldiers and their families, I decided it was time to  
555 change the law. I worked with several of our colleagues on  
556 both sides of the aisle, including Chairman Conyers,  
557 Representative Mike Pence, our colleagues on the Armed  
558 Services Committee, Representative Mac Thornberry, who was  
559 the lead Republican on the bill, Congresswoman Sanchez on  
560 Armed Services, and Congressman Turner also on Armed  
561 Services, as well as the chairman of the Intelligence  
562 Committee, Chairman Reyes.

563       The result of that bipartisan work is H.R. 6020. This  
564 bill enjoys strong support from organizations such as the  
565 American GI Forum and the Iraq and Afghanistan Veterans of  
566 America. In addition, Lieutenant General Ricardo Sanchez,  
567 the former commander of ground forces in Iraq, has strongly  
568 endorsed this bill. As he so eloquently states in his letter  
569 of support, "These families have earned the right to call  
570 themselves Americans because they have answered the call to  
571 duty during a time of crisis, while many naturally born

572 Americans have not. It matters greatly that those who fight  
573 for this country know that America values their sacrifices.  
574 As leaders it is our duty to sustain the readiness, morale  
575 and warfighting spirit of our warriors."

576 He also explains that, "We should not continue to allow  
577 our citizenship laws and immigration bureaucracy to put our  
578 warfighting readiness at risk." He observes that, "The last  
579 thing I needed was a soldier to be distracted by significant  
580 family issues back home. Resolving citizenship status for  
581 family members while serving our country, especially during  
582 combat, must not be allowed to detract from  
583 the readiness of our forces. When soldiers have to worry  
584 about their families, individual readiness falters, which can  
585 lead to degradation in unit effectiveness and the risk of  
586 mission failure. I have personally witnessed this on the  
587 battlefield."

588 And the Iraq and Afghanistan Veterans Association  
589 similarly says, "All our military families are making a  
590 tremendous sacrifice on behalf of our nation, and the last  
591 thing they should cope with while their loved ones are  
592 defending this nation overseas is more bureaucracy and red  
593 tape here at home."

594 Without objection, I would like to submit to the record  
595 the letters of support from General Sanchez, from the Iraq  
596 and Afghanistan Veterans Association, and from the American

597 GI Forum into the record.

598 Chairman Conyers. Without objection, so ordered.

599 [The information follows:]

600 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

601 Ms. Lofgren. I can understand that some may have issues  
602 with specific provisions or need amendments to clarify and  
603 address concerns, and I am certainly eager to work through  
604 any technicalities. But the general point is that Congress  
605 must do what it can to ease the burden our soldiers face with  
606 our broken immigration system.

607 I strongly urge my colleagues to support this bill, H.R.  
608 6020. I think doing otherwise risks betraying the soldiers  
609 and their families, who sacrifice for our nation every day.  
610 I would like to note, with gratitude, the amendment that was  
611 adopted at our subcommittee, an amendment offered by our  
612 colleague, Ms. Jackson Lee, to name this bill after Lance  
613 Corporal Jose Gutierrez, who was the first American soldier  
614 to lose his life in the Iraq War, an immigrant to the United  
615 States and the first American soldier to be lost.

616 So with that, Mr. Chairman, I recommend the bill and  
617 yield back.

618 Chairman Conyers. Thank you very much.

619 The chair is pleased to recognize the distinguished  
620 ranking member of the Judiciary Committee, Lamar Smith.

621 Mr. Smith. Thank you, Mr. Chairman.

622 Mr. Chairman, I strongly oppose this bill. The bill's  
623 title proclaims its purpose to be, "protect the well being of  
624 soldiers and their families." However, if Congress had to  
625 abide by truth in advertising laws, the bill would be titled

626 differently. It would more accurately state that it is  
627 designed to, "protect illegal immigrants and criminal  
628 aliens."

629 Mr. Chairman, this bill goes far beyond the case of  
630 Airman Rivera, whose story we just heard from the chair of  
631 the Immigration Subcommittee—far, far beyond that,  
632 particularly, and that instance is heart-rending itself. I  
633 want to say that one of the Republican sponsors who was just  
634 mentioned a while ago, Representative Thornberry, I have  
635 talked to him about this bill and while he was sympathetic to  
636 the case as described about Airman Rivera, he was not clear  
637 about the fact that this bill actually grants waivers to  
638 criminal aliens, or possibly might grant waivers to criminal  
639 aliens who have committed some of the most horrible types of  
640 crimes. So he, I think, may well have concerns about this  
641 bill as it is written.

642 H.R. 6020 grants amnesty and relief from the  
643 consequences of committing serious crimes to almost anyone  
644 who has ever served in the United States military, no matter  
645 how briefly or how long ago he or she served. These  
646 immigration benefits also go to illegal immigrant family  
647 members of persons in the military. The American people are  
648 opposed to amnesty for lawbreakers. The American people want  
649 criminal aliens deported and our communities made safe.  
650 Unfortunately, this bill is on the wrong side of the American

651 people.

652       When we look at an American soldier or veteran, we  
653 almost always see someone who has made a sacrifice to uphold  
654 the American Constitution and the rule of law. This bill  
655 cheapens that image and does a disservice to the vast  
656 majority of our non-citizen soldiers and their family members  
657 who have in fact abided by the law.

658       Who is advocating for this bill? It certainly isn't  
659 American veterans. Let me mention what the American Legion  
660 has to say about this bill. The national commander of the  
661 American Legion recently stated in a letter that, "On behalf  
662 of 2.7 million members of the American Legion, I am writing  
663 in opposition to H.R. 6020. The center point for  
664 disagreement with this measure is our unequivocal opposition  
665 to granting amnesty to those residing illegally in the United  
666 States.

667       "Fundamental to our position is a distinction that must  
668 be made between legal and illegal immigrants. H.R. 6020  
669 would reward non-citizen lawbreakers and undocumented  
670 immigrants with a shortcut to citizenship that is nothing  
671 less than an official pardon for illegal acts and amnesty.  
672 Non-citizen service members' relatives who have entered the  
673 U.S. illegally or overstayed a visa or who may be fugitives  
674 from justice, deserve no special treatment.

675       "No special pardon, no reprieve from lawlessness, no

676 exoneration for bad behavior is given to the citizen soldier  
677 or their family because one wore the uniform of the United  
678 States military. The American Legion remains adamantly  
679 opposed to the granting of pardons to illegal aliens."

680       The benefits of this bill extend to immigrants who have  
681 in fact committed horrible crimes decades after separating  
682 from the service. This bill means that an immigration judge  
683 will have the opportunity to let an alien who served in the  
684 military and who then went on to commit serious crimes after  
685 they served in the military, stay in the country. Almost any  
686 criminal ground of deportability may be waived, even for the  
687 most serious of crimes such as murder, rape, sexual abuse of  
688 children and fraud. All can potentially get a waiver from a  
689 sympathetic judge.

690       It sets an extremely bad precedent to pick a particular  
691 group of aliens who can receive immigration waivers for  
692 serious crime. The amnesty and criminal waivers are  
693 available for the family members of soldiers, too, and not  
694 just for their spouses and minor children. The bill extends  
695 these benefits to the adult sons and daughters, parents, and  
696 even siblings of service members.

697       This bill would make our soldiers currently on active  
698 duty attractive marriage prospects for illegal immigrants  
699 under these provisions. Not only does the bill encourage  
700 marriage fraud, it also contains a provision that removes a



701 crucial safeguard against marriage fraud. The bill lets  
702 alien service members and veterans marry U.S. citizens  
703 without having to go through the 2-year conditional status  
704 required of all other immigrants who marry U.S. citizens.

