

111TH CONGRESS
2^D SESSION

H. R. 5265

To continue to prohibit the hiring, recruitment, or referral of unauthorized aliens, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2010

Mr. BOSWELL 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 Labor, 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 continue to prohibit the hiring, recruitment, or referral of unauthorized aliens, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Combat Illegal Immi-
5 gration Through Employment Verification Act”.

6 **SEC. 2. PURPOSES.**

7 (a) To continue to prohibit the hiring, recruitment,
8 or referral of unauthorized aliens.

1 (b) To require that each employer take reasonable
2 steps to verify the identity and work authorization status
3 of all its employees, without regard to national origin and
4 citizenship status.

5 (c) To authorize the Secretary of Homeland Security
6 to access records of other Federal agencies for the pur-
7 poses of confirming identity, authenticating lawful pres-
8 ence and preventing identity theft and fraud related to un-
9 lawful employment.

10 (d) To ensure that the Commissioner of Social Secu-
11 rity has the necessary authority to provide information to
12 the Secretary of Homeland Security that would assist in
13 the enforcement of the immigration laws.

14 (e) To collect information on employee hires.

15 (f) To electronically secure a Social Security number
16 in the Employment Eligibility Verification System
17 (EEVS) at the request of an individual who has been con-
18 firmed to be the holder of that number, and to prevent
19 fraudulent use of the number by others.

20 (g) To provide for record retention of EEVS inquir-
21 ies, to prevent identity fraud and employment authoriza-
22 tion fraud.

23 (h) To employ fast track regulatory and procurement
24 procedures to expedite implementation of this title and

1 pertinent sections of the Immigration and Nationality Act
2 for a period of two years from enactment.

3 (i) To establish the following:

4 (1) A document verification process requiring
5 employers to inspect, copy, and retain identity and
6 work authorization documents.

7 (2) An EEVS requiring employers to obtain
8 confirmation of an individual's identity and work au-
9 thorization.

10 (3) Procedures for employers to register for the
11 EEVS and to confirm work eligibility through the
12 EEVS.

13 (4) A streamlined enforcement procedure to en-
14 sure efficient adjudication of violations of this title.

15 (5) A system for the imposition of civil pen-
16 alties and their enforcement, remission or mitiga-
17 tion.

18 (6) An enhancement of criminal and civil pen-
19 alties.

20 (7) Increased coordination of information and
21 enforcement between the Internal Revenue Service
22 and the Department of Homeland Security regard-
23 ing employers who have violations related to the em-
24 ployment of unauthorized aliens.

1 (8) Increased penalties under the Internal Rev-
2 enue Code for employers who have violations relating
3 to the employment of unauthorized aliens.

4 **SEC. 3. UNLAWFUL EMPLOYMENT OF ALIENS.**

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

7 “(a) MAKING EMPLOYMENT OF UNAUTHORIZED
8 ALIENS UNLAWFUL.—

9 “(1) IN GENERAL.—It is unlawful for an em-
10 ployer—

11 “(A) to hire an alien for employment in
12 the United States knowing or with reckless dis-
13 regard that the alien is an unauthorized alien
14 (as defined in subsection (b)(1)) with respect to
15 such employment; or

16 “(B) to hire for employment in the United
17 States an individual without complying with the
18 requirements of subsections (c) and (d).

19 “(2) CONTINUING EMPLOYMENT.—It is unlaw-
20 ful for an employer, after hiring an alien for employ-
21 ment, to continue to employ the alien in the United
22 States knowing or with reckless disregard that the
23 alien is (or has become) an unauthorized alien with
24 respect to such employment.

1 “(3) USE OF LABOR THROUGH CONTRACT.—
2 For purposes of this section, an employer who uses
3 a contract, subcontract, or exchange to obtain the
4 labor of an alien in the United States knowing that
5 the alien is an unauthorized alien (as defined in sub-
6 section (b)(1)) with respect to performing such
7 labor, shall be considered to have hired the alien for
8 employment in the United States in violation of
9 paragraph (1)(A).

10 “(A) By regulation, the Secretary may re-
11 quire, for purposes of ensuring compliance with
12 the immigration laws, that an employer include
13 in a written contract, subcontract, or exchange
14 an effective and enforceable requirement that
15 the contractor or subcontractor adhere to the
16 immigration laws of the United States, includ-
17 ing use of EEVS.

18 “(B) The Secretary may establish proce-
19 dures by which an employer may obtain con-
20 firmation from the Secretary that the con-
21 tractor or subcontractor has registered with the
22 EEVS and is utilizing the EEVS to verify its
23 employees.

24 “(C) The Secretary may establish such
25 other requirements for employers using contrac-

1 tors or subcontractors as the Secretary deems
2 necessary to prevent knowing violations of this
3 paragraph.

4 “(4) APPLICATION TO FEDERAL GOVERN-
5 MENT.—For purposes of this section, the term ‘em-
6 ployer’ includes entities in any branch of the Federal
7 Government.

8 “(5) DEFENSE.—An employer that establishes
9 that it has complied in good faith with the require-
10 ments of subsections (c)(1) through (c)(4), per-
11 taining to document verification requirements, and
12 subsection (d) has established an affirmative defense
13 that the employer has not violated paragraph (1)(A)
14 with respect to such hiring, recruiting, or referral,
15 however—

16 “(A) until such time as the Secretary has
17 required an employer to participate in the
18 EEVS or such participation is permitted on a
19 voluntary basis pursuant to subsection (d), a
20 defense is established without a showing of
21 compliance with subsection (d); and

22 “(B) to establish a defense, the employer
23 must also be in compliance with any additional
24 requirements that the Secretary may promul-

1 gate by regulation pursuant to subsections (c),
2 (d), and (k).

3 “(6) FAILURE TO COMPLY.—An employer is
4 presumed to have acted with knowledge or reckless
5 disregard if the employer fails to comply with writ-
6 ten standards, procedures or instructions issued by
7 the Secretary. Such standards, procedures or in-
8 structions shall be objective and verifiable.

9 “(b) DEFINITIONS.—

10 “(1) DEFINITION OF UNAUTHORIZED ALIEN.—
11 As used in this section, the term ‘unauthorized alien’
12 means, with respect to the employment of an alien
13 at a particular time, that the alien is not at that
14 time either—

15 “(A) an alien lawfully admitted for perma-
16 nent residence; or

17 “(B) authorized to be so employed by the
18 Secretary.

19 “(2) DEFINITION OF EMPLOYER.—For pur-
20 poses of this section, the term ‘employer’ means any
21 person or entity hiring, recruiting, or referring an
22 individual for employment in the United States.

23 “(c) DOCUMENT VERIFICATION REQUIREMENTS.—
24 Any employer hiring, recruiting, or referring an individual
25 for employment in the United States shall take all reason-

1 able steps to verify that the individual is authorized to
2 work in the United States, including the requirements of
3 subsection (d) and the following paragraphs:

4 “(1) ATTESTATION AFTER EXAMINATION OF
5 DOCUMENTATION.—

6 “(A) IN GENERAL.—The employer must
7 attest, under penalty of perjury and on a form
8 prescribed by the Secretary, that it has verified
9 the identity and work authorization status of
10 the individual by examining—

11 “(i) a document described in subpara-
12 graph (B); or

13 “(ii) a document described in sub-
14 paragraph (C) and a document described
15 in subparagraph (D).

16 Such attestation may be manifested by a hand-
17 written or electronic signature. An employer has
18 complied with the requirement of this para-
19 graph with respect to examination of docu-
20 mentation if the employer has followed applica-
21 ble regulations and any written procedures or
22 instructions provided by the Secretary and if a
23 reasonable person would conclude that the docu-
24 mentation is genuine and establishes the em-
25 ployee’s identity and authorization to work, tak-

1 ing into account any information provided to
2 the employer by the Secretary, including photo-
3 graphs.

4 “(B) DOCUMENTS ESTABLISHING BOTH
5 EMPLOYMENT AUTHORIZATION AND IDEN-
6 TITY.—A document described in this subpara-
7 graph is an individual’s—

8 “(i) United States passport, or pass-
9 port card issued pursuant to the Secretary
10 of State’s authority under 22 U.S.C. 211a;
11 or

12 “(ii) permanent resident card or other
13 document issued by the Secretary or Sec-
14 retary of State to aliens authorized to work
15 in the United States, if the document—

16 “(I) contains a photograph of the
17 individual, biometric data, such as fin-
18 gerprints, or such other personal iden-
19 tifying information relating to the in-
20 dividual as the Secretary finds, by
21 regulation, sufficient for the purposes
22 of this subsection;

23 “(II) is evidence of authorization
24 for employment in the United States;
25 and

1 “(III) contains security features
2 to make it resistant to tampering,
3 counterfeiting, and fraudulent use.

