

115TH CONGRESS
1ST SESSION

H. R. 4340

To amend the Immigration and Nationality Act to eliminate the diversity immigrant program, to focus family-sponsored immigration on spouses and minor children, and make mandatory and permanent requirements relating to use of an electronic employment eligibility verification system.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 2017

Mr. BRAT (for himself and Mr. SMITH of Texas) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Immigration and Nationality Act to eliminate the diversity immigrant program, to focus family-sponsored immigration on spouses and minor children, and make mandatory and permanent requirements relating to use of an electronic employment eligibility verification system.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “American Labor, Wages, and Sovereignty Act” or the
 4 “American LAWS Act”.

5 (b) TABLE OF CONTENTS.—The table of contents of
 6 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MODIFICATION OF IMMIGRANT VISA PRIORITIES

Sec. 101. Elimination of diversity immigrant program.

Sec. 102. Family-sponsored immigration priorities.

TITLE II—EMPLOYMENT ELIGIBILITY VERIFICATION

Sec. 201. Short title.

Sec. 202. Employment eligibility verification process.

Sec. 203. Employment eligibility verification system.

Sec. 204. Recruitment, referral, and continuation of employment.

Sec. 205. Good faith defense.

Sec. 206. Preemption and States’ rights.

Sec. 207. Repeal.

Sec. 208. Penalties.

Sec. 209. Fraud and misuse of documents.

Sec. 210. Protection of Social Security Administration programs.

Sec. 211. Fraud prevention.

Sec. 212. Use of Employment Eligibility Verification Photo Tool.

Sec. 213. Identity authentication employment eligibility verification pilot pro-
grams.

Sec. 214. Inspector General audits.

7 **TITLE I—MODIFICATION OF**
 8 **IMMIGRANT VISA PRIORITIES**

9 **SEC. 101. ELIMINATION OF DIVERSITY IMMIGRANT PRO-**
 10 **GRAM.**

11 (a) WORLDWIDE LEVEL OF DIVERSITY IMMI-
 12 GRANTS.—Section 201 of the Immigration and Nation-
 13 ality Act (8 U.S.C. 1151) is amended—

14 (1) in subsection (a)—

1 (A) by inserting “and” at the end of para-
2 graph (1);

3 (B) by striking “; and” at the end of para-
4 graph (2) and inserting a period; and

5 (C) by striking paragraph (3); and
6 (2) by striking subsection (e).

7 (b) ALLOCATION OF DIVERSITY IMMIGRANT VISAS.—
8 Section 203 of such Act (8 U.S.C. 1153) is amended—

9 (1) by striking subsection (c);

10 (2) in subsection (d), by striking “(a), (b), or
11 (c),” and inserting “(a) or (b),”;

12 (3) in subsection (e), by striking paragraph (2)
13 and redesignating paragraph (3) as paragraph (2);

14 (4) in subsection (f), by striking “(a), (b), or
15 (c)” and inserting “(a) or (b)”; and

16 (5) in subsection (g), by striking “(a), (b), and
17 (c)” and inserting “(a) and (b)”.

18 (c) PROCEDURE FOR GRANTING IMMIGRANT STA-
19 TUS.—Section 204 of such Act (8 U.S.C. 1154) is amend-
20 ed—

21 (1) by striking subsection (a)(1)(I); and

22 (2) in subsection (e), by striking “(a), (b), or
23 (c)” and inserting “(a) or (b)”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect as if enacted on October 1,
3 2017.

4 **SEC. 102. FAMILY-SPONSORED IMMIGRATION PRIORITIES.**

5 (a) IMMEDIATE RELATIVE REDEFINED.—The Immi-
6 gration and Nationality Act (8 U.S.C. 1101 et seq.) is
7 amended—

8 (1) in section 101(b)(1) (8 U.S.C. 1101(b)(1)),
9 in the matter preceding subparagraph (A), by strik-
10 ing “under twenty-one years of age who” and insert-
11 ing “who is younger than 18 years of age and”; and

12 (2) in section 201 (8 U.S.C. 1151)—

13 (A) in subsection (b)(2)(A)—

14 (i) in clause (i), by striking “children,
15 spouses, and parents of a citizen of the
16 United States, except that, in the case of
17 parents, such citizens shall be at least 21
18 years of age.” and inserting “children and
19 spouse of a citizen of the United States.”;
20 and

21 (ii) in clause (ii), by striking “such an
22 immediate relative” and inserting “the im-
23 mediate relative spouse of a United States
24 citizen”;

1 (B) by striking subsection (c) and insert-
2 ing the following:

3 “(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED
4 IMMIGRANTS.—(1) The worldwide level of family-spon-
5 sored immigrants under this subsection for a fiscal year
6 is equal to 88,000 minus the number computed under
7 paragraph (2).

8 “(2) The number computed under this paragraph for
9 a fiscal year is the number of aliens who were paroled into
10 the United States under section 212(d)(5) in the second
11 preceding fiscal year who—

12 “(A) did not depart from the United States
13 (without advance parole) within 365 days; and

14 “(B)(i) did not acquire the status of an alien
15 lawfully admitted to the United States for perma-
16 nent residence during the two preceding fiscal years;
17 or

18 “(ii) acquired such status during such period
19 under a provision of law (other than subsection (b))
20 that exempts adjustment to such status from the nu-
21 merical limitation on the worldwide level of immigra-
22 tion under this section.”; and

23 (C) in subsection (f)—

1 (i) in paragraph (2), by striking “sec-
2 tion 203(a)(2)(A)” and inserting “section
3 203(a)”;

4 (ii) by striking paragraph (3);

5 (iii) by redesignating paragraph (4) as
6 paragraph (3); and

7 (iv) in paragraph (3), as redesignated,
8 by striking “(1) through (3)” and inserting
9 “(1) and (2)”.

10 (b) FAMILY-BASED VISA PREFERENCES.—Section
11 203(a) of the Immigration and Nationality Act (8 U.S.C.
12 1153(a)) is amended to read as follows:

13 “(a) SPOUSES AND MINOR CHILDREN OF PERMA-
14 NENT RESIDENT ALIENS.—Family-sponsored immigrants
15 described in this subsection are qualified immigrants who
16 are the spouse or a child of an alien lawfully admitted
17 for permanent residence.”.

18 (c) CONFORMING AMENDMENTS.—

19 (1) DEFINITION OF V NONIMMIGRANT.—Section
20 101(a)(15)(V) of the Immigration and Nationality
21 Act (8 U.S.C. 1101(a)(15)(V)) is amended by strik-
22 ing “section 203(a)(2)(A)” each place such term ap-
23 pears and inserting “section 203(a)”.

(2) NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.—Section 202 of such Act (8 U.S.C. 1152) is amended—

(A) in subsection (a)(4)—

(i) by striking subparagraphs (A) and (B) and inserting the following:

“(A) 75 PERCENT OF FAMILY-SPONSORED IMMIGRANTS NOT SUBJECT TO PER COUNTRY LIMITATION.—Of the visa numbers made available under section 203(a) in any fiscal year, 75 percent shall be issued without regard to the numerical limitation under paragraph (2).

“(B) TREATMENT OF REMAINING 25 PERCENT FOR COUNTRIES SUBJECT TO SUBSECTION (e).—

“(i) IN GENERAL.—Of the visa numbers made available under section 203(a) in any fiscal year, 25 percent shall be available, in the case of a foreign state or dependent area that is subject to subsection (e) only to the extent that the total number of visas issued in accordance with subparagraph (A) to natives of the foreign state or dependent area is less than the subsection (e) ceiling.

1 “(ii) SUBSECTION (e) CEILING DE-
 2 FINED.—In clause (i), the term ‘subsection
 3 (e) ceiling’ means, for a foreign state or
 4 dependent area, 77 percent of the max-
 5 imum number of visas that may be made
 6 available under section 203(a) to immi-
 7 grants who are natives of the state or area,
 8 consistent with subsection (e).”; and

9 (ii) by striking subparagraphs (C) and
 10 (D); and
 11 (B) in subsection (e)—

12 (i) in paragraph (1), by adding “and”
 13 at the end;

14 (ii) by striking paragraph (2);

15 (iii) by redesignating paragraph (3) as
 16 paragraph (2); and

17 (iv) in the undesignated matter after
 18 paragraph (2), as redesignated, by striking
 19 “, respectively,” and all that follows and
 20 inserting a period.

21 (3) RULES FOR DETERMINING WHETHER CER-
 22 TAIN ALIENS ARE CHILDREN.—Section 203(h) of
 23 such Act (8 U.S.C. 1153(h)) is amended by striking
 24 “(a)(2)(A)” each place such term appears and in-
 25 serting “(a)(2)”.

1 (4) PROCEDURE FOR GRANTING IMMIGRANT
2 STATUS.—Section 204 of such Act (8 U.S.C. 1154)
3 is amended—

4 (A) in subsection (a)(1)—

5 (i) in subparagraph (A)(i), by striking
6 “to classification by reason of a relation-
7 ship described in paragraph (1), (3), or (4)
8 of section 203(a) or”;

9 (ii) in subparagraph (B)—

10 (I) in clause (i), by redesignating
11 the second subclause (I) as subclause
12 (II); and

13 (II) by striking “203(a)(2)(A)”
14 each place such terms appear and in-
15 serting “203(a)”; and

16 (iii) in subparagraph (D)(i)(I), by
17 striking “a petitioner” and all that follows
18 through “section 204(a)(1)(B)(iii).” and
19 inserting “an individual younger than 21
20 years of age for purposes of adjudicating
21 such petition and for purposes of admis-
22 sion as an immediate relative under section
23 201(b)(2)(A)(i) or a family-sponsored im-
24 migrant under section 203(a), as appro-

1 prate, notwithstanding the actual age of
2 the individual.”;

3 (B) in subsection (f)(1), by striking “,
4 203(a)(1), or 203(a)(3), as appropriate”; and
5 (C) by striking subsection (k).