705 We should stand with the American Legion in opposition  
706 to this bill. It gives unprecedented rights to illegal  
707 immigrants. It encourages marriage fraud, and it makes light  
708 of serious crimes.

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

710 Chairman Conyers. Thank you very much.

711 We will invite all other statements to be included in  
712 the record.

713 Mr. King. Mr. Chairman?

714 Chairman Conyers. The gentleman, Steve King, seeks  
715 recognition for what purpose?

716 Mr. King. Thank you, Mr. Chairman. I would move to  
717 strike the last word.

718 Chairman Conyers. Well, we can't do that right now  
719 because I just agreed to put everybody's statement in the  
720 record. I would love to make an exception for you, so if  
721 there is no objection, we will recognize you.

722 Mr. King. Mr. Chairman, I thank you for making an  
723 exception.

724 Also, I thank the members for not taking exception. I  
725 appreciate the opportunity to be recognized on this bill,

726 which I know that you are aware that I oppose.

727 Chairman Conyers. What?

728 [Laughter.]

729 Mr. King. It is a shock, Mr. Chairman, but I know that  
730 when donkeys were included in the previous bill, we had to  
731 move on to something else objectionable. So here we are with  
732 the servicemen's bill before us. Our nation owes a debt of  
733 gratitude to those legal permanent residents who serve in the  
734 U.S. armed forces, the same debt we owe to citizen soldiers.

735 But since September 11, 111 non-citizen service members  
736 have made the ultimate sacrifice and been granted posthumous  
737 citizenship. They have a special place in our hearts and  
738 they should. Congress has long sought to facilitate the  
739 naturalization of non-citizens serving in the armed forces.  
740 In fact, our immigration laws have long contained three  
741 special naturalization provisions just for service members.

742 Then, after we learned that some of the members of the  
743 military who died in combat during Operation Iraqi Freedom  
744 were not U.S. citizens, Congress acted to provide enhanced  
745 benefits to permanent resident service members and their  
746 families. However, this bill is about much different  
747 propositions.

748 It is not about easing the naturalization of U.S.  
749 service members and providing substantive immigration  
750 benefits to the legally present family members of service

751 members killed in action. Rather, this bill is about  
752 granting amnesty to illegal immigrants who are family members  
753 of U.S. service members. This bill is about waiving many  
754 grounds of removability for non-citizens who are serving in,  
755 or who have ever served in the military, and for the non-  
756 citizen family members of service members.

757       These include those grounds predicated on the most  
758 serious of crimes. Our soldiers fight and in some cases give  
759 their lives to preserve the rule of law. That has been a  
760 principle that I have stood on clearly here. It seems ironic  
761 indeed that some would propose to disregard the rule of law  
762 as just another reward or inducement to serve our country.

763       H.R. 6020 waives many grounds of inadmissibility and  
764 deportability for aliens in the military. These benefits  
765 also go to most aliens who have ever served in the military  
766 no matter how short or long ago were their periods of  
767 service. And they go to aliens who are the spouses, minor  
768 children, adult children, parents and minor siblings of  
769 service members.

770       Just what grounds are waived? Well, among them are  
771 illegal entry into the U.S.—that should be no surprise,  
772 actually—and the 3- and 10-year bars to reentry for aliens who  
773 have been illegally present in the U.S., that is those who  
774 have been illegally present for more than 6 months.

775       Additionally, immigration judges are given the

776 discretionary authority to waive most other non-terrorism-  
777 related grounds, including the authority to waive most  
778 criminal grounds and document fraud, falsely claiming  
779 citizenship, and illegal voting. How soon we forget that the  
780 abuse of discretion by liberal immigration judges forced  
781 Congress to remove much of their discretion in 1996.

782       Thus, aliens who arrived in the U.S. illegally cannot be  
783 removed and can reenter the U.S. despite having been in the  
784 U.S. illegally for extended periods of time. Immigration  
785 judges will have the ability to waive all the criminal  
786 grounds of deportability for very serious crimes, including  
787 murder, gang crimes and rape, and other crimes on down the  
788 list. Remember, these waivers apply not just to service  
789 members, but to their family members and to most aliens who  
790 have ever served in the military.

791       What else does the bill do? It prohibits the use of  
792 expedited removal against illegal immigrants and immigrants  
793 convicted of aggravated felonies as long as they served  
794 honorably in the military at any time. It also would  
795 prohibit the reinstatement of removal orders against such  
796 aliens who illegally return to the U.S. after being removed.

797       This bill, Mr. Chairman, will create a perverse  
798 incentive for persons to intentionally enter the military for  
799 the express purpose of procuring amnesty or relief from the  
800 immigration consequences of serious crimes, that for

801 themselves or their extended family members. This is not  
802 what service to our country is all about. I would point out  
803 that our discussions on this have focused on anecdotes, not  
804 data, and for us to take a look at the broader picture of  
805 this.

806       What it really means if we are to suspend the rule of  
807 law, grant discretion to judges that were denied that  
808 discretion in 1996 for good cause by this Congress, and open  
809 up the door to provide a perverse incentive for those who are  
810 perhaps in this country illegally to join the military and  
811 then bring their family members in with a path to  
812 citizenship. I think that it is an offense to those who  
813 stand up for the rule of law, to those who have given their  
814 lives for the rule of law.

815       I think it runs contrary to the principles of this very  
816 Judiciary Committee. We know what lenient liberal judges do.  
817 That is why we had to restrain them and eliminate their  
818 discretion in 1996. Why would we reward lawbreakers and  
819 their families? Let's stand up for the rule of law. I  
820 oppose this bill. Mr. Chairman, I do have an amendment, but  
821 I yield back the balance of my time.

822       Chairman Conyers. Thank you very much.

823       Mr. Lamar Smith?

824       Mr. Smith. Mr. Chairman, I have an amendment at the  
825 desk, amendment number one.

826 Chairman Conyers. The clerk will report the amendment.

827 Ms. Lofgren. Mr. Chairman, I would like to reserve a  
828 point of order. As I am reserving the point of order, may I  
829 make a request of the minority. If you have amendments, I  
830 would very much appreciate seeing them in advance so we might  
831 have an opportunity to review them and see if it is possible  
832 if we could accept some of them, which it is difficult to do  
833 if it is just brought out at the last minute. But I do  
834 reserve the point of order on this.

835 Chairman Conyers. A point of order is reserved by the  
836 gentlelady from California.

837 The gentleman is recognized in support of his amendment.

838 Mr. Smith. Thank you, Mr. Chairman.

839 Mr. Chairman, this amendment strikes section five of the  
840 bill. Section five contains the provisions of the bill that  
841 are offensive to American veterans and to the American  
842 people. These are the provisions granting amnesty.

843 Chairman Conyers. I am sorry, but the clerk will report  
844 the amendment.

845 The Clerk. Amendment to the amendment in the nature of  
846 a substitute to H.R. 6020 offered by Mr. Smith of Texas.

847 "Strike section 5."

848 [The amendment by Mr. Smith follows:]

849 \*\*\*\*\* INSERT \*\*\*\*\*

850 Chairman Conyers. Without objection, the amendment will  
851 be considered as read.

852 The gentleman from Texas?

853 Mr. Smith. Mr. Chairman, section 5 contains the  
854 provisions of the bill that are offensive to American  
855 veterans and to the American people. These are the  
856 provisions granting amnesty--amnesty to the illegal immigrant  
857 family members of service members and amnesty to just about  
858 anyone who has ever served in the military.