4 “(C) DOCUMENTS ESTABLISHING IDEN-
5 TITY OF INDIVIDUAL.—A document described in
6 this subparagraph includes—

7 “(i) an individual’s driver’s license or
8 identity card issued by a State, the Com-
9 monwealth of the Northern Mariana Is-
10 lands, or an outlying possession of the
11 United States, provided that the issuing
12 State or entity has certified to the Sec-
13 retary of Homeland Security that it is in
14 compliance with the minimum standards
15 required under section 202 of the REAL
16 ID Act of 2005 (division B of Public Law
17 109–13) (49 U.S.C. 30301 note) and im-
18 plementing regulations issued by the Sec-
19 retary of Homeland Security once those re-
20 quirements become effective;

21 “(ii) an individual’s driver’s license or
22 identity card issued by a State, the Com-
23 monwealth of the Northern Mariana Is-
24 lands, or an outlying possession of the
25 United States which is not compliant with

1 section 202 of the REAL ID Act of 2005
2 if—

3 “(I) the driver’s license or iden-
4 tity card contains the individual’s pho-
5 tograph as well as the individual’s
6 name, date of birth, gender, height,
7 eye color, and address, and

8 “(II) the card is presented by the
9 individual and examined by the em-
10 ployer in combination with a U.S.
11 birth certificate, or a Certificate of
12 Naturalization, or a Certificate of
13 Citizenship, or such other documents
14 as may be prescribed by the Sec-
15 retary, or

16 “(iii) other documentation evidencing
17 identity as identified by the Secretary in
18 his discretion, with notice to the public
19 provided in the Federal Register, to be ac-
20 ceptable for purposes of this section.

21 “(D) SPECIAL RULE FOR MINORS.—Not-
22 withstanding subparagraphs (B) and (C), a
23 minor who is under the age of 18 and who is
24 unable to produce an identity document de-
25 scribed in clause (i) through (ii) of subpara-

1 graph (B) or clause (i) through (iii) of subpara-
2 graph (C) is exempt from producing such a doc-
3 ument if—

4 “(i) a parent or legal guardian of the
5 minor completes a form prescribed by the
6 Secretary, and in the space for the minor’s
7 signature, the parent or legal guardian
8 writes the words, ‘minor under age 18’;

9 “(ii) a parent or legal guardian of the
10 minor completes a form prescribed by the
11 Secretary, the ‘Preparer/Translator certifi-
12 cation’; and

13 “(iii) the employer of the minor writes
14 in a form prescribed by the Secretary, in
15 the space after the words ‘Document Iden-
16 tification #’ the words, ‘minor under age
17 18’.

18 “(E) SPECIAL RULE FOR INDIVIDUALS
19 WITH DISABILITIES.—Notwithstanding subpara-
20 graphs (B) and (C), an individual with a dis-
21 ability (as defined in section 3 of the Americans
22 with Disabilities Act of 1990 (42 U.S.C.
23 12102)) who is unable to produce an identity
24 document described in clause (i) through (ii) of
25 subparagraph (B) or clause (i) through (iii) of

1 subparagraph (C), and who is being placed into
2 employment by a nonprofit organization or as-
3 sociation or as part of a rehabilitation program,
4 and an individual who demonstrates mental re-
5 tardation whether or not the individual partici-
6 pates in an employment placement program
7 through a nonprofit organization or association
8 or as part of a rehabilitation program, is ex-
9 empt from producing such a document if—

10 “(i) a parent or legal guardian of the
11 individual, or a representative from the
12 nonprofit organization, association, or re-
13 habilitation program placing the individual
14 into a position of employment completes a
15 form prescribed by the Secretary, and in
16 the space for the covered individual’s sig-
17 nature, writes the words, ‘special place-
18 ment’;

19 “(ii) a parent or legal guardian of the
20 individual or the program representative,
21 completes a form prescribed by the Sec-
22 retary, the ‘Preparer/Translator certifi-
23 cation’; and

24 “(iii) the employer of the covered indi-
25 vidual writes in a form prescribed by the

1 Secretary, in the space after the words
2 ‘Document Identification #’ the words,
3 ‘special placement’.

4 “(F) DOCUMENTS EVIDENCING EMPLOY-
5 MENT AUTHORIZATION.—The following docu-
6 ments may be accepted as evidence of employ-
7 ment authorization—

8 “(i) a Social Security account number
9 card issued by the Commissioner of Social
10 Security (other than a card which specifies
11 on its face that the card is not valid for
12 employment in the United States); or

13 “(ii) any other documentation evidenc-
14 ing authorization of employment in the
15 United States which the Secretary de-
16 clares, by publication in the Federal Reg-
17 ister, to be acceptable for purposes of this
18 section.

19 “(G) AUTHORITY TO PROHIBIT USE OF
20 CERTAIN DOCUMENTS.—If the Secretary finds
21 that any document or class of documents de-
22 scribed in subparagraph (B), (C), or (D) as es-
23 tablishing employment authorization or identity
24 does not reliably establish such authorization or
25 identity or is being used fraudulently to an un-

1 acceptable degree, the Secretary shall, with no-
2 tice to the public provided in the Federal Reg-
3 ister, prohibit or restrict the use of that docu-
4 ment or class of documents for purposes of this
5 subsection.

6 “(2) INDIVIDUAL ATTESTATION OF EMPLOY-
7 MENT AUTHORIZATION.—The individual must attest,
8 under penalty of perjury on the form prescribed by
9 the Secretary, that the individual is a citizen or na-
10 tional of the United States, an alien lawfully admit-
11 ted for permanent residence, or an alien who is au-
12 thorized under this Act or by the Secretary to be
13 hired, recruited, or referred for such employment.
14 Such attestation may be manifested by either a
15 hand-written or electronic signature.

16 “(3) RETENTION OF VERIFICATION FORM.—
17 After completion of such form in accordance with
18 paragraphs (1) and (2), the employer must retain a
19 paper, microfiche, microfilm, or electronic version of
20 the form and make it available for inspection by offi-
21 cers of the Department of Homeland Security (or
22 persons designated by the Secretary), the Special
23 Counsel for Immigration-Related Unfair Employ-
24 ment Practices, or the Department of Labor during

1 a period beginning on the date of the hiring, recruit-
2 ing, or referral of the individual and ending—

3 “(A) in the case of the recruiting or refer-
4 ral for a fee (without hiring) of an individual,
5 five years after the date of the recruiting or re-
6 ferral; and

7 “(B) in the case of the hiring of an indi-
8 vidual—

9 “(i) five years after the date of such
10 hiring; or

11 “(ii) two years after the date the indi-
12 vidual’s employment is terminated, which-
13 ever is earlier.

14 “(4) COPYING OF DOCUMENTATION AND REC-
15 ORDKEEPING REQUIRED.—

16 “(A) Notwithstanding any other provision
17 of law, the employer shall copy all documents
18 presented by an individual pursuant to this sub-
19 section and shall retain a paper, microfiche,
20 microfilm, or electronic copy as prescribed in
21 paragraph (3), but only (except as otherwise
22 permitted under law) for the purposes of com-
23 plying with the requirements of this subsection.
24 Such copies shall reflect the signatures of the

1 employer and the employee, as well as the date
2 of receipt.

3 “(B) The employer shall also maintain
4 records of Social Security Administration cor-
5 respondence regarding name and number
6 mismatches or no-matches and the steps taken
7 to resolve such issues.

8 “(C) The employer shall maintain records
9 of all actions and copies of any correspondence
10 or action taken by the employer to clarify or re-
11 solve any issue that raises reasonable doubt as
12 to the validity of the alien’s identity or work au-
13 thorization.

14 “(D) The employer shall maintain such
15 records as prescribed in this subsection. The
16 Secretary may prescribe the manner of record-
17 keeping and may require that additional records
18 be kept or that additional documents be copied
19 and maintained. The Secretary may require
20 that these documents be transmitted electroni-
21 cally, and may develop automated capabilities to
22 request such documents.

23 “(5) PENALTIES.—An employer that fails to
24 comply with any requirement of this subsection shall
25 be penalized under subsection (e)(4)(B).

1 “(6) NO AUTHORIZATION OF NATIONAL IDENTIFI-
2 FICATION CARDS.—Nothing in this section shall be
3 construed to authorize, directly or indirectly, the
4 issuance or use of national identification cards or
5 the establishment of a national identification card.

6 “(7) NONDISCRIMINATION.—The employer shall
7 use the procedures for document verification set
8 forth in this paragraph for all employees without re-
9 gard to national origin or citizenship status.

10 “(d) EMPLOYMENT ELIGIBILITY VERIFICATION SYS-
11 TEM.—

12 “(1) IN GENERAL.—The basic pilot program es-
13 tablished under section 403(a) of the Illegal Immi-
14 gration Reform and Immigrant Responsibility Act of
15 1996 (division C of Public Law 104–208; 8 U.S.C.
16 1324a note) is hereby renamed as the ‘Employment
17 Eligibility Verification System’ or ‘EEVS’ (and is re-
18 ferred to in this section as such).