6 (5) WAIVERS OF INADMISSIBILITY.—Section
7 212 of such Act (8 U.S.C. 1182) is amended—

8 (A) in subsection (a)(6)(E)(ii), by striking
9 “section 203(a)(2)” and inserting “section
10 203(a)”; and

11 (B) in subsection (d)(11), by striking
12 “(other than paragraph (4) thereof)”.

13 (6) EMPLOYMENT OF V NONIMMIGRANTS.—Sec-
14 tion 214(q)(1)(B)(i) of such Act (8 U.S.C.
15 1184(q)(1)(B)(i)) is amended by striking “section
16 203(a)(2)(A)” each place such term appears and in-
17 serting “section 203(a)”.

18 (7) DEFINITION OF ALIEN SPOUSE.—Section
19 216(h)(1)(C) of such Act (8 U.S.C. 1186a(h)(1)(C))
20 is amended by striking “section 203(a)(2)” and in-
21 serting “section 203(a)”.

22 (8) CLASSES OF DEPORTABLE ALIENS.—Sec-
23 tion 237(a)(1)(E)(ii) of such Act (8 U.S.C.
24 1227(a)(1)(E)(ii)) is amended by striking “section
25 203(a)(2)” and inserting “section 203(a)”.

1 (d) CREATION OF NONIMMIGRANT CLASSIFICATION
2 FOR ALIEN PARENTS OF ADULT UNITED STATES CITI-
3 ZENS.—

4 (1) IN GENERAL.—Section 101(a)(15) of the
5 Immigration and Nationality Act (8 U.S.C.
6 1101(a)(15)) is amended—

7 (A) in subparagraph (T)(ii)(III), by strik-
8 ing the period at the end and inserting a semi-
9 colon;

10 (B) in subparagraph (U)(iii), by striking
11 “or” at the end;

12 (C) in subparagraph (V)(ii)(II), by striking
13 the period at the end and inserting “; or”; and

14 (D) by adding at the end the following:

15 “(W) Subject to section 214(s), an alien who is
16 a parent of a citizen of the United States, if the cit-
17 izen is at least 21 years of age.”.

18 (2) CONDITIONS ON ADMISSION.—Section 214
19 of such Act (8 U.S.C. 1184) is amended by adding
20 at the end the following:

21 “(s)(1) The initial period of authorized admission for
22 a nonimmigrant described in section 101(a)(15)(W) shall
23 be 5 years, but may be extended by the Secretary of
24 Homeland Security for additional 5-year periods if the

1 United States citizen son or daughter of the nonimmigrant
2 is still residing in the United States.

3 “(2) A nonimmigrant described in section
4 101(a)(15)(W)—

5 “(A) is not authorized to be employed in the
6 United States; and

7 “(B) is not eligible for any Federal, State, or
8 local public benefit.

9 “(3) Regardless of the resources of a nonimmigrant
10 described in section 101(a)(15)(W), the United States cit-
11 izen son or daughter who sponsored the nonimmigrant
12 parent shall be responsible for the nonimmigrant’s support
13 while the nonimmigrant resides in the United States.

14 “(4) An alien is ineligible to receive a visa or to be
15 admitted into the United States as a nonimmigrant de-
16 scribed in section 101(a)(15)(W) unless the alien provides
17 satisfactory proof that the United States citizen son or
18 daughter has arranged for health insurance coverage for
19 the alien, at no cost to the alien, during the anticipated
20 period of the alien’s residence in the United States.”.

21 (e) EFFECTIVE DATE; APPLICABILITY.—

22 (1) EFFECTIVE DATE.—The amendments made
23 by this section shall take effect on the first day of
24 the first fiscal year beginning on or after the date
25 of the enactment of this Act.

1 (2) INVALIDITY OF CERTAIN PETITIONS AND
2 APPLICATIONS.—Excepted as provided in paragraph
3 (3), any petition under section 204 of the Immigra-
4 tion and Nationality Act (8 U.S.C. 1154) seeking
5 classification of an alien under a family-sponsored
6 immigrant category that was eliminated by the
7 amendments made by this section and filed on or
8 after the date of enactment of this Act and any ap-
9 plication for an immigrant visa based on such a peti-
10 tion shall be considered invalid.

11 (3) VALID OFFER OF ADMISSION.—Notwith-
12 standing the termination by this title of the family-
13 sponsored and employment-based immigrant visa
14 categories, any alien whose petition or application
15 for a visa subsection (a) or (b) of section 203 of the
16 Immigration and Nationality Act, as in effect on the
17 day before the date of the enactment of this Act,
18 was approved and who is scheduled to receive an im-
19 migrant visa in the applicable preference category
20 not later than 1 year after the date of the enactment
21 of this Act, shall be entitled to such visa if the alien
22 enters the United States within 1 year after such
23 date of enactment.

1 **TITLE II—EMPLOYMENT**
2 **ELIGIBILITY VERIFICATION**

3 **SEC. 201. SHORT TITLE.**

4 This title may be cited as the “Legal Workforce Act”.

5 **SEC. 202. EMPLOYMENT ELIGIBILITY VERIFICATION PROC-**
6 **ESS.**

7 (a) IN GENERAL.—Section 274A(b) of the Immigra-
8 tion and Nationality Act (8 U.S.C. 1324a(b)) is amended
9 to read as follows:

10 “(b) EMPLOYMENT ELIGIBILITY VERIFICATION
11 PROCESS.—

12 “(1) NEW HIRES, RECRUITMENT, AND REFER-
13 RAL.—The requirements referred to in paragraphs
14 (1)(B) and (3) of subsection (a) are, in the case of
15 a person or other entity hiring, recruiting, or refer-
16 ring an individual for employment in the United
17 States, the following:

18 “(A) ATTESTATION AFTER EXAMINATION
19 OF DOCUMENTATION.—

20 “(i) ATTESTATION.—During the
21 verification period (as defined in subpara-
22 graph (E)), the person or entity shall at-
23 test, under penalty of perjury and on a
24 form, including electronic and telephonic
25 formats, designated or established by the

1 Secretary by regulation not later than 6
2 months after the date of the enactment of
3 the Legal Workforce Act, that it has
4 verified that the individual is not an unau-
5 thorized alien by—

6 “(I) obtaining from the indi-
7 vidual the individual’s social security
8 account number or United States
9 passport number and recording the
10 number on the form (if the individual
11 claims to have been issued such a
12 number), and, if the individual does
13 not attest to United States nationality
14 under subparagraph (B), obtaining
15 such identification or authorization
16 number established by the Depart-
17 ment of Homeland Security for the
18 alien as the Secretary of Homeland
19 Security may specify, and recording
20 such number on the form; and

21 “(II) examining—

22 “(aa) a document relating to
23 the individual presenting it de-
24 scribed in clause (ii); or

1 “(bb) a document relating to
2 the individual presenting it de-
3 scribed in clause (iii) and a docu-
4 ment relating to the individual
5 presenting it described in clause
6 (iv).

7 “(ii) DOCUMENTS EVIDENCING EM-
8 PLOYMENT AUTHORIZATION AND ESTAB-
9 LISHING IDENTITY.—A document de-
10 scribed in this subparagraph is an individ-
11 ual’s—

12 “(I) unexpired United States
13 passport or passport card;

14 “(II) unexpired permanent resi-
15 dent card that contains a photograph;

16 “(III) unexpired employment au-
17 thorization card that contains a pho-
18 tograph;

19 “(IV) in the case of a non-
20 immigrant alien authorized to work
21 for a specific employer incident to sta-
22 tus, a foreign passport with Form I-
23 94 or Form I-94A, or other docu-
24 mentation as designated by the Sec-
25 retary specifying the alien’s non-

1 immigrant status as long as the pe-
2 riod of status has not yet expired and
3 the proposed employment is not in
4 conflict with any restrictions or limita-
5 tions identified in the documentation;

6 “(V) passport from the Fed-
7 erated States of Micronesia (FSM) or
8 the Republic of the Marshall Islands
9 (RMI) with Form I-94 or Form I-
10 94A, or other documentation as des-
11 ignated by the Secretary, indicating
12 nonimmigrant admission under the
13 Compact of Free Association Between
14 the United States and the FSM or
15 RMI; or

16 “(VI) other document designated
17 by the Secretary of Homeland Secu-
18 rity, if the document—

19 “(aa) contains a photograph
20 of the individual and biometric
21 identification data from the indi-
22 vidual and such other personal
23 identifying information relating
24 to the individual as the Secretary
25 of Homeland Security finds, by

1 regulation, sufficient for purposes
2 of this clause;

3 “(bb) is evidence of author-
4 ization of employment in the
5 United States; and

6 “(cc) contains security fea-
7 tures to make it resistant to tam-
8 pering, counterfeiting, and fraud-
9 ulent use.

10 “(iii) DOCUMENTS EVIDENCING EM-
11 PLOYMENT AUTHORIZATION.—A document
12 described in this subparagraph is an indi-
13 vidual’s social security account number
14 card (other than such a card which speci-
15 fies on the face that the issuance of the
16 card does not authorize employment in the
17 United States).

18 “(iv) DOCUMENTS ESTABLISHING
19 IDENTITY OF INDIVIDUAL.—A document
20 described in this subparagraph is—

21 “(I) an individual’s unexpired
22 State issued driver’s license or identi-
23 fication card if it contains a photo-
24 graph and information such as name,

1 date of birth, gender, height, eye
2 color, and address;

3 “(II) an individual’s unexpired
4 U.S. military identification card;

5 “(III) an individual’s unexpired
6 Native American tribal identification
7 document issued by a tribal entity rec-
8 ognized by the Bureau of Indian Af-
9 fairs; or

10 “(IV) in the case of an individual
11 under 18 years of age, a parent or
12 legal guardian’s attestation under
13 penalty of law as to the identity and
14 age of the individual.