859 These are also the provisions that allow immigration  
860 judges to waive the criminal grounds of removal for even the  
861 most terrible of crimes. The provisions that this amendment  
862 strikes represent bad policy, policy that is rejected by  
863 American veterans.

864 I have already quoted the national commander of the  
865 American Legion. Let me now quote from the American Legion's  
866 testimony before our Immigration Subcommittee last May. The  
867 director of the American Legion's National Legislative  
868 Commission stated that, "No special pardon, no reprieve from  
869 lawlessness, no exoneration for bad behavior" should be given  
870 to service members, veterans or the families of service  
871 members. He stated that "service members' relatives who have  
872 entered our country illegally or overstayed a visa, or who  
873 may be fugitives from justice, deserve no special adjustment  
874 of their alien status."



875           Let me cite just some of the grounds of removability  
876 that section 4 allows immigration judges to now waive. This  
877 bill allows for reprieves for the following crimes: crimes  
878 involving moral turpitude, aggravated felonies, multiple  
879 criminal convictions with aggregate sentences of 5 years or  
880 more, serious criminal activity for which aliens received  
881 immunity, particularly severe violations of religious  
882 freedom, trafficking in persons, prostitution, pimping, money  
883 laundering, failing to register as sex offenders, espionage,  
884 treason, sedition, and threats against the president,  
885 domestic violence, stalking, child abuse, unlawful voting,  
886 falsely claiming U.S. citizenship, and document fraud.

887           Allowing these crimes to be waived indicates a lack of  
888 concern about both serious crimes and the illegal immigrants  
889 who commit them. In 1996, a bipartisan majority in Congress  
890 restricted the leeway immigration judges had to allow  
891 criminal aliens to remain in the U.S. Information this  
892 committee received from the Justice Department under subpoena  
893 revealed that 37 percent of criminal aliens whom the INS  
894 released were subsequently convicted of another crime in the  
895 U.S.

896           We should take the side of the American people, not the  
897 side of criminal aliens. Unfortunately, this bill takes  
898 crime less seriously than do the American people. Consider  
899 this precedent from the bill. Other groups understandably

900 will claim that their members also should have waivers  
901 available for crimes committed. I urge my colleagues to  
902 reject amnesty for illegal immigrants and protect Americans  
903 from criminal aliens by supporting this amendment.

904 Mr. Chairman, let me also say that if this amendment is  
905 adopted, it will save us a lot of time because if it isn't,  
906 we were going to go through a series of crimes and see how  
907 individual members feel about the waiving of those particular  
908 crimes. So I urge my colleagues to make this day a short  
909 markup and approve this amendment.

910 Chairman Conyers. Would the gentleman yield?

911 Mr. Smith. I would be happy to yield.

912 Chairman Conyers. I thank him. This is very  
913 encouraging news. Am I to construe from his warning, or  
914 notice, to the members that if we accept his amendment, we  
915 will be able to pass the bill?

916 Mr. Smith. Mr. Chairman, if you will yield for a  
917 minute, if we accept this amendment, it will save us  
918 considering a half-dozen other amendments on particular  
919 crimes committed. It will not necessarily be the end of the  
920 markup.

921 Chairman Conyers. It will save time, but it won't  
922 secure the support needed to vote the bill out of the  
923 committee?

924 Mr. Smith. That is a fair statement, Mr. Chairman.

925 Chairman Conyers. All right.

926 Ms. Lofgren. Mr. Chairman?

927 Chairman Conyers. For what purpose does the gentlewoman  
928 from California seek recognition?

929 Ms. Lofgren. First, I would like to withdraw my point  
930 of order. The amendment is germane, and I would like to  
931 strike the last word.

932 Chairman Conyers. The gentlelady is recognized.

933 Ms. Lofgren. I oppose the amendment. Let me say a  
934 couple of reasons why. The current state of the law actually  
935 is surprising to people when they find out that there is  
936 absolutely no ability in the current law to forgive even  
937 innocent error. I will give you an example.

938 If a person, an infant, is brought to the United States  
939 by his parents and told by his parents that he is a United  
940 States citizen. He grows up believing that he is a United  
941 States citizen. And why wouldn't he believe that? He is  
942 going to school here. His parents have told him that. But  
943 it turns out that they didn't tell him the truth. And he has  
944 wrongly, incorrectly stated over and over again that he is an  
945 American citizen. That person is deportable, even though his  
946 representation—although untrue—was innocent, there is no  
947 ability in the law to waive that.

948 So, for example, if we have an American soldier in that  
949 situation, we would have a person on active duty, risking

950 their life in Iraq, who is deportable with no ability to  
951 change that. That is just one example of many.

952 I want to quote—

953 Mr. Issa. Would the gentlelady yield?

954 Ms. Lofgren. Not at this time. When I am finished, I  
955 would be happy to yield.

956 I want to cheer someone who is probably the most  
957 prominent veteran on the scene today, and that is Senator  
958 John McCain, who said this January—and this is a quote—he  
959 said, "I will secure the border, but I am not going to call  
960 up a soldier and tell him I am deporting his mother. I am  
961 not going to do it. You can do it." And during the Myrtle  
962 Beach debate, he said this, "The three GIs who were missing  
963 last year in action, one of them was still missing in action.  
964 His wife was about to be deported from this country. I am  
965 not going to deport the wife of a fighting service man who is  
966 missing action. I am going to handle it in a humane,  
967 compassionate fashion."

968 This section of the law allows for common sense  
969 decisions to be made for servicemen and their families who  
970 have run afoul of a law that has no room for common sense  
971 currently. Now, much has been said about the criminal law  
972 waivers. I will note that there has been ongoing and  
973 substantial discussion with Congressman Lungren's staff to  
974 narrow the list of crimes. I had thought we would reach

975 agreement. We have not. I am prepared to do a narrowing of  
976 the list of crimes.

977 But in the 1996 act, we went overboard and we took  
978 crimes that are actually misdemeanors and arbitrarily  
979 upgraded them to aggravated felonies. Here is the situation  
980 we find ourselves in today. The U.S. Army is waiving  
981 relatively minor criminal offenses for people who want to  
982 join and volunteer to fight for our country. So that person,  
983 let's say you have several petty thefts in your background.  
984 I am not for that, but some minor thing, and the Army lets  
985 you join anyhow, and you can go and you can fight for our  
986 country. But those same crimes are going to get you  
987 deported.

988 So we have a situation where a legal permanent resident  
989 can go and fight for our country, but because of the minor  
990 misdeeds that were not important enough to keep him out of  
991 the service, our Immigration Service will deport that guy.  
992 That doesn't make any darn sense at all.

993 Mr. Issa. Would the gentlewoman yield?

994 Ms. Lofgren. I want to finish because I think it is  
995 important to put this into context. I am more than willing,  
996 and I think we will probably not finish all of this today, to  
997 limit these offenses to the type that we have in mind. In  
998 fact, I had planned to do that, as I say, with a member  
999 across the aisle, and I will do it myself if necessary if we

1000 can't get bipartisan agreement on it.