19 “(2) EXTENSION OF PROGRAM.—The Secretary
20 of Homeland Security shall provide for the imple-
21 mentation of EEVS throughout the United States
22 on a timely basis, consistent with the implementa-
23 tion of paragraph (3) and such System shall con-
24 tinue in operation permanently and shall not termi-
25 nate.

1 “(3) IMPLEMENTATION SCHEDULE.—

2 “(A) PRIORITY EMPLOYERS.—Not later
3 than 1 year after the date of enactment of this
4 section, the Secretary in his discretion, with no-
5 tice to the public provided in the Federal Reg-
6 ister, is authorized to require any employer or
7 industry which the Secretary determines to be
8 part of the critical infrastructure, a Federal
9 contractor, or directly related to the national
10 security or homeland security of the United
11 States to participate in the EEVS. This re-
12 quirement may be applied to both newly hired
13 and current employees. The Secretary shall no-
14 tify employers subject to this subparagraph 60
15 days prior to required EEVS compliance.

16 “(B) LARGE EMPLOYERS.—Not later than
17 2 years after the date of enactment of this Act
18 of 2007 the Secretary shall require an employer
19 with 5,000 or more employees in the United
20 States to participate in the System, with re-
21 spect to all employees hired by the employer
22 after the date the Secretary requires such par-
23 ticipation.

24 “(C) MIDSIZED EMPLOYERS.—Not later
25 than 3 years after the date of enactment of this

1 Act, the Secretary shall require an employer
2 with less than 5,000 employees and 1,000 or
3 more employees in the United States to partici-
4 pate in the System, with respect to all employ-
5 ees hired by the employer after the date the
6 Secretary requires such participation.

7 “(D) SMALL EMPLOYERS.—Not later than
8 4 years after the date of the enactment of this
9 Act of 2007, the Secretary shall require all em-
10 ployers with less than 1,000 employees in the
11 United States to participate in the System, with
12 respect to all employees hired by the employer
13 after the date the Secretary requires such par-
14 ticipation.

15 “(E) ALL EMPLOYEES.—No later than 5
16 years after the date of enactment of this sec-
17 tion, all employers shall participate in the
18 EEVS with respect to new employees and all
19 employees whose identity and employment au-
20 thorization have not been previously verified
21 through EEVS. The Secretary may specify ear-
22 lier dates for participation in the EEVS in his
23 discretion for some or all classes of employer or
24 employee, provided that the Secretary provides
25 notification to employees and prints notification

1 in the Federal Register 60 days prior to re-
2 quired compliance with EEVS.

3 “(F) The Secretary shall create the nec-
4 essary systems and processes to monitor the
5 functioning of the EEVS, including the volume
6 of the workflow, the speed of processing of que-
7 ries, and the speed and accuracy of responses.
8 These systems and processes shall be audited
9 by the Government Accountability Office 9
10 months after the date of enactment of this sec-
11 tion and 24 months after the date of enactment
12 of this section. The Government Accountability
13 Office shall report the results of the audits to
14 Congress.

15 “(4) PARTICIPATION IN EEVS.—The Secretary
16 has the following discretionary authority to require
17 or to permit participation in the EEVS—

18 “(A) to permit any employer that is not re-
19 quired to participate in the EEVS to do so on
20 a voluntary basis; and

21 “(B) to require any employer that is re-
22 quired to participate in the EEVS with respect
23 to its newly hired employees also to do so with
24 respect to its current workforce if the Secretary
25 has reasonable cause to believe that the em-

1 employer has engaged in any violation of the immi-
2 gration laws.

3 “(5) CONSEQUENCE OF FAILURE TO PARTICI-
4 PATE.—If an employer is required under this sub-
5 section to participate in the EEVS and fails to com-
6 ply with the requirements of such program with re-
7 spect to an individual—

8 “(A) such failure shall be treated as a vio-
9 lation of subsection (a)(1)(B) of this section
10 with respect to that individual, and

11 “(B) a rebuttable presumption is created
12 that the employer has violated subsection
13 (a)(1)(A) or (a)(2) of this section.

14 Subparagraph (B) shall not apply in any prosecution
15 under subsection 274A(f)(1).

16 “(6) PROCEDURES FOR PARTICIPANTS IN THE
17 EEVS.—

18 “(A) IN GENERAL.—An employer partici-
19 pating in the EEVS must register in the EEVS
20 and conform to the following procedures in the
21 event of hiring, recruiting, or referring any in-
22 dividual for employment in the United States:

23 “(i) REGISTRATION OF EMPLOYERS.—
24 The Secretary, through notice in the Fed-
25 eral Register, shall prescribe procedures

1 that employers must follow to register in
2 the EEVS. In prescribing these proce-
3 dures, the Secretary shall have authority to
4 require employers to provide:

5 “(I) employer’s name;

6 “(II) employer’s Employment
7 Identification Number (EIN);

8 “(III) company address;

9 “(IV) name, position and Social
10 Security number of the employer’s
11 employees accessing the EEVS; and

12 “(V) such other information as
13 the Secretary deems necessary to en-
14 sure proper use and security of the
15 EEVS.

16 The Secretary shall require employers to
17 undergo such training as the Secretary
18 deems necessary to ensure proper use and
19 security of the EEVS. To the extent prac-
20 ticable, such training shall be made avail-
21 able electronically.

22 “(ii) PROVISION OF ADDITIONAL IN-
23 FORMATION.—The employer shall obtain
24 from the individual (and the individual

1 shall provide) and shall record in such
2 manner as the Secretary may specify—

3 “(I) an individual’s Social Secu-
4 rity account number,

5 “(II) if the individual does not
6 attest to United States nationality
7 under subsection (c)(2) of this section,
8 such identification or authorization
9 number established by the Depart-
10 ment of Homeland Security as the
11 Secretary of Homeland Security shall
12 specify, and

13 “(III) such other information as
14 the Secretary may require to deter-
15 mine the identity and work authoriza-
16 tion of an employee.

17 “(iii) PRESENTATION OF DOCUMENTA-
18 TION.—The employer, and the individual
19 whose identity and employment eligibility
20 are being confirmed, shall fulfill the re-
21 quirements of subsection (c) of this sec-
22 tion.

23 “(B) SEEKING CONFIRMATION.—

24 “(i) The employer shall use the EEVS
25 to provide to the Secretary all required in-

1 formation in order to obtain confirmation
2 of the identity and employment eligibility
3 of any individual no earlier than the date
4 of hire and no later than on the first day
5 of employment (or recruitment or referral,
6 as the case may be). An employer may not,
7 however, make the starting date of an indi-
8 vidual’s employment contingent on the re-
9 ceipt of a confirmation of the identity and
10 employment eligibility.

11 “(ii) For reverification of an employee
12 with a limited period of work authoriza-
13 tion, all required verification procedures
14 must be complete on the date the employ-
15 ee’s work authorization expires.

16 “(iii) For initial verification of an em-
17 ployee hired before the employer is subject
18 to the employment eligibility verification
19 system, all required procedures must be
20 complete on such date as the Secretary
21 shall specify in accordance with subpara-
22 graph (d)(2)(E).

23 “(iv) The Secretary shall provide, and
24 the employer shall utilize, as part of
25 EEVS, a method of communicating notices

1 and requests for information or action on
2 the part of the employer with respect to
3 expiring work authorization or status and
4 other matters. Additionally, the Secretary
5 shall provide a method of notifying employ-
6 ers of a confirmation, nonconfirmation or a
7 notice that further action is required (‘fur-
8 ther action notice’). The employer shall
9 communicate to the individual that is the
10 subject of the verification all information
11 provided to the employer by the EEVS for
12 communication to the individual in a time-
13 ly manner.

14 “(C) CONFIRMATION OR NONCONFIRMA-
15 TION.—

16 “(i) INITIAL RESPONSE.—The
17 verification system shall provide a con-
18 firmation, a nonconfirmation, or a further
19 action notice of an individual’s identity and
20 employment eligibility at the time of the
21 inquiry, unless for technological reasons or
22 due to unforeseen circumstances, the
23 EEVS is unable to provide such confirma-
24 tion or further action notice. In such situa-
25 tions, the system shall provide confirma-

1 tion or further action notice within 3 busi-
2 ness days of the initial inquiry. If pro-
3 viding confirmation or further action no-
4 tice, the EEVS shall provide an appro-
5 priate code indicating such confirmation or
6 such further action notice.

7 “(ii) CONFIRMATION UPON INITIAL
8 INQUIRY.—When the employer receives an
9 appropriate confirmation of an individual’s
10 identity and work eligibility under the
11 EEVS, the employer shall record the con-
12 firmation in such manner as the Secretary
13 may specify.