15 “(v) AUTHORITY TO PROHIBIT USE OF
16 CERTAIN DOCUMENTS.—If the Secretary of
17 Homeland Security finds, by regulation,
18 that any document described in clause (i),
19 (ii), or (iii) as establishing employment au-
20 thorization or identity does not reliably es-
21 tablish such authorization or identity or is
22 being used fraudulently to an unacceptable
23 degree, the Secretary may prohibit or place
24 conditions on its use for purposes of this
25 paragraph.

1 “(vi) SIGNATURE.—Such attestation
2 may be manifested by either a handwritten
3 or electronic signature.

4 “(B) INDIVIDUAL ATTESTATION OF EM-
5 PLOYMENT AUTHORIZATION.—During the
6 verification period (as defined in subparagraph
7 (E)), the individual shall attest, under penalty
8 of perjury on the form designated or established
9 for purposes of subparagraph (A), that the indi-
10 vidual is a citizen or national of the United
11 States, an alien lawfully admitted for perma-
12 nent residence, or an alien who is authorized
13 under this Act or by the Secretary of Homeland
14 Security to be hired, recruited, or referred for
15 such employment. Such attestation may be
16 manifested by either a handwritten or electronic
17 signature. The individual shall also provide that
18 individual’s social security account number or
19 United States passport number (if the indi-
20 vidual claims to have been issued such a num-
21 ber), and, if the individual does not attest to
22 United States nationality under this subpara-
23 graph, such identification or authorization num-
24 ber established by the Department of Homeland

1 Security for the alien as the Secretary may
2 specify.

3 “(C) RETENTION OF VERIFICATION FORM
4 AND VERIFICATION.—

5 “(i) IN GENERAL.—After completion
6 of such form in accordance with subpara-
7 graphs (A) and (B), the person or entity
8 shall—

9 “(I) retain a paper, microfiche,
10 microfilm, or electronic version of the
11 form and make it available for inspec-
12 tion by officers of the Department of
13 Homeland Security, the Department
14 of Justice, or the Department of
15 Labor during a period beginning on
16 the date of the recruiting or referral
17 of the individual, or, in the case of the
18 hiring of an individual, the date on
19 which the verification is completed,
20 and ending—

21 “(aa) in the case of the re-
22 cruiting or referral of an indi-
23 vidual, 3 years after the date of
24 the recruiting or referral; and

1 “(bb) in the case of the hir-
2 ing of an individual, the later of
3 3 years after the date the
4 verification is completed or one
5 year after the date the individ-
6 ual’s employment is terminated;
7 and

8 “(II) during the verification pe-
9 riod (as defined in subparagraph (E)),
10 make an inquiry, as provided in sub-
11 section (d), using the verification sys-
12 tem to seek verification of the identity
13 and employment eligibility of an indi-
14 vidual.

15 “(ii) CONFIRMATION.—

16 “(I) CONFIRMATION RE-
17 CEIVED.—If the person or other entity
18 receives an appropriate confirmation
19 of an individual’s identity and work
20 eligibility under the verification sys-
21 tem within the time period specified,
22 the person or entity shall record on
23 the form an appropriate code that is
24 provided under the system and that
25 indicates a final confirmation of such

1 identity and work eligibility of the in-
2 dividual.

3 “(II) TENTATIVE NONCONFIRMA-
4 TION RECEIVED.—If the person or
5 other entity receives a tentative non-
6 confirmation of an individual’s iden-
7 tity or work eligibility under the
8 verification system within the time pe-
9 riod specified, the person or entity
10 shall so inform the individual for
11 whom the verification is sought. If the
12 individual does not contest the non-
13 confirmation within the time period
14 specified, the nonconfirmation shall be
15 considered final. The person or entity
16 shall then record on the form an ap-
17 propriate code which has been pro-
18 vided under the system to indicate a
19 final nonconfirmation. If the indi-
20 vidual does contest the nonconfirma-
21 tion, the individual shall utilize the
22 process for secondary verification pro-
23 vided under subsection (d). The non-
24 confirmation will remain tentative
25 until a final confirmation or noncon-

1 firmation is provided by the
2 verification system within the time pe-
3 riod specified. In no case shall an em-
4 ployer terminate employment of an in-
5 dividual because of a failure of the in-
6 dividual to have identity and work eli-
7 gibility confirmed under this section
8 until a nonconfirmation becomes final.
9 Nothing in this clause shall apply to a
10 termination of employment for any
11 reason other than because of such a
12 failure. In no case shall an employer
13 rescind the offer of employment to an
14 individual because of a failure of the
15 individual to have identity and work
16 eligibility confirmed under this sub-
17 section until a nonconfirmation be-
18 comes final. Nothing in this subclause
19 shall apply to a rescission of the offer
20 of employment for any reason other
21 than because of such a failure.

22 “(III) FINAL CONFIRMATION OR
23 NONCONFIRMATION RECEIVED.—If a
24 final confirmation or nonconfirmation
25 is provided by the verification system

1 regarding an individual, the person or
2 entity shall record on the form an ap-
3 propriate code that is provided under
4 the system and that indicates a con-
5 firmation or nonconfirmation of iden-
6 tity and work eligibility of the indi-
7 vidual.

8 “(IV) EXTENSION OF TIME.—If
9 the person or other entity in good
10 faith attempts to make an inquiry
11 during the time period specified and
12 the verification system has registered
13 that not all inquiries were received
14 during such time, the person or entity
15 may make an inquiry in the first sub-
16 sequent working day in which the
17 verification system registers that it
18 has received all inquiries. If the
19 verification system cannot receive in-
20 quiries at all times during a day, the
21 person or entity merely has to assert
22 that the entity attempted to make the
23 inquiry on that day for the previous
24 sentence to apply to such an inquiry,

1 and does not have to provide any ad-
2 ditional proof concerning such inquiry.

3 “(V) CONSEQUENCES OF NON-
4 CONFIRMATION.—

5 “(aa) TERMINATION OR NO-
6 TIFICATION OF CONTINUED EM-
7 PLOYMENT.—If the person or
8 other entity has received a final
9 nonconfirmation regarding an in-
10 dividual, the person or entity
11 may terminate employment of the
12 individual (or decline to recruit
13 or refer the individual). If the
14 person or entity does not termi-
15 nate employment of the indi-
16 vidual or proceeds to recruit or
17 refer the individual, the person or
18 entity shall notify the Secretary
19 of Homeland Security of such
20 fact through the verification sys-
21 tem or in such other manner as
22 the Secretary may specify.

23 “(bb) FAILURE TO NO-
24 TIFY.—If the person or entity
25 fails to provide notice with re-

1 spect to an individual as required
2 under item (aa), the failure is
3 deemed to constitute a violation
4 of subsection (a)(1)(A) with re-
5 spect to that individual.

6 “(VI) CONTINUED EMPLOYMENT
7 AFTER FINAL NONCONFIRMATION.—If
8 the person or other entity continues to
9 employ (or to recruit or refer) an indi-
10 vidual after receiving final noncon-
11 firmation, a rebuttable presumption is
12 created that the person or entity has
13 violated subsection (a)(1)(A).

14 “(D) EFFECTIVE DATES OF NEW PROCE-
15 DURES.—

16 “(i) HIRING.—Except as provided in
17 clause (iii), the provisions of this para-
18 graph shall apply to a person or other enti-
19 ty hiring an individual for employment in
20 the United States as follows:

21 “(I) With respect to employers
22 having 10,000 or more employees in
23 the United States on the date of the
24 enactment of the Legal Workforce
25 Act, on the date that is 6 months

1 after the date of the enactment of
2 such Act.

3 “(II) With respect to employers
4 having 500 or more employees in the
5 United States, but less than 10,000
6 employees in the United States, on
7 the date of the enactment of the
8 Legal Workforce Act, on the date that
9 is 12 months after the date of the en-
10 actment of such Act.

11 “(III) With respect to employers
12 having 20 or more employees in the
13 United States, but less than 500 em-
14 ployees in the United States, on the
15 date of the enactment of the Legal
16 Workforce Act, on the date that is 18
17 months after the date of the enact-
18 ment of such Act.

19 “(IV) With respect to employers
20 having 1 or more employees in the
21 United States, but less than 20 em-
22 ployees in the United States, on the
23 date of the enactment of the Legal
24 Workforce Act, on the date that is 24

1 months after the date of the enact-
2 ment of such Act.

3 “(ii) RECRUITING AND REFERRING.—

4 Except as provided in clause (iii), the pro-
5 visions of this paragraph shall apply to a
6 person or other entity recruiting or refer-
7 ring an individual for employment in the
8 United States on the date that is 12
9 months after the date of the enactment of
10 the Legal Workforce Act.

11 “(iii) AGRICULTURAL LABOR OR SERV-

12 ICES.—With respect to an employee per-
13 forming agricultural labor or services, this
14 paragraph shall not apply with respect to
15 the verification of the employee until the
16 date that is 30 months after the date of
17 the enactment of the Legal Workforce Act.
18 For purposes of the preceding sentence,
19 the term ‘agricultural labor or services’ has
20 the meaning given such term by the Sec-
21 retary of Agriculture in regulations and in-
22 cludes agricultural labor as defined in sec-
23 tion 3121(g) of the Internal Revenue Code
24 of 1986, agriculture as defined in section
25 3(f) of the Fair Labor Standards Act of

1 1938 (29 U.S.C. 203(f)), the handling,
2 planting, drying, packing, packaging, proc-
3 essing, freezing, or grading prior to deliv-
4 ery for storage of any agricultural or horti-
5 cultural commodity in its unmanufactured
6 state, all activities required for the prepa-
7 ration, processing or manufacturing of a
8 product of agriculture (as such term is de-
9 fined in such section 3(f)) for further dis-
10 tribution, and activities similar to all the
11 foregoing as they relate to fish or shellfish
12 facilities. An employee described in this
13 clause shall not be counted for purposes of
14 clause (i).