1001       But to completely eliminate the ability for a judge to  
1002 consider the factors—and I want to mention it because I think  
1003 it has been very much distorted—the factors that a judge is  
1004 to consider: what are the grounds of the admissibility; the  
1005 nature of the alien's service to the U.S. military; the  
1006 degree to which the alien's removal would affect a close  
1007 family member who is serving or has served in the armed  
1008 forces; the length of time the alien has lived in the United  
1009 States; the degree to which the alien would be impacted by  
1010 his or her removal; the existence of close family ties; the  
1011 degree to which the alien's removal would adversely affect  
1012 the alien's United States citizen or lawful permanent  
1013 resident spouse, children, or daughter; history of  
1014 employment; and whether the alien's removal would adversely  
1015 affect a United States employer or business.

1016       This is about what is good for America. So I must  
1017 oppose this amendment. It is over-broad, but I will note  
1018 that I will happily work with anyone who wants to—

1019       Mr. Smith. Mr. Chairman, I ask unanimous consent that  
1020 the gentlewoman have an additional 2 minutes so she could  
1021 yield to me.

1022       Chairman Conyers. Without objection.

1023       Ms. Lofgren. I would be happy to yield to Mr. Smith.

1024       Mr. Smith. I thank the chairwoman for yielding.

1025 I just want to say to her, her comments were very, very  
1026 encouraging because my question to you was going to be, would  
1027 you agree to eliminate the waivers for other crimes, other  
1028 than the kind of example you gave, because as I understand  
1029 it, it was an unintentional misrepresentation.

1030 Now, as the gentlewoman knows, ICE has prosecutorial  
1031 discretion not to prosecute that kind of an individual, but I  
1032 think a compromise might be, rather than my insisting that  
1033 they have that option and therefore we shouldn't allow for  
1034 it, is if we can narrow the bill down to those kinds of  
1035 examples that the gentlewoman has given today, and eliminate  
1036 the possibility that waivers will be granted for other more  
1037 serious crimes, then I think we can come up with something  
1038 that we might all agree to.

1039 Ms. Lofgren. I think it is possible, but I will say  
1040 this. I am not able to simply refer to the 1996 act because  
1041 we went overboard on the 1996 act. So we have to take a look  
1042 at the actual nature of these. Right now, and you know  
1043 hindsight is 20/20, but how unsatisfactory are the words "I  
1044 told you so." In 1996, I remember saying that the way we had  
1045 changed the act—in California, petty theft was a prior as a  
1046 felony. And so we have situations now where you have 50-  
1047 year-old woman who did two petty thefts when she was 19 and  
1048 is deportable and there is no relief. That doesn't make any  
1049 sense.

1050 Mr. Smith. If the gentlewoman will yield, I disagree  
1051 with the description of the aggravated crimes from the 1996  
1052 bill because one of the requirements is that you have to have  
1053 been sentenced to at least 1 year in jail. I don't think  
1054 anyone is going to be sentenced to a year—

1055 Ms. Lofgren. Or could have been.

1056 Mr. Smith. —for petty theft. You know, and then we  
1057 heard that people were going to be deported because of  
1058 shoplifting. That wasn't the case.

1059 Ms. Lofgren. That has, in fact, happened in California.

1060 Mr. Smith. It turns out in those cases that we have  
1061 looked at there was far more involved than shoplifting, and  
1062 that is why the sentence could have been more. We don't need  
1063 to debate this.

1064 Ms. Lofgren. Reclaiming my time, I will simply say that  
1065 we had hoped to have a bipartisan amendment. Apparently,  
1066 that is not going to be the case. We will put forward an  
1067 amendment to narrow this in a way that we think is rational.  
1068 But the amendment offered by the ranking member is, in my  
1069 judgment, over-broad and I would urge that we defeat it.

1070 Mr. Issa. Mr. Chairman?

1071 Chairman Conyers. Yes?

1072 Mr. Issa. I move to strike the last word.

1073 Chairman Conyers. The gentleman from California is  
1074 recognized.



1075 Mr. Issa. Well, it appears as though my amendment on  
1076 horse slaughter will not be offered today, in spite of my  
1077 preparation to do so.

1078 Chairman Conyers. But we had a great lunch without you.

1079 Mr. Issa. Yes, I recognize that lunch was better  
1080 without, but I think we are in the same situation. The  
1081 gentlelady has a bill which this committee has previously  
1082 looked at a number of fixes. When I came to Congress, in my  
1083 own district, including Camp Pendleton, we had a Marine  
1084 killed in action and his wife was beyond not being deported  
1085 because he wasn't an American citizen at the time of  
1086 deportation. In fact, he no longer could be her sponsor. We  
1087 fixed that.

1088 There were existing inconsistencies between honorable  
1089 service in the United States military and the ability to  
1090 maintain a family unit, either during service or even if  
1091 killed in action or in some other line of duty. I would hope  
1092 that over the week that it now begins to look like we are  
1093 going to have before this bill is finally considered for all  
1094 its amendments, that we can in fact narrow it to some common  
1095 denominator.

1096 I think if we look at narrowing the family to the  
1097 dependent family that essentially relies on the veteran or  
1098 the service member, if we looked at essentially making it  
1099 service member-related and no more, and if we look at

1100 misdemeanors—

1101 Ms. Lofgren. Would the gentleman yield?

1102 Mr. Issa. I will in just a second.

1103 I think there is common ground. There has been common  
1104 ground for our men and women in uniform before, and I would  
1105 hope that we can get there. I have to be honest. I share  
1106 with the ranking member's feeling that we are not there, and  
1107 I would hope that we do act on a bipartisan basis reaching  
1108 that consensus, and not arbitrarily, but I would yield to the  
1109 author of the bill.

1110 Ms. Lofgren. Thank you, Mr. Issa.

1111 I just want to make a comment, because I know there are  
1112 some amendments to limit this to minor children and spouses  
1113 only. I would like to make a principled argument against  
1114 that. I have a 23-year-old son. I will tell you, the ties  
1115 between my son and me are as strong at age 23 as they were  
1116 when he was 17. I also want to put in a plea for the parents  
1117 who lose a son or daughter in the armed services. I think  
1118 the concept that you would be deporting the grieving parent  
1119 of a soldier who has just been killed is something we really  
1120 don't want to do.

1121 Mr. Issa. I recognize the gentlelady's point, and  
1122 reclaiming my time, I would say certainly when we are talking  
1123 about a fallen son or daughter, America can find room for  
1124 family members that are no longer children and probably very

1125 much include a mother or father. I think when we are talking  
1126 about somebody who happened to serve in the military—a  
1127 discharged veteran or a current veteran alive and well—that  
1128 perhaps at least in this legislation we should look at  
1129 narrowing it because the adult parent, perhaps the one that  
1130 told the veteran he was a citizen when in fact he wasn't, and  
1131 by the way, when we discover he is not a citizen, he still  
1132 remains in the military and gets his citizenship.

1133 Ms. Lofgren. But now he is deportable.

1134 Mr. Issa. We have today men and women who are not  
1135 citizens. We have men and women throughout the Gulf War,  
1136 this war—the war on terror—who have been discovered to have  
1137 been not in a permanent status, but in fact who serve in our  
1138 military and gained citizenship.

1139 Ms. Lofgren. If the gentleman would yield on that  
1140 point?

1141 Mr. Issa. Of course.

1142 Ms. Lofgren. The problem in the 1996 act, and I have  
1143 discussed with some members who have private bills on this  
1144 very point, is that if you make a false claim to citizenship,  
1145 there is no excuse under the law. You can't naturalize and  
1146 you are deportable. I think that is a problem entirely,  
1147 because there are many circumstances where that might happen  
1148 where the person is completely innocent. There is no room in  
1149 the law even for innocence, which is something I think we

1150 ought to address overall, but certainly in the case of  
1151 soldiers.