14 “(iii) FURTHER ACTION NOTICE UPON
15 INITIAL INQUIRY AND SECONDARY
16 VERIFICATION.—

17 “(I) FURTHER ACTION NO-
18 TICE.—If the employer receives a fur-
19 ther action notice of an individual’s
20 identity or work eligibility under the
21 EEVS, the employer shall inform the
22 individual without delay for whom the
23 confirmation is sought of the further
24 action notice and any procedures spec-
25 ified by the Secretary for addressing

1 the further action notice. The em-
2 ployee must acknowledge in writing
3 the receipt of the further action notice
4 from the employer.

5 “(II) CONTEST.—Within ten
6 business days from the date of notifi-
7 cation to the employee, the employee
8 must contact the appropriate agency
9 to contest the further action notice
10 and, if the Secretary so requires, ap-
11 pear in person at the appropriate
12 Federal or State agency for purposes
13 of verifying the individual’s identity
14 and employment authorization. The
15 Secretary, in consultation with the
16 Commissioner of Social Security and
17 other appropriate Federal and State
18 agencies, shall specify an available
19 secondary verification procedure to
20 confirm the validity of information
21 provided and to provide a final con-
22 firmation or nonconfirmation. An indi-
23 vidual contesting a further action no-
24 tice must attest under penalty of per-

1 jury to his identity and employment
2 authorization.

3 “(III) NO CONTEST.—If the indi-
4 vidual does not contest the further ac-
5 tion notice within the period specified
6 in subparagraph (5)(C)(iii)(II), a final
7 nonconfirmation shall issue. The em-
8 ployer shall then record the noncon-
9 firmation in such manner as the Sec-
10 retary may specify.

11 “(IV) FINALITY.—The EEVS
12 shall provide a final confirmation or
13 nonconfirmation within 10 business
14 days from the date of the employee’s
15 contesting of the further action notice.
16 As long as the employee is taking the
17 steps required by the Secretary and
18 the agency that the employee has con-
19 tacted to resolve a further action no-
20 tice, the Secretary shall extend the pe-
21 riod of investigation until the sec-
22 ondary verification procedure allows
23 the Secretary to provide a final con-
24 firmation or nonconfirmation. If the
25 employee fails to take the steps re-

1 quired by the Secretary and the ap-
2 propriate agency, a final nonconfirma-
3 tion may be issued to that employee.

4 “(V) RE-EXAMINATION.—Noth-
5 ing in this section shall prevent the
6 Secretary from reexamining a case
7 where a final confirmation has been
8 provided if subsequently received in-
9 formation indicates that the individual
10 may not be work authorized.

11 “(VI) TERMINATION.—In no case
12 shall an employer terminate employ-
13 ment of an individual solely because of
14 a failure of the individual to have
15 identity and work eligibility confirmed
16 under this section until a noncon-
17 firmation becomes final and the pe-
18 riod to timely file an administrative
19 appeal has passed, and in the case
20 where an administrative appeal has
21 been denied, the period to timely file
22 a petition for judicial review has
23 passed. When final confirmation or
24 nonconfirmation is provided, the con-
25 firmation system shall provide an ap-

1 appropriate code indicating such con-
2 firmation or nonconfirmation. An indi-
3 vidual's failure to contest a further
4 action notice shall not be considered
5 an admission of guilt with respect to
6 any violation of this section or any
7 provision of law.

8 “(D) CONSEQUENCES OF NONCONFIRMA-
9 TION.—

10 “(i) TERMINATION OF CONTINUED
11 EMPLOYMENT.—If the employer has re-
12 ceived a final nonconfirmation regarding
13 an individual, the employer shall terminate
14 employment (or recruitment or referral) of
15 the individual, unless the individual files
16 an administrative appeal of a final noncon-
17 firmation notice under paragraph (7) with-
18 in the time period prescribed in that para-
19 graph and the Secretary or the Commis-
20 sioner stays the final nonconfirmation no-
21 tice pending the resolution of the adminis-
22 trative appeal.

23 “(ii) CONTINUED EMPLOYMENT
24 AFTER FINAL NONCONFIRMATION.—If the
25 employer continues to employ (or to recruit

1 or refer) an individual after receiving final
2 nonconfirmation (unless the individual filed
3 an administrative appeal of a final noncon-
4 firmation notice under paragraph (7) with-
5 in the time period prescribed in that para-
6 graph and the Secretary of the Commis-
7 sioner stayed the final nonconfirmation no-
8 tice pending the resolution of the adminis-
9 trative appeal), a rebuttable presumption is
10 created that the employer has violated sub-
11 sections (a)(1)(A) and (a)(2) of this sec-
12 tion. The previous sentence shall not apply
13 in any prosecution under subsection (f)(1)
14 of this section.

15 “(E) OBLIGATION TO RESPOND TO QUE-
16 RIES AND ADDITIONAL INFORMATION.—

17 “(i) Employers are required to comply
18 with requests from the Secretary through
19 EEVS for information, including queries
20 concerning current and former employees
21 that relate to the functioning of the EEVS,
22 the accuracy of the responses provided by
23 the EEVS, and any suspected fraud or
24 identity theft in the use of the EEVS.

1 Failure to comply with such a request is a
2 violation of section (a)(1)(B).

3 “(ii) Individuals being verified
4 through EEVS may be required to take
5 further action to address irregularities
6 identified in the documents relied upon for
7 purposes of employment verification. The
8 employer shall communicate to the indi-
9 vidual any such requirement for further ac-
10 tions and shall record the date and manner
11 of such communication. The individual
12 must acknowledge in writing the receipt of
13 this communication from the employer.
14 Failure to communicate such a require-
15 ment is a violation of section (a)(1)(B).

16 “(iii) The Secretary is authorized,
17 with notice to the public provided in the
18 Federal Register, to implement, clarify,
19 and supplement the requirements of this
20 paragraph in order to facilitate the func-
21 tioning of the EEVS or to prevent fraud or
22 identity theft in the use of the EEVS.

23 “(F) IMPERMISSIBLE USE OF THE EEVS.—

24 “(i) An employer may not use the
25 EEVS to verify an individual prior to ex-

1 tending to the individual an offer of em-
2 ployment.

3 “(ii) An employer may not require an
4 individual to verify the individual’s own
5 employment eligibility through the EEVS
6 as a condition of extending to that indi-
7 vidual an offer of employment. Nothing in
8 this paragraph shall be construed to pre-
9 vent an employer from encouraging an em-
10 ployee or a prospective employee from
11 verifying the employee’s or a prospective
12 employee’s own employment eligibility prior
13 to obtaining employment pursuant to para-
14 graph (5)(H).

15 “(iii) An employer may not terminate
16 an individual’s employment solely because
17 that individual has been issued a further
18 action notice.

19 “(iv) An employer may not take the
20 following actions solely because an indi-
21 vidual has been issued a further action no-
22 tice:

23 “(I) reduce salary, bonuses or
24 other compensation due to the em-
25 ployee;

1 “(II) suspend the employee with-
2 out pay;

3 “(III) reduce the hours that the
4 employee is required to work if such
5 reduction is accompanied by a reduc-
6 tion in salary, bonuses or other com-
7 pensation due to the employee, except
8 that, with the agreement of the em-
9 ployee, an employer may provide an
10 employee with reasonable time off
11 without pay in order to contest and
12 resolve the further action notice re-
13 ceived by the employee; and

14 “(IV) deny the employee the
15 training necessary to perform the em-
16 ployment duties for which the em-
17 ployee has been hired.

18 “(v) An employer may not, in the
19 course of utilizing the procedures for docu-
20 ment verification set forth in subsection
21 (c), require that a prospective employee
22 present additional documents or different
23 documents than those prescribed under
24 that subsection.

1 “(vi) The Secretary of Homeland Se-
2 curity shall develop the necessary policies
3 and procedures to monitor employers’ use
4 of the EEVS and their compliance with the
5 requirements set forth in this section. Em-
6 ployers are required to comply with re-
7 quests from the Secretary for information
8 related to any monitoring, audit or inves-
9 tigation undertaken pursuant to this sub-
10 paragraph.

11 “(vii) The Secretary of Homeland Se-
12 curity, in consultation with the Secretary
13 of Labor, shall establish and maintain a
14 process by which any employee (or any
15 prospective employee who would otherwise
16 have been hired) who has reason to believe
17 that an employer has violated subpara-
18 graphs (i)–(v) may file a complaint against
19 the employer.

20 “(viii) Any employer found to have
21 violated subparagraphs (i)–(v) shall pay a
22 civil penalty of up to \$10,000 for each vio-
23 lation.

24 “(ix) This paragraph is not intended
25 to, and does not, create any right, benefit,

1 trust, or responsibility, whether substantive
2 or procedural, enforceable at law or equity
3 by a party against the United States, its
4 departments, agencies, instrumentalities,
5 entities, officers, employees, or agents, or
6 any person, nor does it create any right of
7 review in a judicial proceeding.