15 “(iv) EXTENSIONS.—Upon request by
16 an employer having 50 or fewer employees,
17 the Secretary shall allow a one-time 6-
18 month extension of the effective date set
19 out in this subparagraph applicable to such
20 employer. Such request shall be made to
21 the Secretary and shall be made prior to
22 such effective date.

23 “(v) TRANSITION RULE.—Subject to
24 paragraph (4), the following shall apply to
25 a person or other entity hiring, recruiting,

1 or referring an individual for employment
2 in the United States until the effective
3 date or dates applicable under clauses (i)
4 through (iii):

5 “(I) This subsection, as in effect
6 before the enactment of the Legal
7 Workforce Act.

8 “(II) Subtitle A of title IV of the
9 Illegal Immigration Reform and Im-
10 migrant Responsibility Act of 1996 (8
11 U.S.C. 1324a note), as in effect be-
12 fore the effective date in section
13 207(c) of the Legal Workforce Act.

14 “(III) Any other provision of
15 Federal law requiring the person or
16 entity to participate in the E-Verify
17 Program described in section 403(a)
18 of the Illegal Immigration Reform and
19 Immigrant Responsibility Act of 1996
20 (8 U.S.C. 1324a note), as in effect be-
21 fore the effective date in section
22 207(c) of the Legal Workforce Act,
23 including Executive Order 13465 (8
24 U.S.C. 1324a note; relating to Gov-
25 ernment procurement).

1 “(E) VERIFICATION PERIOD DEFINED.—

2 “(i) IN GENERAL.—For purposes of
3 this paragraph:

4 “(I) In the case of recruitment or
5 referral, the term ‘verification period’
6 means the period ending on the date
7 recruiting or referring commences.

8 “(II) In the case of hiring, the
9 term ‘verification period’ means the
10 period beginning on the date on which
11 an offer of employment is extended
12 and ending on the date that is three
13 business days after the date of hire,
14 except as provided in clause (iii). The
15 offer of employment may be condi-
16 tioned in accordance with clause (ii).

17 “(ii) JOB OFFER MAY BE CONDI-
18 TIONAL.—A person or other entity may
19 offer a prospective employee an employ-
20 ment position that is conditioned on final
21 verification of the identity and employment
22 eligibility of the employee using the proce-
23 dures established under this paragraph.

24 “(iii) SPECIAL RULE.—Notwith-
25 standing clause (i)(II), in the case of an

1 alien who is authorized for employment
2 and who provides evidence from the Social
3 Security Administration that the alien has
4 applied for a social security account num-
5 ber, the verification period ends three busi-
6 ness days after the alien receives the social
7 security account number.

8 “(2) REVERIFICATION FOR INDIVIDUALS WITH
9 LIMITED WORK AUTHORIZATION.—

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (B), a person or entity shall
12 make an inquiry, as provided in subsection (d),
13 using the verification system to seek
14 reverification of the identity and employment
15 eligibility of all individuals with a limited period
16 of work authorization employed by the person
17 or entity during the three business days after
18 the date on which the employee’s work author-
19 ization expires as follows:

20 “(i) With respect to employers having
21 10,000 or more employees in the United
22 States on the date of the enactment of the
23 Legal Workforce Act, beginning on the
24 date that is 6 months after the date of the
25 enactment of such Act.

1 “(ii) With respect to employers having
2 500 or more employees in the United
3 States, but less than 10,000 employees in
4 the United States, on the date of the en-
5 actment of the Legal Workforce Act, be-
6 ginning on the date that is 12 months
7 after the date of the enactment of such
8 Act.

9 “(iii) With respect to employers hav-
10 ing 20 or more employees in the United
11 States, but less than 500 employees in the
12 United States, on the date of the enact-
13 ment of the Legal Workforce Act, begin-
14 ning on the date that is 18 months after
15 the date of the enactment of such Act.

16 “(iv) With respect to employers hav-
17 ing 1 or more employees in the United
18 States, but less than 20 employees in the
19 United States, on the date of the enact-
20 ment of the Legal Workforce Act, begin-
21 ning on the date that is 24 months after
22 the date of the enactment of such Act.

23 “(B) AGRICULTURAL LABOR OR SERV-
24 ICES.—With respect to an employee performing
25 agricultural labor or services, or an employee

1 recruited or referred by a farm labor contractor
2 (as defined in section 3 of the Migrant and Sea-
3 sonal Agricultural Worker Protection Act (29
4 U.S.C. 1801)), subparagraph (A) shall not
5 apply with respect to the reverification of the
6 employee until the date that is 30 months after
7 the date of the enactment of the Legal Work-
8 force Act. For purposes of the preceding sen-
9 tence, the term ‘agricultural labor or services’
10 has the meaning given such term by the Sec-
11 retary of Agriculture in regulations and in-
12 cludes agricultural labor as defined in section
13 3121(g) of the Internal Revenue Code of 1986,
14 agriculture as defined in section 3(f) of the
15 Fair Labor Standards Act of 1938 (29 U.S.C.
16 203(f)), the handling, planting, drying, packing,
17 packaging, processing, freezing, or grading
18 prior to delivery for storage of any agricultural
19 or horticultural commodity in its unmanufac-
20 tured state, all activities required for the prepa-
21 ration, processing, or manufacturing of a prod-
22 uct of agriculture (as such term is defined in
23 such section 3(f)) for further distribution, and
24 activities similar to all the foregoing as they re-
25 late to fish or shellfish facilities. An employee

described in this subparagraph shall not be counted for purposes of subparagraph (A).

“(C) REVERIFICATION.—Paragraph (1)(C)(ii) shall apply to reverifications pursuant to this paragraph on the same basis as it applies to verifications pursuant to paragraph (1), except that employers shall—

“(i) use a form designated or established by the Secretary by regulation for purposes of this paragraph; and

“(ii) retain a paper, microfiche, microfilm, or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security, the Department of Justice, or the Department of Labor during the period beginning on the date the reverification commences and ending on the date that is the later of 3 years after the date of such reverification or 1 year after the date the individual’s employment is terminated.

“(3) PREVIOUSLY HIRED INDIVIDUALS.—

“(A) ON A MANDATORY BASIS FOR CERTAIN EMPLOYEES.—

1 “(i) IN GENERAL.—Not later than the
2 date that is 6 months after the date of the
3 enactment of the Legal Workforce Act, an
4 employer shall make an inquiry, as pro-
5 vided in subsection (d), using the
6 verification system to seek verification of
7 the identity and employment eligibility of
8 any individual described in clause (ii) em-
9 ployed by the employer whose employment
10 eligibility has not been verified under the
11 E-Verify Program described in section
12 403(a) of the Illegal Immigration Reform
13 and Immigrant Responsibility Act of 1996
14 (8 U.S.C. 1324a note).

15 “(ii) INDIVIDUALS DESCRIBED.—An
16 individual described in this clause is any of
17 the following:

18 “(I) An employee of any unit of
19 a Federal, State, or local government.

20 “(II) An employee who requires a
21 Federal security clearance working in
22 a Federal, State or local government
23 building, a military base, a nuclear
24 energy site, a weapons site, or an air-
25 port or other facility that requires

1 workers to carry a Transportation
2 Worker Identification Credential
3 (TWIC).

4 “(III) An employee assigned to
5 perform work in the United States
6 under a Federal contract, except that
7 this subclause—

8 “(aa) is not applicable to in-
9 dividuals who have a clearance
10 under Homeland Security Presi-
11 dential Directive 12 (HSPD 12
12 clearance), are administrative or
13 overhead personnel, or are work-
14 ing solely on contracts that pro-
15 vide Commercial Off The Shelf
16 goods or services as set forth by
17 the Federal Acquisition Regu-
18 latory Council, unless they are
19 subject to verification under sub-
20 clause (II); and

21 “(bb) only applies to con-
22 tracts over the simple acquisition
23 threshold as defined in section
24 2.101 of title 48, Code of Federal
25 Regulations.

1 “(B) ON A MANDATORY BASIS FOR MUL-
2 TIPLE USERS OF SAME SOCIAL SECURITY AC-
3 COUNT NUMBER.—In the case of an employer
4 who is required by this subsection to use the
5 verification system described in subsection (d),
6 or has elected voluntarily to use such system,
7 the employer shall make inquiries to the system
8 in accordance with the following:

9 “(i) The Commissioner of Social Secu-
10 rity shall notify annually employees (at the
11 employee address listed on the Wage and
12 Tax Statement) who submit a social secu-
13 rity account number to which more than
14 one employer reports income and for which
15 there is a pattern of unusual multiple use.
16 The notification letter shall identify the
17 number of employers to which income is
18 being reported as well as sufficient infor-
19 mation notifying the employee of the proc-
20 ess to contact the Social Security Adminis-
21 tration Fraud Hotline if the employee be-
22 lieves the employee’s identity may have
23 been stolen. The notice shall not share in-
24 formation protected as private, in order to
25 avoid any recipient of the notice from

1 being in the position to further commit or
2 begin committing identity theft.

3 “(ii) If the person to whom the social
4 security account number was issued by the
5 Social Security Administration has been
6 identified and confirmed by the Commis-
7 sioner, and indicates that the social secu-
8 rity account number was used without
9 their knowledge, the Secretary and the
10 Commissioner shall lock the social security
11 account number for employment eligibility
12 verification purposes and shall notify the
13 employers of the individuals who wrong-
14 fully submitted the social security account
15 number that the employee may not be
16 work eligible.