1152 I thank the gentleman for yielding.

1153 Mr. Issa. Thank you.

1154 I thank the chairman for his thoughtful consideration  
1155 today on this and other bills. I do believe that if we are  
1156 going to move incrementally on things which are good, we  
1157 should do it on a bipartisan basis. In this case, this bill  
1158 is not an over-arching bill. It is designed to deal with a  
1159 relatively narrow problem, and hopefully we can come to a  
1160 consensus to make it appropriately narrow.

1161 I would say today that both sides of the aisle need to  
1162 spend more time talking to the gentlelady from California,  
1163 and hopefully we can reach that. I would urge the chairman  
1164 to look at the rest of our itinerary and perhaps move those  
1165 which are most movable today. The amendments on horse  
1166 slaughter may not be, but we will get to that next week.

1167 With that I yield back, and thank the chairman for his  
1168 consideration. And I thank my colleague from California.

1169 Chairman Conyers. I thank you, Mr. Issa.

1170 Ms. Jackson Lee. Mr. Speaker?

1171 The chair recognizes the gentlelady from Houston, Texas.

1172 Mr. Issa. Only because she called you "speaker."

1173 [Laughter.]

1174 Ms. Jackson Lee. I sure did.

1175 Chairman Conyers. Sheila Jackson Lee, for as much time  
1176 as she may consume.

1177 Ms. Jackson Lee. We are all in the family.

1178 [Laughter.]

1179 Thank you, Mr. Chairman.

1180 I will use that in order to get those kinds of remarks  
1181 offered again.

1182 I do want to maybe challenge my good friends on the  
1183 other side of the aisle. I think I heard my good friend, the  
1184 chairwoman of the subcommittee, indicate that we have begun  
1185 to look at the issues which the opposition speaks, about  
1186 potential criminality that would then be pardoned or then be  
1187 allowed to stand, and the family reunited.

1188 There are many ways to ensure that the fairness of what  
1189 we are attempting to do moves forward. It is clearly a very  
1190 fair process. I have a great deal of respect for the  
1191 American Legion, but as well just a few weeks ago I was able  
1192 to amend the voting rights bill to add Hector Garcia, who  
1193 comes out of Texas and who originated the GI Forum. The GI  
1194 Forum takes no back seat in its patriotism, comprised of  
1195 Hispanic soldiers, citizens from around the nation.

1196 The GI Forum supports this legislation. Dr. Hector  
1197 Garcia is reminded of when a fallen soldier came home in  
1198 World War II, he was not allowed to be buried in a cemetery  
1199 in Texas. So out of his energy, they moved that fallen

1200 soldier to the Arlington National Cemetery. This has some  
1201 similarities because it is clear that these are enlisted  
1202 soldiers who have gone through the vetting process, and that  
1203 if they have fallen upon some criminal element, there is no  
1204 doubt that there will and can be a fix, but also there is no  
1205 doubt that many of those individuals be weeded out by our own  
1206 military code and the laws dealing with that military  
1207 soldiers.

1208       So there are certainly ways to oppose this legislation,  
1209 but as I named it after the first fallen soldier, any of the  
1210 members—and I know that our friends on both sides of the  
1211 aisle have been to Iraq. They have spoken to soldiers with a  
1212 variety of last names and cultures. I know that although  
1213 they have not asked them, that many of the soldiers that they  
1214 have spoken to and hugged and said thank you, have families  
1215 at home who are in need of legal status.

1216       How can you on one hand embrace and thank them in the  
1217 heat of battle, as many of us have gone to do, and then we  
1218 cannot provide a simple piece of legislation that does not  
1219 open the floodgates, to regularize their family members? I  
1220 am glad that my again friend and colleague cited the  
1221 consistency of the presidential nominee of the party of the  
1222 opposition. She didn't read the headline because it said  
1223 "cheered and jeered." But the good news about this  
1224 individual, and those who believe in fairness—Mr. McCain—is

1225 that he didn't yield or bend away his consistent position  
1226 that I am not going to call up a soldier and tell him I am  
1227 deporting his mother; I am not going to do it; You can do it.  
1228 And he did not step away from the jeers.

1229       That is what this is all about. It is the political  
1230 pressure, the jeers of constituents who don't seem to  
1231 understand because their representatives don't want them to  
1232 understand because if anyone dared to explain the simple  
1233 premise of this legislative initiative, it is to regularize  
1234 enlisted soldiers in the various military disciplines to  
1235 ensure that their family members are not deported in the loss  
1236 of life and injury, and it makes sense.

1237       So I would hope that we could move on and appreciate  
1238 that this amendment would undermine the entire bill, and move  
1239 to respect not only the American Legion, of which I have  
1240 great respect for, but let us also respect the GI Forum  
1241 comprised initially of Hispanic soldiers from around the  
1242 nation.

1243       With that, Mr. Chairman, I ask opposition to the  
1244 amendment and support of the bill. I yield back.

1245       Chairman Conyers. I am prepared to have a vote on this  
1246 important amendment.

1247       All those in favor of this amendment, indicate by saying  
1248 "aye."

1249       [A chorus of ayes.]

1250 All those opposed to this amendment, indicate by saying  
1251 "no."  
1252 [A chorus of noes.]  
1253 Chairman Conyers. The noes have it, and Mr. Smith asks  
1254 for a recorded vote.  
1255 The Clerk. Mr. Conyers?  
1256 Chairman Conyers. No.  
1257 The Clerk. Mr. Conyers votes no.  
1258 Mr. Berman?  
1259 [No response.]  
1260 Mr. Boucher?  
1261 [No response.]  
1262 Mr. Nadler?  
1263 Mr. Nadler. No.  
1264 The Clerk. Mr. Nadler votes no.  
1265 Mr. Scott?  
1266 [No response.]  
1267 Mr. Watt?  
1268 [No response.]  
1269 Ms. Lofgren?  
1270 Ms. Lofgren. No.  
1271 The Clerk. Ms. Lofgren votes no.  
1272 Ms. Jackson Lee?  
1273 Ms. Jackson Lee. No.  
1274 The Clerk. Ms. Jackson Lee votes no.



1275 Ms. Waters?  
1276 [No response.]  
1277 Mr. Delahunt?  
1278 [No response.]  
1279 Mr. Wexler?  
1280 Mr. Wexler. No.  
1281 The Clerk. Mr. Wexler votes no.  
1282 Ms. Sanchez?  
1283 Ms. Sanchez. No.  
1284 The Clerk. Ms. Sanchez votes no.  
1285 Mr. Cohen?  
1286 Mr. Cohen. No.  
1287 The Clerk. Mr. Cohen votes no.  
1288 Mr. Johnson?  
1289 Mr. Johnson. No.  
1290 The Clerk. Mr. Johnson votes no.  
1291 Ms. Sutton?  
1292 [No response.]  
1293 Mr. Gutierrez?  
1294 [No response.]  
1295 Mr. Sherman?  
1296 [No response.]  
1297 Ms. Baldwin?  
1298 Ms. Baldwin. No.  
1299 The Clerk. Ms. Baldwin votes no.

1300 Mr. Weiner?

1301 [No response.]

1302 Mr. Schiff?

1303 Mr. Schiff. No.

1304 The Clerk. Mr. Schiff votes no.

1305 Mr. Davis?

1306 Mr. Davis. No.

1307 The Clerk. Mr. Davis votes no.

1308 Ms. Wasserman Schultz?

1309 Ms. Wasserman Schultz. No.

1310 The Clerk. Ms. Wasserman Schultz votes no.

1311 Mr. Ellison?

1312 Mr. Ellison. No.

1313 The Clerk. Mr. Ellison votes no.

1314 Mr. Smith?

1315 Mr. Smith. Aye.

1316 The Clerk. Mr. Smith votes aye.

1317 Mr. Sensenbrenner?

1318 [No response.]