8 “(x) No later than 3 months after the
9 date of enactment of this section, the Sec-
10 retary of Homeland Security, in coopera-
11 tion with the Secretary of Labor and the
12 Administrator of the Small Business Ad-
13 ministration, shall conduct a campaign to
14 disseminate information respecting the
15 rights and remedies prescribed under this
16 section. Such campaign shall be aimed at
17 increasing the knowledge of employers, em-
18 ployees, and the general public concerning
19 employer and employee rights, responsibil-
20 ities and remedies under this section.

21 “(I) In order to carry out the
22 campaign under this paragraph, the
23 Secretary of Homeland Security may,
24 to the extent deemed appropriate and
25 subject to the availability of appro-

1 priations, contract with public and
2 private organizations for outreach ac-
3 tivities under the campaign.

4 “(II) There are authorized to be
5 appropriated to carry out this para-
6 graph \$40,000,000 for each fiscal
7 year 2007 through 2009.

8 “(G) Based on a regular review of the
9 EEVS and the document verification proce-
10 dures to identify fraudulent use and to assess
11 the security of the documents being used to es-
12 tablish identity or employment authorization,
13 the Secretary in consultation with the Commis-
14 sioner of Social Security may modify by Notice
15 published in the Federal Register the docu-
16 ments that must be presented to the employer,
17 the information that must be provided to EEVS
18 by the employer, and the procedures that must
19 be followed by employers with respect to any as-
20 pect of the EEVS if the Secretary in his discre-
21 tion concludes that the modification is nec-
22 essary to ensure that EEVS accurately and reli-
23 ably determines the work authorization of em-
24 ployees while providing protection against fraud
25 and identity theft.

1 “(H) Subject to appropriate safeguards to
2 prevent misuse of the system, the Secretary in
3 consultation with the Commissioner of Social
4 Security, shall establish secure procedures to
5 permit an individual who seeks to verify the in-
6 dividual’s own employment eligibility prior to
7 obtaining or changing employment, to contact
8 the appropriate agency and, in a timely man-
9 ner, correct or update the information used by
10 the EEVS.

11 “(7) PROTECTION FROM LIABILITY FOR AC-
12 TIONS TAKEN ON THE BASIS OF INFORMATION PRO-
13 VIDED BY THE CONFIRMATION SYSTEM.—No em-
14 ployer participating in the EEVS shall be liable
15 under any law for any employment-related action
16 taken with respect to the employee in good faith reli-
17 ance on information provided through the confirma-
18 tion system.

19 “(8) ADMINISTRATIVE REVIEW.—

20 “(A) IN GENERAL.—An individual who re-
21 ceives a final nonconfirmation notice may, not
22 later than 30 days after the date that such no-
23 tice is received, file an administrative appeal of
24 such final notice. An individual who did not
25 timely contest a further action notice may not

1 avail himself of this paragraph. Unless the Sec-
2 retary of Homeland Security, in consultation
3 with the Commissioner of Social Security, speci-
4 fies otherwise, all administrative appeals shall
5 be filed as follows:

6 “(i) NATIONALS OF THE UNITED
7 STATES.—An individual claiming to be a
8 national of the United States shall file the
9 administrative appeal with the Commis-
10 sioner.

11 “(ii) ALIENS.—An individual claiming
12 to be an alien authorized to work in the
13 United States shall file the administrative
14 appeal with the Secretary.

15 “(B) REVIEW FOR ERROR.—The Secretary
16 and the Commissioner shall each develop proce-
17 dures for resolving administrative appeals re-
18 garding final nonconfirmations based upon the
19 information that the individual has provided, in-
20 cluding any additional evidence that was not
21 previously considered. Appeals shall be resolved
22 within 30 days after the individual has sub-
23 mitted all evidence relevant to the appeal. The
24 Secretary and the Commissioner may, on a case
25 by case basis for good cause, extend this period

1 in order to ensure accurate resolution of an ap-
2 peal before him. Administrative review under
3 this paragraph (7) shall be limited to whether
4 the final nonconfirmation notice is supported by
5 the weight of the evidence.

6 “(C) ADMINISTRATIVE RELIEF.—The relief
7 available under this paragraph (7) is limited to
8 an administrative order upholding, reversing,
9 modifying, amending, or setting aside the final
10 nonconfirmation notice. The Secretary or the
11 Commissioner shall stay the final nonconfirma-
12 tion notice pending the resolution of the admin-
13 istrative appeal unless the Secretary or the
14 Commissioner determines that the administra-
15 tive appeal is frivolous, unlikely to succeed on
16 the merits, or filed for purposes of delay and
17 terminates the stay.

18 “(D) DAMAGES, FEES AND COSTS.—No
19 money damages, fees or costs may be awarded
20 in the administrative review process, and no
21 court shall have jurisdiction to award any dam-
22 ages, fees or costs relating to such administra-
23 tive review under the Equal Access to Justice
24 Act or any other law.

25 “(9) JUDICIAL REVIEW.—

1 “(A) EXCLUSIVE PROCEDURE.—Notwith-
2 standing any other provision of law (statutory
3 or nonstatutory) including sections 1361 and
4 1651 of title 28, no court shall have jurisdiction
5 to consider any claim against the United States,
6 or any of its agencies, officers, or employees,
7 challenging or otherwise relating to a final non-
8 confirmation notice or to the EEVS, except as
9 specifically provided by this paragraph. Judicial
10 review of a final nonconfirmation notice is gov-
11 erned only by chapter 158 of title 28, except as
12 provided below.

13 “(B) REQUIREMENTS FOR REVIEW OF A
14 FINAL NONCONFIRMATION NOTICE.—With re-
15 spect to review of a final nonconfirmation notice
16 under subsection (a), the following requirements
17 apply:

18 “(i) DEADLINE.—The petition for re-
19 view must be filed no later than 30 days
20 after the date of the completion of the ad-
21 ministrative appeal.

22 “(ii) VENUE AND FORMS.—The peti-
23 tion for review shall be filed with the
24 United States Court of Appeals for the ju-
25 dicial circuit wherein the petitioner resided

1 when the final nonconfirmation notice was
2 issued. The record and briefs do not have
3 to be printed. The court of appeals shall
4 review the proceeding on a typewritten
5 record and on typewritten briefs.

6 “(iii) SERVICE.—The respondent is ei-
7 ther the Secretary of Homeland Security
8 or the Commissioner of Social Security,
9 but not both, depending upon who issued
10 (or affirmed) the final nonconfirmation no-
11 tice. In addition to serving the respondent,
12 the petitioner must also serve the Attorney
13 General.

14 “(iv) PETITIONER’S BRIEF.—The pe-
15 titioner shall serve and file a brief in con-
16 nection with a petition for judicial review
17 not later than 40 days after the date on
18 which the administrative record is avail-
19 able, and may serve and file a reply brief
20 not later than 14 days after service of the
21 brief of the respondent, and the court may
22 not extend these deadlines, except for good
23 cause shown. If a petitioner fails to file a
24 brief within the time provided in this para-
25 graph, the court shall dismiss the appeal

1 unless a manifest injustice would result.
2 The court of appeals may set an expedited
3 briefing schedule.

4 “(v) SCOPE AND STANDARD FOR RE-
5 VIEW.—The court of appeals shall decide
6 the petition only on the administrative
7 record on which the final nonconfirmation
8 order is based. The burden shall be on the
9 petitioner to show that the final noncon-
10 firmation decision was arbitrary, capri-
11 cious, not supported by substantial evi-
12 dence, or otherwise not in accordance with
13 law. Administrative findings of fact are
14 conclusive unless any reasonable adjudi-
15 cator would be compelled to conclude to
16 the contrary.

17 “(vi) STAY.—The court of appeals
18 shall stay the final nonconfirmation notice
19 pending its decision on the petition for re-
20 view unless the court determines that the
21 petition for review is frivolous, unlikely to
22 succeed on the merits, or filed for purposes
23 of delay.

1 “(C) EXHAUSTION OF ADMINISTRATIVE
2 REMEDIES.—A court may review a final non-
3 confirmation order only if—

4 “(i) the petitioner has exhausted all
5 administrative remedies available to the
6 alien as of right, and

7 “(ii) another court has not decided
8 the validity of the order, unless the review-
9 ing court finds that the petition presents
10 grounds that could not have been pre-
11 sented in the prior judicial proceeding or
12 that the remedy provided by the prior pro-
13 ceeding was inadequate or ineffective to
14 test the validity of the order.

15 “(D) LIMIT ON INJUNCTIVE RELIEF.—Re-
16 gardless of the nature of the action or claim or
17 of the identity of the party or parties bringing
18 the action, no court (other than the Supreme
19 Court) shall have jurisdiction or authority to
20 enjoin or restrain the operation of the provi-
21 sions in this section, other than with respect to
22 the application of such provisions to an indi-
23 vidual petitioner.