17 “(iii) Each employer receiving such
18 notification of an incorrect social security
19 account number under clause (ii) shall use
20 the verification system described in sub-
21 section (d) to check the work eligibility sta-
22 tus of the applicable employee within 10
23 business days of receipt of the notification.

24 “(C) ON A VOLUNTARY BASIS.—Subject to
25 paragraph (2), and subparagraphs (A) through

(C) of this paragraph, beginning on the date that is 30 days after the date of the enactment of the Legal Workforce Act, an employer may make an inquiry, as provided in subsection (d), using the verification system to seek verification of the identity and employment eligibility of any individual employed by the employer. If an employer chooses voluntarily to seek verification of any individual employed by the employer, the employer shall seek verification of all individuals employed at the same geographic location or, at the option of the employer, all individuals employed within the same job category, as the employee with respect to whom the employer seeks voluntarily to use the verification system. An employer's decision about whether or not voluntarily to seek verification of its current workforce under this subparagraph may not be considered by any government agency in any proceeding, investigation, or review provided for in this Act.

“(D) VERIFICATION.—Paragraph (1)(C)(ii) shall apply to verifications pursuant to this paragraph on the same basis as it ap-

1 plies to verifications pursuant to paragraph (1),
2 except that employers shall—

3 “(i) use a form designated or estab-
4 lished by the Secretary by regulation for
5 purposes of this paragraph; and

6 “(ii) retain a paper, microfiche, micro-
7 film, or electronic version of the form and
8 make it available for inspection by officers
9 of the Department of Homeland Security,
10 the Department of Justice, or the Depart-
11 ment of Labor during the period beginning
12 on the date the verification commences and
13 ending on the date that is the later of 3
14 years after the date of such verification or
15 1 year after the date the individual’s em-
16 ployment is terminated.

17 “(4) EARLY COMPLIANCE.—

18 “(A) FORMER E-VERIFY REQUIRED USERS,
19 INCLUDING FEDERAL CONTRACTORS.—Notwith-
20 standing the deadlines in paragraphs (1) and
21 (2), beginning on the date of the enactment of
22 the Legal Workforce Act, the Secretary is au-
23 thorized to commence requiring employers re-
24 quired to participate in the E-Verify Program
25 described in section 403(a) of the Illegal Immi-

1 gration Reform and Immigrant Responsibility
2 Act of 1996 (8 U.S.C. 1324a note), including
3 employers required to participate in such pro-
4 gram by reason of Federal acquisition laws
5 (and regulations promulgated under those laws,
6 including the Federal Acquisition Regulation),
7 to commence compliance with the requirements
8 of this subsection (and any additional require-
9 ments of such Federal acquisition laws and reg-
10 ulation) in lieu of any requirement to partici-
11 pate in the E-Verify Program.

12 “(B) FORMER E-VERIFY VOLUNTARY
13 USERS AND OTHERS DESIRING EARLY COMPLI-
14 ANCE.—Notwithstanding the deadlines in para-
15 graphs (1) and (2), beginning on the date of
16 the enactment of the Legal Workforce Act, the
17 Secretary shall provide for the voluntary com-
18 pliance with the requirements of this subsection
19 by employers voluntarily electing to participate
20 in the E-Verify Program described in section
21 403(a) of the Illegal Immigration Reform and
22 Immigrant Responsibility Act of 1996 (8 U.S.C.
23 1324a note) before such date, as well as by
24 other employers seeking voluntary early compli-
25 ance.

1 “(5) COPYING OF DOCUMENTATION PER-
2 MITTED.—Notwithstanding any other provision of
3 law, the person or entity may copy a document pre-
4 sented by an individual pursuant to this subsection
5 and may retain the copy, but only (except as other-
6 wise permitted under law) for the purpose of com-
7 plying with the requirements of this subsection.

8 “(6) LIMITATION ON USE OF FORMS.—A form
9 designated or established by the Secretary of Home-
10 land Security under this subsection and any infor-
11 mation contained in or appended to such form, may
12 not be used for purposes other than for enforcement
13 of this Act and any other provision of Federal crimi-
14 nal law.

15 “(7) GOOD FAITH COMPLIANCE.—

16 “(A) IN GENERAL.—Except as otherwise
17 provided in this subsection, a person or entity
18 is considered to have complied with a require-
19 ment of this subsection notwithstanding a tech-
20 nical or procedural failure to meet such require-
21 ment if there was a good faith attempt to com-
22 ply with the requirement.

23 “(B) EXCEPTION IF FAILURE TO CORRECT
24 AFTER NOTICE.—Subparagraph (A) shall not
25 apply if—

1 “(i) the failure is not de minimus;

2 “(ii) the Secretary of Homeland Secu-
3 rity has explained to the person or entity
4 the basis for the failure and why it is not
5 de minimus;

6 “(iii) the person or entity has been
7 provided a period of not less than 30 cal-
8 endar days (beginning after the date of the
9 explanation) within which to correct the
10 failure; and

11 “(iv) the person or entity has not cor-
12 rected the failure voluntarily within such
13 period.

14 “(C) EXCEPTION FOR PATTERN OR PRAC-
15 TICE VIOLATORS.—Subparagraph (A) shall not
16 apply to a person or entity that has or is engag-
17 ing in a pattern or practice of violations of sub-
18 section (a)(1)(A) or (a)(2).

19 “(8) SINGLE EXTENSION OF DEADLINES UPON
20 CERTIFICATION.—In a case in which the Secretary
21 of Homeland Security has certified to the Congress
22 that the employment eligibility verification system
23 required under subsection (d) will not be fully oper-
24 ational by the date that is 6 months after the date
25 of the enactment of the Legal Workforce Act, each

1 deadline established under this section for an em-
2 ployer to make an inquiry using such system shall
3 be extended by 6 months. No other extension of such
4 a deadline shall be made except as authorized under
5 paragraph (1)(D)(iv).”.

6 (b) DATE OF HIRE.—Section 274A(h) of the Immi-
7 gration and Nationality Act (8 U.S.C. 1324a(h)) is
8 amended by adding at the end the following:

9 “(4) DEFINITION OF DATE OF HIRE.—As used
10 in this section, the term ‘date of hire’ means the
11 date of actual commencement of employment for
12 wages or other remuneration, unless otherwise speci-
13 fied.”.

14 **SEC. 203. EMPLOYMENT ELIGIBILITY VERIFICATION SYS-**
15 **TEM.**

16 Section 274A(d) of the Immigration and Nationality
17 Act (8 U.S.C. 1324a(d)) is amended to read as follows:

18 “(d) EMPLOYMENT ELIGIBILITY VERIFICATION SYS-
19 TEM.—

20 “(1) IN GENERAL.—Patterned on the employ-
21 ment eligibility confirmation system established
22 under section 404 of the Illegal Immigration Reform
23 and Immigrant Responsibility Act of 1996 (8 U.S.C.
24 1324a note), the Secretary of Homeland Security
25 shall establish and administer a verification system

1 through which the Secretary (or a designee of the
2 Secretary, which may be a nongovernmental enti-
3 ty)—

4 “(A) responds to inquiries made by per-
5 sons at any time through a toll-free telephone
6 line and other toll-free electronic media con-
7 cerning an individual’s identity and whether the
8 individual is authorized to be employed; and

9 “(B) maintains records of the inquiries
10 that were made, of verifications provided (or
11 not provided), and of the codes provided to in-
12 quirers as evidence of their compliance with
13 their obligations under this section.

14 “(2) INITIAL RESPONSE.—The verification sys-
15 tem shall provide confirmation or a tentative non-
16 confirmation of an individual’s identity and employ-
17 ment eligibility within 3 working days of the initial
18 inquiry. If providing confirmation or tentative non-
19 confirmation, the verification system shall provide an
20 appropriate code indicating such confirmation or
21 such nonconfirmation.

22 “(3) SECONDARY CONFIRMATION PROCESS IN
23 CASE OF TENTATIVE NONCONFIRMATION.—In cases
24 of tentative nonconfirmation, the Secretary shall
25 specify, in consultation with the Commissioner of

1 Social Security, an available secondary verification
2 process to confirm the validity of information pro-
3 vided and to provide a final confirmation or noncon-
4 firmation not later than 10 working days after the
5 date on which the notice of the tentative noncon-
6 firmation is received by the employee. The Secretary,
7 in consultation with the Commissioner, may extend
8 this deadline once on a case-by-case basis for a pe-
9 riod of 10 working days, and if the time is extended,
10 shall document such extension within the verification
11 system. The Secretary, in consultation with the
12 Commissioner, shall notify the employee and em-
13 ployer of such extension. The Secretary, in consulta-
14 tion with the Commissioner, shall create a standard
15 process of such extension and notification and shall
16 make a description of such process available to the
17 public. When final confirmation or nonconfirmation
18 is provided, the verification system shall provide an
19 appropriate code indicating such confirmation or
20 nonconfirmation.

21 “(4) DESIGN AND OPERATION OF SYSTEM.—
22 The verification system shall be designed and oper-
23 ated—

24 “(A) to maximize its reliability and ease of
25 use by persons and other entities consistent

1 with insulating and protecting the privacy and
2 security of the underlying information;

3 “(B) to respond to all inquiries made by
4 such persons and entities on whether individ-
5 uals are authorized to be employed and to reg-
6 ister all times when such inquiries are not re-
7 ceived;

8 “(C) with appropriate administrative, tech-
9 nical, and physical safeguards to prevent unau-
10 thorized disclosure of personal information;

11 “(D) to have reasonable safeguards against
12 the system’s resulting in unlawful discrimina-
13 tory practices based on national origin or citi-
14 zenship status, including—

15 “(i) the selective or unauthorized use
16 of the system to verify eligibility; or

17 “(ii) the exclusion of certain individ-
18 uals from consideration for employment as
19 a result of a perceived likelihood that addi-
20 tional verification will be required, beyond
21 what is required for most job applicants;

22 “(E) to maximize the prevention of iden-
23 tity theft use in the system; and

24 “(F) to limit the subjects of verification to
25 the following individuals:

1 “(i) Individuals hired, referred, or re-
2 cruited, in accordance with paragraph (1)
3 or (4) of subsection (b).