1319 Mr. Coble?

1320 [No response.]

1321 Mr. Gallegly?

1322 Mr. Gallegly. Aye.

1323 The Clerk. Mr. Gallegly votes aye.

1324 Mr. Goodlatte?

1325 Mr. Goodlatte. Aye.

1326 The Clerk. Mr. Goodlatte votes aye.

1327 Mr. Chabot?

1328 Mr. Chabot. Aye.

1329 The Clerk. Mr. Chabot votes aye.

1330 Mr. Lungren?

1331 Mr. Lungren. Aye.

1332 The Clerk. Mr. Lungren votes aye.

1333 Mr. Cannon?

1334 [No response.]

1335 Mr. Keller?

1336 Mr. Keller. Aye.

1337 The Clerk. Mr. Keller votes aye.

1338 Mr. Issa?

1339 Mr. Issa. Aye.

1340 The Clerk. Mr. Issa votes aye.

1341 Mr. Pence?

1342 [No response.]

1343 Mr. Forbes?

1344 Mr. Forbes. Aye.

1345 The Clerk. Mr. Forbes votes aye.

1346 Mr. King?

1347 Mr. King. Aye.

1348 The Clerk. Mr. King votes aye.

1349 Mr. Feeney?

1350 Mr. Feeney. Aye.

1351 The Clerk. Mr. Feeney votes aye.

1352 Mr. Franks?

1353 Mr. Franks. Aye.

1354 The Clerk. Mr. Franks votes aye.

1355 Mr. Gohmert?

1356 [No response.]

1357 Mr. Jordan?

1358 Mr. Jordan. Aye.

1359 The Clerk. Mr. Jordan votes aye.

1360 Chairman Conyers. Are there any—Mr. Watt?

1361 Mr. Watt. No.

1362 The Clerk. Mr. Watt votes no.

1363 Chairman Conyers. Mr. Berman?

1364 Mr. Berman. No.

1365 The Clerk. Mr. Berman votes no.

1366 Chairman Conyers. Mr. Gutierrez?

1367 Mr. Gutierrez. No.

1368 The Clerk. Mr. Gutierrez votes no.

1369 Chairman Conyers. Mr. Delahunt?

1370 Mr. Delahunt. No.

1371 The Clerk. Mr. Delahunt votes no.

1372 Chairman Conyers. Yes?

1373 The Clerk. Mr. Coble, I do not have a vote.

1374 Mr. Coble. Aye.

1375 The Clerk. Mr. Coble votes aye.  
1376 Chairman Conyers. The clerk will report.  
1377 The Clerk. Mr. Chairman, 13 members voted aye, 17  
1378 members voted no.  
1379 Chairman Conyers. The amendment is not agreed to.  
1380 Are there any other amendments? The gentleman from  
1381 Texas, Mr. Smith?  
1382 Mr. Smith. Mr. Chairman, I have an amendment at the  
1383 desk, amendment number two.  
1384 Chairman Conyers. The clerk will report the amendment.  
1385 The Clerk. Amendment—  
1386 Ms. Lofgren. I would like to reserve a point of order,  
1387 since I have not seen the amendment.  
1388 The Clerk. Amendment—  
1389 Chairman Conyers. The reservation is noted from the  
1390 gentlelady from California.  
1391 The Clerk. Amendment to the amendment in the nature of  
1392 a substitute to H.R. 6020 offered by Mr. Smith of Texas.  
1393 "Page 2, strike lines 13 through 21 (and redesignate  
1394 provisions accordingly)."

1395 [The amendment by Mr. Smith follows:]

1396 \*\*\*\*\* INSERT \*\*\*\*\*

1397 Chairman Conyers. By unanimous consent, the bill will  
1398 be considered as read.

1399 The ranking member, Mr. Smith, is recognized in support  
1400 of his amendment.

1401 Mr. Smith. Thank you, Mr. Chairman.

1402 Mr. Chairman, immigration marriage fraud is an endemic  
1403 problem that we hear about all too frequently. Let me just  
1404 give a few examples. The Washington Post, December 23, 2006,  
1405 stated that, "A ringleader in a massive marriage fraud scheme  
1406 was sentenced to nearly 3 1/2 years in prison yesterday for  
1407 arranging more than 100 phony marriages to help fellow  
1408 Ghanaian immigrants stay in the United States."

1409 How did it work? The Post went on to say that  
1410 "Immigrants would pay as much as \$6,000 to be introduced to a  
1411 spouse, usually on the day of the marriage. They would then  
1412 be coached on how to lie to immigration inspectors to make  
1413 the marriage seem real."

1414 Or we can look at the Chicago Tribune from this year.  
1415 The paper stated that, "An indictment unsealed Monday accused  
1416 nine U.S. citizens and nine Eastern Europeans of marriage  
1417 fraud. Authorities said the U.S. citizens were paid up to  
1418 \$5,000 for each marriage and worked with each other to make  
1419 the fake relationships appear real."

1420 Or we can look at U.S. Federal News from this May, "More  
1421 than 80 individuals involved in various marriage fraud

1422 conspiracies throughout Florida were arrested this week.  
1423 Those arrested included individuals who arranged sham  
1424 marriages, American citizens who accepted bribes and foreign  
1425 nationals who in some cases paid up to \$10,000 to obtain a  
1426 benefit by committing fraud."

1427       The principal way that the Immigration and Nationality  
1428 Act addresses marriage fraud is to grant aliens who marry  
1429 U.S. citizens and legal permanent residents a 2-year  
1430 conditional green card. After 2 years of marriage, the  
1431 couple is interviewed by the Department of Homeland Security  
1432 to determine whether the marriage was legitimate.

1433       In this bill, unfortunately, we eliminate the 2-year  
1434 conditional green card requirement for most aliens who have  
1435 ever served in the military. This amendment simply strikes  
1436 this provision. The bill as it stands now encourages  
1437 marriage fraud, and there is no justification to do this. It  
1438 simply represents bad policy.

1439       Mr. Chairman, I urge my colleagues to support this  
1440 amendment and retain the integrity of our immigration system.  
1441 Mr. Chairman, I will yield back the balance of my time.

1442       Ms. Lofgren. Mr. Chairman?

1443       Chairman Conyers. The gentlelady from California is  
1444 recognized in opposition to the amendment.

1445       Ms. Lofgren. Yes. First, I would like to withdraw my  
1446 reservation. The amendment obviously is germane, and oppose

1447 the underlying amendment.

1448       Let me just start by saying, I don't think there is a  
1449 member of this committee who approves of marriage fraud in  
1450 the immigration system. I do not. None of the Democrats do  
1451 and none of the Republicans do. The question is whether the  
1452 amendment as offered really is targeted towards that issue.

1453       As the former chairman and I have discussed, the 2-year  
1454 conditionality of permanent residents added into the act in  
1455 1996 was actually rather arbitrary. There is no real reason  
1456 to believe honestly that the 2-year provision has any impact  
1457 on marriage fraud. I just say that gratuitously, but it is  
1458 not at all clear that it has a positive impact.