24 “(10) MANAGEMENT OF EMPLOYMENT ELIGI-
25 BILITY VERIFICATION SYSTEM.—

1 “(A) IN GENERAL.—The Secretary shall
2 manage and modify the EEVS in order to—

3 “(i) respond to inquiries made by par-
4 ticipating employers at any time through
5 the internet concerning an individual’s
6 identity and whether the individual is au-
7 thorized to be employed;

8 “(ii) maintain records of the inquiries
9 that were made, of confirmations provided
10 (or not provided), and of the codes pro-
11 vided to employers as evidence of their
12 compliance with their obligations under the
13 EEVS; and

14 “(iii) provide information to, and re-
15 quest action by, employers and individuals
16 using the system, including notifying em-
17 ployers in advance of the expiration or
18 other relevant change in an employee’s em-
19 ployment authorization, and directing an
20 employer to convey to the employee a re-
21 quest to contact the appropriate Federal or
22 State agency.

23 “(B) OPERATION OF SYSTEM.—The EEVS
24 shall be operated—

1 “(i) to maximize its reliability and
2 ease of use by employers consistent with
3 insulating and protecting the privacy and
4 security of the underlying information;

5 “(ii) to respond accurately to all in-
6 quires made by employers on whether in-
7 dividuals are authorized to be employed
8 and to register any times when the system
9 is unable to receive inquiries;

10 “(iii) to maintain appropriate admin-
11 istrative, technical, and physical safeguards
12 to prevent unauthorized disclosure of per-
13 sonal information;

14 “(iv) to allow for auditing use of the
15 system to detect fraud and identify theft,
16 and to preserve the security of the infor-
17 mation in all of the system, including but
18 not limited to the following:

19 “(I) to develop and use algo-
20 rithms to detect potential identity
21 theft, such as multiple uses of the
22 same identifying information or docu-
23 ments;

1 “(II) to develop and use algo-
2 rithms to detect misuse of the system
3 by employers and employees;

4 “(III) to develop capabilities to
5 detect anomalies in the use of the sys-
6 tem that may indicate potential fraud
7 or misuse of the system; and

8 “(IV) to audit documents and in-
9 formation submitted by potential em-
10 ployees to employers, including au-
11 thority to conduct interviews with em-
12 ployers and employees;

13 “(v) to confirm identity and work au-
14 thorization through verification of records
15 maintained by the Secretary, other Federal
16 departments, States, the Commonwealth of
17 the Northern Mariana Islands, or an out-
18 lying possession of the United States, as
19 determined necessary by the Secretary, in-
20 cluding—

21 “(I) records maintained by the
22 Social Security Administration as
23 specified in (D);

24 “(II) birth and death records
25 maintained by vital statistics agencies

1 of any state or other United States
2 jurisdiction;

3 “(III) passport and visa records
4 (including photographs) maintained
5 by the United States Department of
6 State; and

7 “(IV) State driver’s license or
8 identity card information (including
9 photographs) maintained by State de-
10 partment of motor vehicles; and

11 “(vi) to confirm electronically the
12 issuance of the employment authorization
13 or identity document and to display the
14 digital photograph that the issuer placed
15 on the document so that the employer can
16 compare the photograph displayed to the
17 photograph on the document presented by
18 the employee. If in exceptional cases a pho-
19 tograph is not available from the issuer,
20 the Secretary shall specify a temporary al-
21 ternative procedure for confirming the au-
22 thenticity of the document.

23 “(C) OPERATIONAL AND TECHNICAL REG-
24 ULATIONS.—The Secretary is authorized, with
25 notice to the public provided in the Federal

1 Register, to issue regulations concerning oper-
2 ational and technical aspects of the EEVS and
3 the efficiency, accuracy, and security of the
4 EEVS.

5 “(D) ACCESS TO INFORMATION.—

6 “(i) Notwithstanding any other provi-
7 sion of law, the Secretary of Homeland Se-
8 curity shall have access to relevant records
9 described at paragraph (9)(B)(v), for the
10 purposes of preventing identity theft and
11 fraud in the use of the EEVS and enforce-
12 ing the provisions of this section governing
13 employment verification.

14 “(ii) The Secretary, in consultation
15 with the Commissioner of Social Security
16 and other appropriate Federal and State
17 agencies, shall develop policies and proce-
18 dures to ensure protection of the privacy
19 and security of personally identifiable in-
20 formation and identifiers contained in the
21 records accessed pursuant to this para-
22 graph and subparagraph (d)(5)(E)(i). The
23 Secretary, in consultation with the Com-
24 missioner and other appropriate Federal
25 and State agencies, shall develop and de-

1 ploy appropriate privacy and security
2 training for the Federal and State employ-
3 ees accessing the records pursuant to this
4 paragraph and subparagraph (d)(5)(E)(i).

5 “(iii) The Chief Privacy Officer of the
6 Department of Homeland Security shall
7 conduct regular privacy audits of the poli-
8 cies and procedures established under sub-
9 paragraph (9)(D)(ii), including any collec-
10 tion, use, dissemination, and maintenance
11 of personally identifiable information and
12 any associated information technology sys-
13 tems, as well as scope of requests for this
14 information. The Chief Privacy Officer
15 shall review the results of the audits and
16 recommend to the Secretary and the Pri-
17 vacy and Civil Liberties Oversight Board
18 any changes necessary to improve the pri-
19 vacy protections of the program.

20 “(E) RESPONSIBILITIES OF THE SEC-
21 RETARY OF HOMELAND SECURITY.—

22 “(i) As part of the EEVS, the Sec-
23 retary shall maintain a reliable, secure
24 method, which, operating through the
25 EEVS and within the time periods speci-

1 fied, compares the name, alien identifica-
2 tion or authorization number, or other rel-
3 evant information provided in an inquiry
4 against such information maintained or
5 accessed by the Secretary in order to con-
6 firm (or not confirm) the validity of the in-
7 formation provided, the correspondence of
8 the name and number, whether the alien is
9 authorized to be employed in the United
10 States (or, to the extent that the Secretary
11 determines to be feasible and appropriate,
12 whether the Secretary's records verify
13 United States citizenship), and such other
14 information as the Secretary may pre-
15 scribe.

16 “(ii) As part of the EEVS, the Sec-
17 retary shall establish a reliable, secure
18 method, which, operating through the
19 EEVS, displays the digital photograph de-
20 scribed in paragraph (d)(9)(B)(vi).

21 “(iii) The Secretary shall have author-
22 ity to prescribe when a confirmation, non-
23 confirmation or further action notice shall
24 be issued.

1 “(iv) The Secretary shall perform reg-
2 ular audits under the EEVS, as described
3 in paragraph (d)(9)(B)(iv) of this section
4 and shall utilize the information obtained
5 from such audits, as well as any informa-
6 tion obtained from the Commissioner of
7 Social Security pursuant to section 4 of
8 this Act, for the purposes of this Act and
9 of immigration enforcement in general.

10 “(v) The Secretary shall make appro-
11 priate arrangements to allow employers
12 who are otherwise unable to access the
13 EEVS to use Federal Government facilities
14 or public facilities in order to utilize the
15 EEVS.

16 “(vi) The Secretary shall authorize
17 certain entities to serve as liaisons between
18 the electronic verification system and em-
19 ployers who wish to outsource submission
20 of employment eligibility verification que-
21 ries for newly hired or current employees.
22 The Secretary shall establish regulations
23 modeled on the E-Verify Designated Agent
24 program in place at the Department as of
25 2007. Designated agents shall register

1 with the Department and sign a Memo-
2 randum of Understanding as determined
3 by the Secretary. Additionally designated
4 agents shall sign the determined Memo-
5 randum of Understanding with each em-
6 ployer who has designated the agent to
7 perform verification services on their be-
8 half. The Secretary may authorize regula-
9 tions ensuring proper conduct and over-
10 sight of designated agents as appropriate.
11 The Secretary shall make available to em-
12 ployers information on how to identify and
13 enter into an agreement with a designated
14 agent to arrange for such an agent to per-
15 form verification services on their behalf.

16 “(F) RESPONSIBILITIES OF THE SEC-
17 RETARY OF STATE.—As part of the EEVS, the
18 Secretary of State shall provide to the Sec-
19 retary access to passport and visa information
20 as needed to confirm that a passport or pass-
21 port card presented under section (c)(1)(B) be-
22 longs to the subject of the EEVS check, or that
23 a passport or visa photograph matches an indi-
24 vidual.

1 “(G) UPDATING INFORMATION.—The
2 Commissioner of Social Security and the Secre-
3 taries of Homeland Security and State shall up-
4 date their information in a manner that pro-
5 motes maximum accuracy and shall provide a
6 process for the prompt correction of erroneous
7 information.