4 “(ii) Employees and prospective em-
5 ployees, in accordance with paragraph (1),
6 (2), (3), or (4) of subsection (b).

7 “(iii) Individuals seeking to confirm
8 their own employment eligibility on a vol-
9 untary basis.

10 “(5) RESPONSIBILITIES OF COMMISSIONER OF
11 SOCIAL SECURITY.—As part of the verification sys-
12 tem, the Commissioner of Social Security, in con-
13 sultation with the Secretary of Homeland Security
14 (and any designee of the Secretary selected to estab-
15 lish and administer the verification system), shall es-
16 tablish a reliable, secure method, which, within the
17 time periods specified under paragraphs (2) and (3),
18 compares the name and social security account num-
19 ber provided in an inquiry against such information
20 maintained by the Commissioner in order to validate
21 (or not validate) the information provided regarding
22 an individual whose identity and employment eligi-
23 bility must be confirmed, the correspondence of the
24 name and number, and whether the individual has
25 presented a social security account number that is

1 not valid for employment. The Commissioner shall
2 not disclose or release social security information
3 (other than such confirmation or nonconfirmation)
4 under the verification system except as provided for
5 in this section or section 205(c)(2)(I) of the Social
6 Security Act.

7 “(6) RESPONSIBILITIES OF SECRETARY OF
8 HOMELAND SECURITY.—As part of the verification
9 system, the Secretary of Homeland Security (in con-
10 sultation with any designee of the Secretary selected
11 to establish and administer the verification system),
12 shall establish a reliable, secure method, which, with-
13 in the time periods specified under paragraphs (2)
14 and (3), compares the name and alien identification
15 or authorization number (or any other information
16 as determined relevant by the Secretary) which are
17 provided in an inquiry against such information
18 maintained or accessed by the Secretary in order to
19 validate (or not validate) the information provided,
20 the correspondence of the name and number, wheth-
21 er the alien is authorized to be employed in the
22 United States, or to the extent that the Secretary
23 determines to be feasible and appropriate, whether
24 the records available to the Secretary verify the
25 identity or status of a national of the United States.

1 “(7) UPDATING INFORMATION.—The Commis-
2 sioner of Social Security and the Secretary of Home-
3 land Security shall update their information in a
4 manner that promotes the maximum accuracy and
5 shall provide a process for the prompt correction of
6 erroneous information, including instances in which
7 it is brought to their attention in the secondary
8 verification process described in paragraph (3).

9 “(8) LIMITATION ON USE OF THE
10 VERIFICATION SYSTEM AND ANY RELATED SYS-
11 TEMS.—

12 “(A) NO NATIONAL IDENTIFICATION
13 CARD.—Nothing in this section shall be con-
14 strued to authorize, directly or indirectly, the
15 issuance or use of national identification cards
16 or the establishment of a national identification
17 card.

18 “(B) CRITICAL INFRASTRUCTURE.—The
19 Secretary may authorize or direct any person or
20 entity responsible for granting access to, pro-
21 tecting, securing, operating, administering, or
22 regulating part of the critical infrastructure (as
23 defined in section 1016(e) of the Critical Infra-
24 structure Protection Act of 2001 (42 U.S.C.
25 5195c(e))) to use the verification system to the

1 extent the Secretary determines that such use
 2 will assist in the protection of the critical infra-
 3 structure.

4 “(9) REMEDIES.—If an individual alleges that
 5 the individual would not have been dismissed from
 6 a job but for an error of the verification mechanism,
 7 the individual may seek compensation only through
 8 the mechanism of the Federal Tort Claims Act, and
 9 injunctive relief to correct such error. No class ac-
 10 tion may be brought under this paragraph.”.

11 **SEC. 204. RECRUITMENT, REFERRAL, AND CONTINUATION**
 12 **OF EMPLOYMENT.**

13 (a) ADDITIONAL CHANGES TO RULES FOR RECRUIT-
 14 MENT, REFERRAL, AND CONTINUATION OF EMPLOY-
 15 MENT.—Section 274A(a) of the Immigration and Nation-
 16 ality Act (8 U.S.C. 1324a(a)) is amended—

17 (1) in paragraph (1)(A), by striking “for a fee”;

18 (2) in paragraph (1), by amending subpara-
 19 graph (B) to read as follows:

20 “(B) to hire, continue to employ, or to re-
 21 cruit or refer for employment in the United
 22 States an individual without complying with the
 23 requirements of subsection (b).”; and

24 (3) in paragraph (2), by striking “after hiring
 25 an alien for employment in accordance with para-

1 graph (1),” and inserting “after complying with
2 paragraph (1),”.

3 (b) DEFINITION.—Section 274A(h) of the Immigra-
4 tion and Nationality Act (8 U.S.C. 1324a(h)), as amended
5 by section 202(b) of this title, is further amended by add-
6 ing at the end the following:

7 “(5) DEFINITION OF RECRUIT OR REFER.—As
8 used in this section, the term ‘refer’ means the act
9 of sending or directing a person who is in the United
10 States or transmitting documentation or information
11 to another, directly or indirectly, with the intent of
12 obtaining employment in the United States for such
13 person. Only persons or entities referring for remu-
14 nation (whether on a retainer or contingency
15 basis) are included in the definition, except that
16 union hiring halls that refer union members or non-
17 union individuals who pay union membership dues
18 are included in the definition whether or not they re-
19 ceive remuneration, as are labor service entities or
20 labor service agencies, whether public, private, for-
21 profit, or nonprofit, that refer, dispatch, or other-
22 wise facilitate the hiring of laborers for any period
23 of time by a third party. As used in this section, the
24 term ‘recruit’ means the act of soliciting a person
25 who is in the United States, directly or indirectly,

1 and referring the person to another with the intent
2 of obtaining employment for that person. Only per-
3 sons or entities referring for remuneration (whether
4 on a retainer or contingency basis) are included in
5 the definition, except that union hiring halls that
6 refer union members or nonunion individuals who
7 pay union membership dues are included in this defi-
8 nition whether or not they receive remuneration, as
9 are labor service entities or labor service agencies,
10 whether public, private, for-profit, or nonprofit that
11 recruit, dispatch, or otherwise facilitate the hiring of
12 laborers for any period of time by a third party.”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect on the date that is 1 year
15 after the date of the enactment of this Act, except that
16 the amendments made by subsection (a) shall take effect
17 6 months after the date of the enactment of this Act inso-
18 far as such amendments relate to continuation of employ-
19 ment.

20 **SEC. 205. GOOD FAITH DEFENSE.**

21 Section 274A(a)(3) of the Immigration and Nation-
22 ality Act (8 U.S.C. 1324a(a)(3)) is amended to read as
23 follows:

24 “(3) GOOD FAITH DEFENSE.—

1 “(A) DEFENSE.—An employer (or person
2 or entity that hires, employs, recruits, or refers
3 (as defined in subsection (h)(5)), or is otherwise
4 obligated to comply with this section) who es-
5 tablishes that it has complied in good faith with
6 the requirements of subsection (b)—

7 “(i) shall not be liable to a job appli-
8 cant, an employee, the Federal Govern-
9 ment, or a State or local government,
10 under Federal, State, or local criminal or
11 civil law for any employment-related action
12 taken with respect to a job applicant or
13 employee in good-faith reliance on informa-
14 tion provided through the system estab-
15 lished under subsection (d); and

16 “(ii) has established compliance with
17 its obligations under subparagraphs (A)
18 and (B) of paragraph (1) and subsection
19 (b) absent a showing by the Secretary of
20 Homeland Security, by clear and con-
21 vincing evidence, that the employer had
22 knowledge that an employee is an unau-
23 thorized alien.

24 “(B) MITIGATION ELEMENT.—For pur-
25 poses of subparagraph (A)(i), if an employer

1 proves by a preponderance of the evidence that
2 the employer uses a reasonable, secure, and es-
3 tablished technology to authenticate the identity
4 of the new employee, that fact shall be taken
5 into account for purposes of determining good
6 faith use of the system established under sub-
7 section (d).

8 “(C) FAILURE TO SEEK AND OBTAIN
9 VERIFICATION.—Subject to the effective dates
10 and other deadlines applicable under subsection
11 (b), in the case of a person or entity in the
12 United States that hires, or continues to em-
13 ploy, an individual, or recruits or refers an indi-
14 vidual for employment, the following require-
15 ments apply:

16 “(i) FAILURE TO SEEK
17 VERIFICATION.—

18 “(I) IN GENERAL.—If the person
19 or entity has not made an inquiry,
20 under the mechanism established
21 under subsection (d) and in accord-
22 ance with the timeframes established
23 under subsection (b), seeking
24 verification of the identity and work
25 eligibility of the individual, the de-

1 fense under subparagraph (A) shall
2 not be considered to apply with re-
3 spect to any employment, except as
4 provided in subclause (II).

5 “(II) SPECIAL RULE FOR FAIL-
6 URE OF VERIFICATION MECHANISM.—
7 If such a person or entity in good
8 faith attempts to make an inquiry in
9 order to qualify for the defense under
10 subparagraph (A) and the verification
11 mechanism has registered that not all
12 inquiries were responded to during the
13 relevant time, the person or entity can
14 make an inquiry until the end of the
15 first subsequent working day in which
16 the verification mechanism registers
17 no nonresponses and qualify for such
18 defense.