1459       When that provision is overlaid with what we have  
1460 already done on naturalization for soldiers, it becomes a  
1461 very difficult problem. The example I used of our witness in  
1462 the subcommittee is a perfect example. You have a person who  
1463 is on active duty. In fact, the member of the United States  
1464 Navy in question was not in a place where he could actually  
1465 even file to remove the condition. She was on active duty.

1466       She has a valid marriage. In fact, she is still  
1467 married, but it was because of her deployment that she was  
1468 not in a position to file a piece of paper that I would argue  
1469 is pretty meaningless anyhow. She instead applied later to  
1470 naturalize, as advised by her lawyers. You have a situation  
1471 in that case, and it is not the only time it has happened,



1472 according to the testimony we received from the Department of  
1473 Defense, where you have an active duty member of the armed  
1474 services who has a deportation order because of the lack of a  
1475 piece of paper.

1476         So you end up with a situation where a member of the  
1477 American armed services is faced with this choice. They can  
1478 go AWOL from their unit and deal with the Homeland Security  
1479 bureaucracy. Or they can deploy with their unit and be left  
1480 behind in a hostile nation. What kind of country has  
1481 immigration laws that require an active duty soldier to be  
1482 left behind in a hostile nation because they have self-  
1483 deported under our immigration laws? That is craziness. It  
1484 is this provision of the act that precludes that from  
1485 happening.

1486         So I am sure that because, although we don't agree on  
1487 the details, I know that Mr. Smith would not approve of an  
1488 active duty soldier being left in a hostile nation, but that  
1489 is the impact of the amendment that he has offered. I  
1490 strongly oppose it. I would urge my colleagues to oppose it.

1491         Mr. Smith. Would the gentlewoman yield?

1492         Ms. Lofgren. Yes, I would be happy to yield.

1493         Mr. Smith. Okay. What I wanted to ask you is, one of  
1494 the instances you just mentioned—and you are right, I am  
1495 sympathetic to it—is that, and I want to ask the gentlewoman  
1496 if she would accept an amendment to the amendment that would

1497 delay the interview with the soldier until he returned home  
1498 so as not to put him or his family in that kind of a  
1499 continuous situation.

1500 Ms. Lofgren. I am not prepared—I mean, I wasn't even  
1501 shown this amendment before it was passed out at the desk. I  
1502 am certainly willing to have a discussion with the ranking  
1503 member at any time on any subject, as you know, but I am not  
1504 prepared to do this on the spot. But I would be happy to  
1505 discuss it with you further at a later time.

1506 I yield back the balance of my time.

1507 Chairman Conyers. All those in favor of the amendment  
1508 offered by Mr. Smith of Texas indicate by saying "aye."

1509 [A chorus of ayes.]

1510 All those opposed say "no."

1511 [A chorus of noes.]

1512 I think the ayes have it, but a recorded vote has been  
1513 requested.

1514 Ms. Lofgren. That is right.

1515 The Clerk. Mr. Conyers?

1516 Chairman Conyers. No.

1517 The Clerk. Mr. Conyers votes no.

1518 Mr. Berman?

1519 Mr. Berman. No.

1520 The Clerk. Mr. Berman votes no.

1521 Mr. Boucher?

1522 [No response.]

1523 Mr. Nadler?

1524 Mr. Nadler. No.

1525 The Clerk. Mr. Nadler votes no.

1526 Mr. Scott?

1527 [No response.]

1528 Mr. Watt?

1529 [No response.]

1530 Ms. Lofgren?

1531 Ms. Lofgren. No.

1532 The Clerk. Ms. Lofgren votes no.

1533 Ms. Jackson Lee?

1534 Ms. Jackson Lee. No.

1535 The Clerk. Ms. Jackson Lee votes no.

1536 Ms. Waters?

1537 [No response.]

1538 Mr. Delahunt?

1539 [No response.]

1540 Mr. Wexler?

1541 Mr. Wexler. No.

1542 The Clerk. Mr. Wexler votes no.

1543 Ms. Sanchez?

1544 [No response.]

1545 Mr. Cohen?

1546 Mr. Cohen. No.

1547 The Clerk. Mr. Cohen votes no.  
1548 Mr. Johnson?  
1549 Mr. Johnson. No.  
1550 The Clerk. Mr. Johnson votes no.  
1551 Ms. Sutton?  
1552 [No response.]  
1553 Mr. Gutierrez?  
1554 [No response.]  
1555 Mr. Sherman?  
1556 [No response.]  
1557 Ms. Baldwin?  
1558 [No response.]  
1559 Mr. Weiner?  
1560 [No response.]  
1561 Mr. Schiff?  
1562 [No response.]  
1563 Mr. Davis?  
1564 Mr. Davis. No.  
1565 The Clerk. Mr. Davis votes no.  
1566 Ms. Wasserman Schultz?  
1567 [No response.]  
1568 Mr. Ellison?  
1569 Mr. Ellison. No.  
1570 The Clerk. Mr. Ellison votes no.  
1571 Mr. Smith?

1572 Mr. Smith. Aye.

1573 The Clerk. Mr. Smith votes aye.

1574 Mr. Sensenbrenner?

1575 [No response.]

1576 Mr. Coble?

1577 [No response.]

1578 Mr. Gallegly?

1579 Mr. Gallegly. Aye.

1580 The Clerk. Mr. Gallegly votes aye.

1581 Mr. Goodlatte?

1582 Mr. Goodlatte. Aye.

1583 The Clerk. Mr. Goodlatte votes aye.

1584 Mr. Chabot?

1585 Mr. Chabot. Aye.

1586 The Clerk. Mr. Chabot votes aye.

1587 Mr. Lungren?

1588 Mr. Lungren. Aye.

1589 The Clerk. Mr. Lungren votes aye.

1590 Mr. Cannon?

1591 [No response.]

1592 Mr. Keller?

1593 Mr. Keller. Aye.

1594 The Clerk. Mr. Keller votes aye.

1595 Mr. Issa?

1596 Mr. Issa. Aye.

1597 The Clerk. Mr. Issa votes aye.  
1598 Mr. Pence?  
1599 [No response.]  
1600 Mr. Forbes?  
1601 Mr. Forbes. Aye.  
1602 The Clerk. Mr. Forbes votes aye.  
1603 Mr. King?  
1604 Mr. King. Aye.  
1605 The Clerk. Mr. King votes aye.  
1606 Mr. Feeney?  
1607 [No response.]  
1608 Mr. Franks?  
1609 Mr. Franks. Aye.  
1610 The Clerk. Mr. Franks votes aye.  
1611 Mr. Gohmert?  
1612 [No response.]  
1613 Mr. Jordan?  
1614 Mr. Jordan. Aye.  
1615 The Clerk. Mr. Jordan votes aye.  
1616 Mr. Smith. Mr. Chairman, could we have an immediate  
1617 final announcement of the tally?  
1618 Chairman Conyers. Yes.  
1619 Mr. Smith. I am teasing.  
1620 Ms. Lofgren. There are some other members in the room.  
1621 Chairman Conyers. Ms. Sanchez?