8 “(11) LIMITATION ON USE OF THE EMPLOY-
9 MENT ELIGIBILITY VERIFICATION SYSTEM.—Not-
10 withstanding any other provision of law, nothing in
11 this subsection shall be construed to permit or allow
12 any department, bureau, or other agency of the
13 United States Government to utilize any informa-
14 tion, database, or other records assembled under this
15 subsection for any purpose other than for the en-
16 forcement and administration of the immigration
17 laws, anti-terrorism laws, or for enforcement of Fed-
18 eral criminal law related to the functions of the
19 EEVS, including prohibitions on forgery, fraud and
20 identity theft.

21 “(12) UNAUTHORIZED USE OR DISCLOSURE OF
22 INFORMATION.—Any employee of the Department of
23 Homeland Security or another Federal or State
24 agency who knowingly uses or discloses the informa-
25 tion assembled under this subsection for a purpose

1 other than one authorized under this section shall
2 pay a civil penalty of \$5,000–\$50,000 for each viola-
3 tion.

4 “(13) CONFORMING AMENDMENT.—Public Law
5 104–208, div. C, title IV, subtitle A, sections 402–
6 405 are repealed, provided that nothing in this sub-
7 section shall be construed to limit the authority of
8 the Secretary to allow or continue to allow the par-
9 ticipation of Basic Pilot employers in the EEVS es-
10 tablished by this subsection.

11 “(14) FUNDS.—In addition to any appropriated
12 funds, the Secretary is authorized to use funds pro-
13 vided in sections 286 (m) and (n), for the mainte-
14 nance and operation of the EEVS. EEVS shall be
15 considered an immigration adjudication service for
16 purposes of sections 286 (m) and (n).

17 “(15) NON-DISCRIMINATION.—The employer
18 shall use the procedures for EEVS specified in this
19 section for all employees without regard to national
20 origin or citizenship status.

21 “(e) COMPLIANCE.—

22 “(1) COMPLAINTS AND INVESTIGATIONS.—The
23 Secretary of Homeland Security shall establish pro-
24 cedures—

1 “(A) for individuals and entities to file
2 complaints respecting potential violations of
3 subsection (a) or (g)(1);

4 “(B) for the investigation of those com-
5 plaints which the Secretary deems it appro-
6 priate to investigate; and

7 “(C) for the investigation of such other
8 violations of subsection (a) or (g)(1) as the Sec-
9 retary determines to be appropriate.

10 “(2) AUTHORITY IN INVESTIGATIONS.—In con-
11 ducting investigations and hearings under this sub-
12 section—

13 “(A) immigration officers shall have rea-
14 sonable access to examine evidence of any em-
15 ployer being investigated; and

16 “(B) immigration officers designated by
17 the Secretary may compel by subpoena the at-
18 tendance of witnesses and the production of evi-
19 dence at any designated place in an investiga-
20 tion or case under this subsection. In case of
21 contumacy or refusal to obey a subpoena law-
22 fully issued under this paragraph, the Secretary
23 may request that the Attorney General apply in
24 an appropriate district court of the United
25 States for an order requiring compliance with

1 such subpoena, and any failure to obey such
2 order may be punished by such court as a con-
3 tempt thereof. Failure to cooperate with such
4 subpoena shall be subject to further penalties,
5 including but not limited to further fines and
6 the voiding of any mitigation of penalties or ter-
7 mination of proceedings under subsection
8 (e)(3)(B).

9 “(3) COMPLIANCE PROCEDURES.—

10 “(A) PRE-PENALTY NOTICE.—If the Sec-
11 retary has reasonable cause to believe that
12 there has been a civil violation of this section or
13 the requirements of this section, including but
14 not limited to subsections (b), (c), (d), and (k),
15 and determines that further proceedings are
16 warranted, the Secretary shall issue to the em-
17 ployer concerned a written notice of the Depart-
18 ment’s intention to issue a claim for a monetary
19 or other penalty. Such pre-penalty notice
20 shall—

21 “(i) describe the violation;

22 “(ii) specify the laws and regulations
23 allegedly violated;

24 “(iii) disclose the material facts which
25 establish the alleged violation; and

1 “(iv) inform such employer that he or
2 she shall have a reasonable opportunity to
3 make representations as to why a claim for
4 a monetary or other penalty should not be
5 imposed.

6 “(B) REMISSION OR MITIGATION OF PEN-
7 ALTIES.—Whenever any employer receives writ-
8 ten pre-penalty notice of a fine or other penalty
9 in accordance with subparagraph (A), the em-
10 ployer may file, within 15 days from receipt of
11 such notice, with the Secretary a petition for
12 the remission or mitigation of such fine or pen-
13 alty, or a petition for termination of the pro-
14 ceedings. The petition may include any relevant
15 evidence or proffer of evidence the employer
16 wishes to present, and shall be filed and consid-
17 ered in accordance with procedures to be estab-
18 lished by the Secretary. If the Secretary finds
19 that such fine, penalty, or forfeiture was in-
20 curred erroneously, or finds the existence of
21 such mitigating circumstances as to justify the
22 remission or mitigation of such fine or penalty,
23 the Secretary may remit or mitigate the same
24 upon such terms and conditions as the Sec-
25 retary deems reasonable and just, or order ter-

1 mination of any proceedings relating thereto.
2 Such mitigating circumstances may include, but
3 need not be limited to, good faith compliance
4 and participation in, or agreement to partici-
5 pate in, the EEVS, if not otherwise required.
6 This subparagraph shall not apply to an em-
7 ployer that has or is engaged in a pattern or
8 practice of violations of subsection (a)(1)(A),
9 (a)(1)(B), or (a)(2) or of any other require-
10 ments of this section.

11 “(C) PENALTY CLAIM.—After considering
12 evidence and representations, if any, offered by
13 the employer pursuant to subparagraph (B),
14 the Secretary shall determine whether there was
15 a violation and promptly issue a written final
16 determination setting forth the findings of fact
17 and conclusions of law on which the determina-
18 tion is based. If the Secretary determines that
19 there was a violation, the Secretary shall issue
20 the final determination with a written penalty
21 claim. The penalty claim shall specify all
22 charges in the information provided under
23 clauses (i) through (iii) of subparagraph (A)
24 and any mitigation or remission of the penalty
25 that the Secretary deems appropriate.

1 “(4) CIVIL PENALTIES.—

2 “(A) HIRING AND CONTINUED EMPLOY-
3 MENT OF UNAUTHORIZED ALIENS.—Any em-
4 ployer that violates any provision of subsection
5 (a)(1)(A) or (a)(2) shall—

6 “(i) pay a civil penalty of not less
7 than \$550 and not more than \$4,400 for
8 each unauthorized alien with respect to
9 which each violation of either subsection
10 (a)(1)(A) or (a)(2) occurred;

11 “(ii) if an employer has previously
12 been fined under subsection (e)(4)(A), pay
13 a civil penalty of not less than \$4,400 and
14 not more than \$11,000 for each unauthor-
15 ized alien with respect to which a violation
16 of either subsection (a)(1)(A) or (a)(2) oc-
17 curred;

18 “(iii) if an employer has previously
19 been fined more than once under sub-
20 section (e)(4), pay a civil penalty of not
21 less than \$6,600 and not more than
22 \$22,000 for each unauthorized alien with
23 respect to which a violation of either sub-
24 section has occurred. This penalty shall
25 apply, in addition to any penalties pre-

1 viously assessed, to employers who fail to
2 comply with a previously issued and final
3 order under this section;

4 “(iv) if an employer has previously
5 been fined more than twice under sub-
6 section (e)(4)(A), pay a civil penalty of
7 “\$10,000 for each alien with respect to
8 which a violation of either subsection
9 (a)(1) or (a)(2) occurred; and

10 “(v) in addition to any penalties pre-
11 viously assessed, an employer who fails to
12 comply with a previously issued and final
13 order under this section shall be fined
14 \$25,000 for each violation.

15 “(B) RECORDKEEPING OR VERIFICATION
16 PRACTICES.—Any employer that violates or fails
17 to comply with any requirement of subsection
18 (b), (c), and (d), shall pay a civil penalty as fol-
19 lows:

20 “(i) Pay a civil penalty of \$1,000 for
21 each violation.

22 “(ii) If an employer has previously
23 been fined under subsection (e)(4)(B), pay
24 a civil penalty of \$2,000 for each violation.

1 “(iii) If an employer has previously
2 been fined more than once under sub-
3 section (e)(4), pay a civil penalty of \$5,000
4 for each violation. This penalty shall apply,
5 in addition to any penalties previously as-
6 sessed, to employers who fail to comply
7 with a previously issued and final order
8 under this section.

9 “(iv) If an employer has previously
10 been fined more than twice under sub-
11 section (e)(4)(B), pay a civil penalty of
12 \$15,000 for each violation.