19 “(ii) FAILURE TO OBTAIN
20 VERIFICATION.—If the person or entity
21 has made the inquiry described in clause
22 (i)(I) but has not received an appropriate
23 verification of such identity and work eligi-
24 bility under such mechanism within the
25 time period specified under subsection

1 (d)(2) after the time the verification in-
 2 quiry was received, the defense under sub-
 3 paragraph (A) shall not be considered to
 4 apply with respect to any employment after
 5 the end of such time period.”.

6 **SEC. 206. PREEMPTION AND STATES’ RIGHTS.**

7 Section 274A(h)(2) of the Immigration and Nation-
 8 ality Act (8 U.S.C. 1324a(h)(2)) is amended to read as
 9 follows:

10 “(2) PREEMPTION.—

11 “(A) SINGLE, NATIONAL POLICY.—The
 12 provisions of this section preempt any State or
 13 local law, ordinance, policy, or rule, including
 14 any criminal or civil fine or penalty structure,
 15 insofar as they may now or hereafter relate to
 16 the hiring, continued employment, or status
 17 verification for employment eligibility purposes,
 18 of unauthorized aliens.

19 “(B) STATE ENFORCEMENT OF FEDERAL
 20 LAW.—

21 “(i) BUSINESS LICENSING.—A State,
 22 locality, municipality, or political subdivi-
 23 sion may exercise its authority over busi-
 24 ness licensing and similar laws as a pen-
 25 alty for failure to use the verification sys-

1 tem described in subsection (d) to verify
2 employment eligibility when and as re-
3 quired under subsection (b).

4 “(ii) GENERAL RULES.—A State, at
5 its own cost, may enforce the provisions of
6 this section, but only insofar as such State
7 follows the Federal regulations imple-
8 menting this section, applies the Federal
9 penalty structure set out in this section,
10 and complies with all Federal rules and
11 guidance concerning implementation of this
12 section. Such State may collect any fines
13 assessed under this section. An employer
14 may not be subject to enforcement, includ-
15 ing audit and investigation, by both a Fed-
16 eral agency and a State for the same viola-
17 tion under this section. Whichever entity,
18 the Federal agency or the State, is first to
19 initiate the enforcement action, has the
20 right of first refusal to proceed with the
21 enforcement action. The Secretary must
22 provide copies of all guidance, training,
23 and field instructions provided to Federal
24 officials implementing the provisions of
25 this section to each State.”.

1 **SEC. 207. REPEAL.**

2 (a) IN GENERAL.—Subtitle A of title IV of the Illegal
3 Immigration Reform and Immigrant Responsibility Act of
4 1996 (8 U.S.C. 1324a note) is repealed.

5 (b) REFERENCES.—Any reference in any Federal
6 law, Executive order, rule, regulation, or delegation of au-
7 thority, or any document of, or pertaining to, the Depart-
8 ment of Homeland Security, Department of Justice, or the
9 Social Security Administration, to the employment eligi-
10 bility confirmation system established under section 404
11 of the Illegal Immigration Reform and Immigrant Respon-
12 sibility Act of 1996 (8 U.S.C. 1324a note) is deemed to
13 refer to the employment eligibility confirmation system es-
14 tablished under section 274A(d) of the Immigration and
15 Nationality Act, as amended by section 203 of this title.

16 (c) EFFECTIVE DATE.—This section shall take effect
17 on the date that is 30 months after the date of the enact-
18 ment of this Act.

19 (d) CLERICAL AMENDMENT.—The table of sections,
20 in section 1(d) of the Illegal Immigration Reform and Im-
21 migrant Responsibility Act of 1996, is amended by strik-
22 ing the items relating to subtitle A of title IV.

23 **SEC. 208. PENALTIES.**

24 Section 274A of the Immigration and Nationality Act
25 (8 U.S.C. 1324a) is amended—

26 (1) in subsection (e)(1)—

1 (A) by striking “Attorney General” each
2 place such term appears and inserting “Sec-
3 retary of Homeland Security”; and

4 (B) in subparagraph (D), by striking
5 “Service” and inserting “Department of Home-
6 land Security”;

7 (2) in subsection (e)(4)—

8 (A) in subparagraph (A), in the matter be-
9 fore clause (i), by inserting “, subject to para-
10 graph (10),” after “in an amount”;

11 (B) in subparagraph (A)(i), by striking
12 “not less than \$250 and not more than
13 \$2,000” and inserting “not less than \$2,500
14 and not more than \$5,000”;

15 (C) in subparagraph (A)(ii), by striking
16 “not less than \$2,000 and not more than
17 \$5,000” and inserting “not less than \$5,000
18 and not more than \$10,000”;

19 (D) in subparagraph (A)(iii), by striking
20 “not less than \$3,000 and not more than
21 \$10,000” and inserting “not less than \$10,000
22 and not more than \$25,000”; and

23 (E) by moving the margin of the continu-
24 ation text following subparagraph (B) two ems

1 to the left and by amending subparagraph (B)
2 to read as follows:

3 “(B) may require the person or entity to
4 take such other remedial action as is appro-
5 priate.”;

6 (3) in subsection (e)(5)—

7 (A) in the paragraph heading, strike “PA-
8 PERWORK”;

9 (B) by inserting “, subject to paragraphs
10 (10) through (12),” after “in an amount”;

11 (C) by striking “\$100” and inserting
12 “\$1,000”;

13 (D) by striking “\$1,000” and inserting
14 “\$25,000”; and

15 (E) by adding at the end the following:
16 “Failure by a person or entity to utilize the em-
17 ployment eligibility verification system as re-
18 quired by law, or providing information to the
19 system that the person or entity knows or rea-
20 sonably believes to be false, shall be treated as
21 a violation of subsection (a)(1)(A).”;

22 (4) by adding at the end of subsection (e) the
23 following:

24 “(10) EXEMPTION FROM PENALTY FOR GOOD
25 FAITH VIOLATION.—In the case of imposition of a

1 civil penalty under paragraph (4)(A) with respect to
2 a violation of subsection (a)(1)(A) or (a)(2) for hir-
3 ing or continuation of employment or recruitment or
4 referral by person or entity and in the case of impo-
5 sition of a civil penalty under paragraph (5) for a
6 violation of subsection (a)(1)(B) for hiring or re-
7 cruitment or referral by a person or entity, the pen-
8 alty otherwise imposed may be waived or reduced if
9 the violator establishes that the violator acted in
10 good faith.

11 “(11) MITIGATION ELEMENT.—For purposes of
12 paragraph (4), the size of the business shall be
13 taken into account when assessing the level of civil
14 money penalty.

15 “(12) AUTHORITY TO DEBAR EMPLOYERS FOR
16 CERTAIN VIOLATIONS.—

17 “(A) IN GENERAL.—If a person or entity
18 is determined by the Secretary of Homeland Se-
19 curity to be a repeat violator of paragraph
20 (1)(A) or (2) of subsection (a), or is convicted
21 of a crime under this section, such person or
22 entity may be considered for debarment from
23 the receipt of Federal contracts, grants, or co-
24 operative agreements in accordance with the de-
25 barment standards and pursuant to the debar-

1 ment procedures set forth in the Federal Acqui-
2 sition Regulation.

3 “(B) DOES NOT HAVE CONTRACT, GRANT,
4 AGREEMENT.—If the Secretary of Homeland
5 Security or the Attorney General wishes to have
6 a person or entity considered for debarment in
7 accordance with this paragraph, and such an
8 person or entity does not hold a Federal con-
9 tract, grant or cooperative agreement, the Sec-
10 retary or Attorney General shall refer the mat-
11 ter to the Administrator of General Services to
12 determine whether to list the person or entity
13 on the List of Parties Excluded from Federal
14 Procurement, and if so, for what duration and
15 under what scope.

16 “(C) HAS CONTRACT, GRANT, AGREE-
17 MENT.—If the Secretary of Homeland Security
18 or the Attorney General wishes to have a per-
19 son or entity considered for debarment in ac-
20 cordance with this paragraph, and such person
21 or entity holds a Federal contract, grant or co-
22 operative agreement, the Secretary or Attorney
23 General shall advise all agencies or departments
24 holding a contract, grant, or cooperative agree-
25 ment with the person or entity of the Govern-

1 ment’s interest in having the person or entity
2 considered for debarment, and after soliciting
3 and considering the views of all such agencies
4 and departments, the Secretary or Attorney
5 General may refer the matter to any appro-
6 priate lead agency to determine whether to list
7 the person or entity on the List of Parties Ex-
8 cluded from Federal Procurement, and if so, for
9 what duration and under what scope.

10 “(D) REVIEW.—Any decision to debar a
11 person or entity in accordance with this para-
12 graph shall be reviewable pursuant to part 9.4
13 of the Federal Acquisition Regulation.