1622 Ms. Sanchez. No.

1623 The Clerk. Ms. Sanchez votes no.

1624 Chairman Conyers. Mr. Gutierrez?

1625 Mr. Gutierrez. No.

1626 The Clerk. Mr. Gutierrez votes no.

1627 Chairman Conyers. Mr. Coble?

1628 Mr. Coble. Aye.

1629 The Clerk. Mr. Coble votes aye.

1630 Chairman Conyers. Mr. Watt?

1631 Mr. Watt. No.

1632 The Clerk. Mr. Watt votes no.

1633 Chairman Conyers. Mr. Schiff?

1634 Mr. Schiff. No.

1635 The Clerk. Mr. Schiff votes no.

1636 Chairman Conyers. Mr. Sherman?

1637 Mr. Sherman. No.

1638 The Clerk. Mr. Sherman votes no.

1639 Chairman Conyers. The clerk will report.

1640 Oh, I am sorry. Mr. Feeney?

1641 Mr. Feeney. Aye.

1642 The Clerk. Mr. Feeney votes aye.

1643 Ms. Lofgren. Mr. Chairman, how am I recorded?

1644 The Clerk. Ms. Lofgren voted no.

1645 Mr. Nadler. Mr. Chairman?

1646 Chairman Conyers. Yes?

1647 Mr. Nadler. Could the clerk enlighten me as to how I am  
1648 recorded please?

1649 The Clerk. Mr. Nadler voted no.

1650 Mr. Nadler. You are certain of that?

1651 Chairman Conyers. The clerk will report.

1652 The Clerk. Mr. Chairman, 13 members voted aye, 15  
1653 members voted nay.

1654 Chairman Conyers. The amendment does not prevail.

1655 Are there any other amendments?

1656 Mr. King. Mr. Chairman?

1657 Chairman Conyers. Yes, Mr. King?

1658 Mr. King. Mr. Chairman, I have an amendment at the  
1659 desk, number one.

1660 Chairman Conyers. The clerk will report the amendment.

1661 Ms. Lofgren. Mr. Chairman, I reserve a point of order  
1662 as this amendment has also not been shared.

1663 Chairman Conyers. The gentlelady from California  
1664 reserves a point of order.

1665 The clerk will read the amendment.

1666 The Clerk. Amendment to the amendment in the nature of  
1667 a substitute to H.R. 6020, offered by Mr. King of Iowa. Page  
1668 7, line 5, after "(2)" insert "(other than subparagraph  
1669 (D))".



1670 [The amendment by Mr. King follows:]

1671 \*\*\*\*\* INSERT \*\*\*\*\*

1672 Chairman Conyers. Without objection, the amendment will  
1673 be considered as read.

1674 The gentleman will be recognized in support of his  
1675 amendment.

1676 Mr. King. Thank you, Mr. Chairman.

1677 My amendment is short when actually read. What it does  
1678 is it strikes the waivers for espionage, treason, sedition,  
1679 threats against the president—those types of crimes that  
1680 threaten our national security, especially offensive if they  
1681 are committed by someone who is a member of the armed  
1682 services. The Immigration and Nationality Act provides that  
1683 aliens who have been convicted of certain crimes against the  
1684 nation and against our national security are deportable.

1685 The Democrats with this bill have made this curious  
1686 decision that alien members of the military and their family  
1687 members and alien veterans can receive waivers of deportation  
1688 even after having been convicted of these crimes. These are  
1689 some of the crimes that were among those that were included  
1690 in Mr. Smith's initial amendment.

1691 But the crimes that I am talking about are some of  
1692 these, and I will list some. Any alien who has been  
1693 convicted of espionage under chapter 37 of Title 18 of the  
1694 U.S. Code, any alien is deportable. Any alien who has been  
1695 convicted of the disclosure of classified information under  
1696 chapter 37 is currently deportable. Any alien who has been

1697 convicted of sabotage under chapter 105 of Title 18 is  
1698 currently deportable. Any alien who has been convicted of  
1699 treason under chapter 115, Title 18, is deportable.

1700 Any alien who has been convicted of rebellion,  
1701 insurrection, a seditious conspiracy or advocating the  
1702 overthrow of the U.S. government under chapter 115 is  
1703 deportable. Any alien who, during wartime, has been  
1704 convicted of willfully making false reports with intent to  
1705 interfere with the operation or success of our military or to  
1706 promote the success of our enemies under chapter 115 is, Mr.  
1707 Chairman, deportable.

1708 Any alien who during wartime has been convicted of  
1709 willfully causing or attempting to cause insubordination,  
1710 disloyalty, or mutiny under chapter 115 is deportable. Any  
1711 alien who has been convicted of recruiting persons to engage  
1712 in armed hostility against the U.S. under chapter 115 is  
1713 deportable. Any alien who has been convicted of making  
1714 threats to take the life of the president of the United  
1715 States is deportable.

1716 I could go on and on and on. These offenses that are—  
1717 Ms. Lofgren. Would the gentleman yield?

1718 Mr. King. I would briefly yield to the gentlelady from  
1719 California.

1720 Ms. Lofgren. As mentioned earlier, we have been working  
1721 on a list of exclusions, and if the gentleman is prepared to

1722 let us simply accept the amendment, then we can proceed.

1723 Mr. King. I would say to the gentlelady from California  
1724 that—

1725 Ms. Lofgren. And if I could further state, as I  
1726 indicated earlier in my remarks, we had been attempting to  
1727 get a bipartisan amendment that fell short. This would have  
1728 been one of the elements. There will be others.

1729 I would strongly request that, and I know that there are  
1730 a whole host of amendments on this subject, that it would be  
1731 more expeditious to hold those off and see if we can reach an  
1732 agreement on the elements to be excluded, rather than to keep  
1733 single-shotting these amendments and go to other subject  
1734 matters that we may not be able to come to agreement on.  
1735 That would simply be a suggestion, but at this point if the  
1736 gentleman would simply allow us to accept the amendment.

1737 Mr. Smith. Would the gentlelady yield?

1738 Ms. Lofgren. It is not my time.

1739 Mr. King. Reclaiming my time, I didn't hear where the  
1740 request was coming from.

1741 Chairman Conyers. Would the gentleman from Iowa yield  
1742 briefly?

1743 Mr. King. I yield to the chairman.

1744 Chairman Conyers. Would he wish to approach the chair  
1745 and seek a short recess to see if we could—

1746 Well, if there is any likelihood of the work that Zoe

1747 Lofgren and Mr. Lungren and others have been working on could  
1748 enlarge upon the list that in their amendment, I don't see  
1749 why a recess would not—or might be helpful, anyway.

1750 Mr. King. Mr. Chairman, reclaiming my time, in response  
1751 to that, I certainly think that is a very good idea and I  
1752 would encourage such a thing, and certainly yield to that  
1753 request.

1754 Chairman Conyers. We have to check with—oh, Mr. Smith?

1755 Mr. Smith. Mr. Chairman, I wanted to ask the  
1756 gentlewoman from California a brief question. Did I  
1757 understand her to say that she was accepting this amendment?

1758 Ms. Lofgren. If I may, the staff is now suggesting that  
1759 I may have spoken too soon. I think, certainly the espionage  
1760 and the serious offenses, we are all in agreement on that.  
1761 The question is whether somebody, the military's Selective  
1762 Service Act, if you missed the registration and later did  
1763 register, that would be a violation of the act. It would be  
1764 a technical violation of the act, but not something that we  
1765 considered a serious thing.

1766 Chairman Conyers. Will the gentleman from Iowa yield to  
1767 me one more time?

1768 Mr. King. I would yield to the chairman.

1769 Chairman Conyers. I would like to propose, and this is  
1770 a collegial body, I would like to propose that we stand in  
1771 recess until 5 o'clock and see what we can come up with.

1772 Without objection, so ordered. We will take the vote and  
1773 return at 5 o'clock.

1774 I thank the gentleman for his suggestion.

1775 Mr. King. Thank you, Mr. Chairman.

1776 [Whereupon, at 3:24 p.m., the committee was adjourned.]