14 “(13) OFFICE FOR STATE AND LOCAL GOVERN-
15 MENT COMPLAINTS.—The Secretary of Homeland
16 Security shall establish an office—

17 “(A) to which State and local government
18 agencies may submit information indicating po-
19 tential violations of subsection (a), (b), or
20 (g)(1) that were generated in the normal course
21 of law enforcement or the normal course of
22 other official activities in the State or locality;

23 “(B) that is required to indicate to the
24 complaining State or local agency within five
25 business days of the filing of such a complaint

1 by identifying whether the Secretary will fur-
2 ther investigate the information provided;

3 “(C) that is required to investigate those
4 complaints filed by State or local government
5 agencies that, on their face, have a substantial
6 probability of validity;

7 “(D) that is required to notify the com-
8 plaining State or local agency of the results of
9 any such investigation conducted; and

10 “(E) that is required to report to the Con-
11 gress annually the number of complaints re-
12 ceived under this paragraph, the States and lo-
13 calities that filed such complaints, and the reso-
14 lution of the complaints investigated by the Sec-
15 retary.”; and

16 (5) by amending paragraph (1) of subsection (f)
17 to read as follows:

18 “(1) CRIMINAL PENALTY.—Any person or enti-
19 ty which engages in a pattern or practice of viola-
20 tions of subsection (a)(1) or (2) shall be fined not
21 more than \$5,000 for each unauthorized alien with
22 respect to which such a violation occurs, imprisoned
23 for not more than 18 months, or both, notwith-
24 standing the provisions of any other Federal law re-
25 lating to fine levels.”.

1 **SEC. 209. FRAUD AND MISUSE OF DOCUMENTS.**

2 Section 1546(b) of title 18, United States Code, is
3 amended—

4 (1) in paragraph (1), by striking “identification
5 document,” and inserting “identification document
6 or document meant to establish work authorization
7 (including the documents described in section
8 274A(b) of the Immigration and Nationality Act),”;
9 and

10 (2) in paragraph (2), by striking “identification
11 document” and inserting “identification document or
12 document meant to establish work authorization (in-
13 cluding the documents described in section 274A(b)
14 of the Immigration and Nationality Act),”.

15 **SEC. 210. PROTECTION OF SOCIAL SECURITY ADMINISTRA-**
16 **TION PROGRAMS.**

17 (a) **FUNDING UNDER AGREEMENT.**—Effective for
18 fiscal years beginning on or after October 1, 2019, the
19 Commissioner of Social Security and the Secretary of
20 Homeland Security shall enter into and maintain an
21 agreement which shall—

22 (1) provide funds to the Commissioner for the
23 full costs of the responsibilities of the Commissioner
24 under section 274A(d) of the Immigration and Na-
25 tionality Act (8 U.S.C. 1324a(d)), as amended by

1 section 203 of this title, including (but not limited
2 to)—

3 (A) acquiring, installing, and maintaining
4 technological equipment and systems necessary
5 for the fulfillment of the responsibilities of the
6 Commissioner under such section 274A(d), but
7 only that portion of such costs that are attrib-
8 utable exclusively to such responsibilities; and

9 (B) responding to individuals who contest
10 a tentative nonconfirmation provided by the em-
11 ployment eligibility verification system estab-
12 lished under such section;

13 (2) provide such funds annually in advance of
14 the applicable quarter based on estimating method-
15 ology agreed to by the Commissioner and the Sec-
16 retary (except in such instances where the delayed
17 enactment of an annual appropriation may preclude
18 such quarterly payments); and

19 (3) require an annual accounting and reconcili-
20 ation of the actual costs incurred and the funds pro-
21 vided under the agreement, which shall be reviewed
22 by the Inspectors General of the Social Security Ad-
23 ministration and the Department of Homeland Secu-
24 rity.

1 (b) CONTINUATION OF EMPLOYMENT VERIFICATION
2 IN ABSENCE OF TIMELY AGREEMENT.—In any case in
3 which the agreement required under subsection (a) for any
4 fiscal year beginning on or after October 1, 2019, has not
5 been reached as of October 1 of such fiscal year, the latest
6 agreement between the Commissioner and the Secretary
7 of Homeland Security providing for funding to cover the
8 costs of the responsibilities of the Commissioner under
9 section 274A(d) of the Immigration and Nationality Act
10 (8 U.S.C. 1324a(d)) shall be deemed in effect on an in-
11 terim basis for such fiscal year until such time as an
12 agreement required under subsection (a) is subsequently
13 reached, except that the terms of such interim agreement
14 shall be modified by the Director of the Office of Manage-
15 ment and Budget to adjust for inflation and any increase
16 or decrease in the volume of requests under the employ-
17 ment eligibility verification system. In any case in which
18 an interim agreement applies for any fiscal year under this
19 subsection, the Commissioner and the Secretary shall, not
20 later than October 1 of such fiscal year, notify the Com-
21 mittee on Ways and Means, the Committee on the Judici-
22 ary, and the Committee on Appropriations of the House
23 of Representatives and the Committee on Finance, the
24 Committee on the Judiciary, and the Committee on Ap-
25 propriations of the Senate of the failure to reach the

1 agreement required under subsection (a) for such fiscal
2 year. Until such time as the agreement required under
3 subsection (a) has been reached for such fiscal year, the
4 Commissioner and the Secretary shall, not later than the
5 end of each 90-day period after October 1 of such fiscal
6 year, notify such committees of the status of negotiations
7 between the Commissioner and the Secretary in order to
8 reach such an agreement.

9 **SEC. 211. FRAUD PREVENTION.**

10 (a) **BLOCKING MISUSED SOCIAL SECURITY ACCOUNT**
11 **NUMBERS.**—The Secretary of Homeland Security, in con-
12 sultation with the Commissioner of Social Security, shall
13 establish a program in which social security account num-
14 bers that have been identified to be subject to unusual
15 multiple use in the employment eligibility verification sys-
16 tem established under section 274A(d) of the Immigration
17 and Nationality Act (8 U.S.C. 1324a(d)), as amended by
18 section 203 of this title, or that are otherwise suspected
19 or determined to have been compromised by identity fraud
20 or other misuse, shall be blocked from use for such system
21 purposes unless the individual using such number is able
22 to establish, through secure and fair additional security
23 procedures, that the individual is the legitimate holder of
24 the number.

1 (b) ALLOWING SUSPENSION OF USE OF CERTAIN SO-
2 CIAL SECURITY ACCOUNT NUMBERS.—The Secretary of
3 Homeland Security, in consultation with the Commis-
4 sioner of Social Security, shall establish a program which
5 shall provide a reliable, secure method by which victims
6 of identity fraud and other individuals may suspend or
7 limit the use of their social security account number or
8 other identifying information for purposes of the employ-
9 ment eligibility verification system established under sec-
10 tion 274A(d) of the Immigration and Nationality Act (8
11 U.S.C. 1324a(d)), as amended by section 203 of this title.
12 The Secretary may implement the program on a limited
13 pilot program basis before making it fully available to all
14 individuals.

15 (c) ALLOWING PARENTS TO PREVENT THEFT OF
16 THEIR CHILD’S IDENTITY.—The Secretary of Homeland
17 Security, in consultation with the Commissioner of Social
18 Security, shall establish a program which shall provide a
19 reliable, secure method by which parents or legal guard-
20 ians may suspend or limit the use of the social security
21 account number or other identifying information of a
22 minor under their care for the purposes of the employment
23 eligibility verification system established under section
24 274A(d) of the Immigration and Nationality Act (8 U.S.C.
25 1324a(d)), as amended by section 203 of this title. The

1 Secretary may implement the program on a limited pilot
2 program basis before making it fully available to all indi-
3 viduals.

4 **SEC. 212. USE OF EMPLOYMENT ELIGIBILITY**
5 **VERIFICATION PHOTO TOOL.**

6 An employer who uses the photo matching tool used
7 as part of the E-Verify System shall match the photo tool
8 photograph to both the photograph on the identity or em-
9 ployment eligibility document provided by the employee
10 and to the face of the employee submitting the document
11 for employment verification purposes.

12 **SEC. 213. IDENTITY AUTHENTICATION EMPLOYMENT ELIGI-**
13 **BILITY VERIFICATION PILOT PROGRAMS.**

14 Not later than 24 months after the date of the enact-
15 ment of this Act, the Secretary of Homeland Security,
16 after consultation with the Commissioner of Social Secu-
17 rity and the Director of the National Institute of Stand-
18 ards and Technology, shall establish by regulation not less
19 than 2 Identity Authentication Employment Eligibility
20 Verification pilot programs, each using a separate and dis-
21 tinct technology (the “Authentication Pilots”). The pur-
22 pose of the Authentication Pilots shall be to provide for
23 identity authentication and employment eligibility
24 verification with respect to enrolled new employees which
25 shall be available to any employer that elects to participate

1 in either of the Authentication Pilots. Any participating
2 employer may cancel the employer's participation in the
3 Authentication Pilot after one year after electing to par-
4 ticipate without prejudice to future participation. The Sec-
5 retary shall report to the Committee on the Judiciary of
6 the House of Representatives and the Committee on the
7 Judiciary of the Senate the Secretary's findings on the
8 Authentication Pilots, including the authentication tech-
9 nologies chosen, not later than 12 months after com-
10 mencement of the Authentication Pilots.

11 **SEC. 214. INSPECTOR GENERAL AUDITS.**

12 (a) IN GENERAL.—Not later than 1 year after the
13 date of the enactment of this Act, the Inspector General
14 of the Social Security Administration shall complete audits
15 of the following categories in order to uncover evidence
16 of individuals who are not authorized to work in the
17 United States:

18 (1) Workers who dispute wages reported on
19 their social security account number when they be-
20 lieve someone else has used such number and name
21 to report wages.

22 (2) Children's social security account numbers
23 used for work purposes.

1 (3) Employers whose workers present signifi-
2 cant numbers of mismatched social security account
3 numbers or names for wage reporting.

4 (b) SUBMISSION.—The Inspector General of the So-
5 cial Security Administration shall submit the audits com-
6 pleted under subsection (a) to the Committee on Ways and
7 Means of the House of Representatives and the Committee
8 on Finance of the Senate for review of the evidence of
9 individuals who are not authorized to work in the United
10 States. The Chairmen of those committees shall then de-
11 termine information to be shared with the Secretary of
12 Homeland Security so that such Secretary can investigate
13 the unauthorized employment demonstrated by such evi-
14 dence.

○