13 “(v) In addition to any penalties pre-
14 viously assessed, an employer who fails to
15 comply with a previously issued and final
16 order under this section shall be fined
17 \$15,000 for each violation.

18 “(C) OTHER PENALTIES.—The Secretary
19 may impose additional penalties for violations,
20 including cease and desist orders, specially de-
21 signed compliance plans to prevent further vio-
22 lations, suspended fines to take effect in the
23 event of a further violation, and in appropriate
24 cases, the remedy provided by paragraph (g)(2).
25 All penalties in this section may be adjusted

1 every four years to account for inflation as pro-
2 vided by law.

3 “(D) PENALTY REDUCTION AND MITIGA-
4 TION.—The Secretary is authorized to reduce
5 or mitigate penalties imposed upon employers,
6 based upon factors including, but not limited to,
7 the employer’s hiring volume, compliance his-
8 tory, good-faith implementation of a compliance
9 program, participation in a temporary worker
10 program, and voluntary disclosure of violations
11 of this subsection to the Secretary.

12 “(5) ORDER OF INTERNAL REVIEW AND CER-
13 TIFICATION OF COMPLIANCE.—If the Secretary has
14 reasonable cause to believe that an employer has
15 failed to comply with this section, the Secretary is
16 authorized, at any time, to require that the employer
17 certify that it is in compliance with this section, or
18 has instituted a program to come into compliance.
19 Within 60 days of receiving a notice from the Sec-
20 retary requiring such a certification, the employer’s
21 chief executive officer or similar official with respon-
22 sibility for, and authority to bind the company on,
23 all hiring and immigration compliance notices shall
24 certify under penalty of perjury that the employer is
25 in conformance with the requirements of subsections

1 (c)(1) through (c)(4), pertaining to document
2 verification requirements, and with subsection (d),
3 pertaining to the EEVS (once that system is imple-
4 mented according to the requirements of (d)(1)),
5 and with any additional requirements that the Sec-
6 retary may promulgate by regulation pursuant to
7 subsections (c), (d), and (k), or that the employer
8 has instituted a program to come into compliance
9 with these requirements. At the request of the em-
10 ployer, the Secretary may extend the 60-day dead-
11 line for good cause. The Secretary is authorized to
12 publish in the Federal Register standards or meth-
13 ods for such certification, require specific record-
14 keeping practices with respect to such certifications,
15 and audit the records thereof at any time. This au-
16 thority shall not be construed to diminish or qualify
17 any other penalty provided by this section.

18 “(6) JUDICIAL REVIEW.—

19 “(A) IN GENERAL.—Notwithstanding any
20 other provision of law (statutory or nonstatu-
21 tory) including sections 1361 and 1651 of title
22 28, no court shall have jurisdiction to consider
23 a final determination or penalty claim issued
24 under subparagraph (3)(C), except as specifi-
25 cally provided by this paragraph. Judicial re-

1 view of a final determination under paragraph
2 (e)(4) is governed only by chapter 158 of title
3 28, except as specifically provided below. The
4 filing of a petition as provided in this para-
5 graph shall stay the Secretary's determination
6 until entry of judgment by the court. The Sec-
7 retary is authorized to require that petitioner
8 provide, prior to filing for review, security for
9 payment of fines and penalties through bond or
10 other guarantee of payment acceptable to the
11 Secretary.

12 “(B) REQUIREMENTS FOR REVIEW OF A
13 FINAL DETERMINATION.—With respect to judi-
14 cial review of a final determination or penalty
15 claim issued under subparagraph (3)(C), the
16 following requirements apply:

17 “(i) DEADLINE.—The petition for re-
18 view must be filed no later than 30 days
19 after the date of the final determination or
20 penalty claim issued under subparagraph
21 (3)(C).

22 “(ii) VENUE AND FORMS.—The peti-
23 tion for review shall be filed with the court
24 of appeals for the judicial circuit wherein
25 the employer resided when the final deter-

1 mination or penalty claim was issued. The
2 record and briefs do not have to be print-
3 ed. The court of appeals shall review the
4 proceeding on a typewritten record and on
5 typewritten briefs.

6 “(iii) SERVICE.—The respondent is ei-
7 ther the Secretary of Homeland Security
8 or the Commissioner of Social Security,
9 but not both, depending upon who issued
10 (or affirmed) the final nonconfirmation no-
11 tice. In addition to serving the respondent,
12 the petitioner must also serve the Attorney
13 General.

14 “(iv) PETITIONER’S BRIEF.—The pe-
15 titioner shall serve and file a brief in con-
16 nection with a petition for judicial review
17 not later than 40 days after the date on
18 which the administrative record is avail-
19 able, and may serve and file a reply brief
20 not later than 14 days after service of the
21 brief of the respondent, and the court may
22 not extend these deadlines, except for good
23 cause shown. If a petitioner fails to file a
24 brief within the time provided in this para-

1 graph, the court shall dismiss the appeal
2 unless a manifest injustice would result.

3 “(v) SCOPE AND STANDARD FOR RE-
4 VIEW.—The court of appeals shall decide
5 the petition only on the administrative
6 record on which the final determination is
7 based. The burden shall be on the peti-
8 tioner to show that the final determination
9 was arbitrary, capricious, not supported by
10 substantial evidence, or otherwise not in
11 accordance with law. Administrative find-
12 ings of fact are conclusive unless any rea-
13 sonable adjudicator would be compelled to
14 conclude to the contrary.

15 “(C) EXHAUSTION OF ADMINISTRATIVE
16 REMEDIES.—A court may review a final deter-
17 mination under subparagraph (3)(C) only if—

18 “(i) the petitioner has exhausted all
19 administrative remedies available to the pe-
20 titioner as of right, and

21 “(ii) another court has not decided
22 the validity of the order, unless the review-
23 ing court finds that the petition presents
24 grounds that could not have been pre-
25 sented in the prior judicial proceeding or

1 that the remedy provided by the prior pro-
2 ceeding was inadequate or ineffective to
3 test the validity of the order.

4 “(D) LIMIT ON INJUNCTIVE RELIEF.—Re-
5 gardless of the nature of the action or claim or
6 of the identity of the party or parties bringing
7 the action, no court (other than the Supreme
8 Court) shall have jurisdiction or authority to
9 enjoin or restrain the operation of the provi-
10 sions in this section, other than with respect to
11 the application of such provisions to an indi-
12 vidual petitioner.

13 “(7) ENFORCEMENT OF ORDERS.—If an em-
14 ployer fails to comply with a final determination
15 issued against that employer under this subsection,
16 and the final determination is not subject to review
17 as provided in paragraph (6), the Attorney General
18 may file suit to enforce compliance with the final de-
19 termination in any appropriate district court of the
20 United States. In any such suit, the validity and ap-
21 propriateness of the final determination shall not be
22 subject to review.

23 “(8) LIENS.—

24 “(A) CREATION OF LIEN.—If any employer
25 liable for a fee or penalty under this section ne-

1 glects or refuses to pay such liability and fails
2 to file a petition for review (if applicable) as
3 provided in paragraph 6 of this subsection, such
4 liability is a lien in favor of the United States
5 on all property and rights to property of such
6 person as if the liability of such person were a
7 liability for a tax assessed under the Internal
8 Revenue Code of 1986. If a petition for review
9 is filed as provided in paragraph 6 of this sub-
10 section, the lien (if any) shall arise upon the
11 entry of a final judgment by the court. The lien
12 continues for 20 years or until the liability is
13 satisfied, remitted, set aside, or is terminated.

14 “(B) EFFECT OF FILING NOTICE OF
15 LIEN.—Upon filing of a notice of lien in the
16 manner in which a notice of tax lien would be
17 filed under section 6323(f) (1) and (2) of the
18 Internal Revenue Code of 1986, the lien shall
19 be valid against any purchaser, holder of a se-
20 curity interest, mechanic’s lien or judgment lien
21 creditor, except with respect to properties or
22 transactions specified in subsection (b), (c), or
23 (d) of section 6323 of the Internal Revenue
24 Code of 1986 for which a notice of tax lien
25 properly filed on the same date would not be

1 notice of lien shall be considered a notice of lien
2 for taxes payable to the United States for the
3 purpose of any State or local law providing for
4 the filing of a notice of a tax lien. A notice of
5 lien that is registered, recorded, docketed, or in-
6 dexed in accordance with the rules and require-
7 ments relating to judgments of the courts of the
8 State where the notice of lien is registered, re-
9 corded, docketed, or indexed shall be considered
10 for all purposes as the filing prescribed by this
11 section. The provisions of section 3201(e) of
12 chapter 176 of title 28 shall apply to liens filed
13 as prescribed by this section.

14 “(C) ENFORCEMENT OF A LIEN.—A lien
15 obtained through this process shall be consid-
16 ered a debt as defined by 28 U.S.C. 3002 and
17 enforceable pursuant to the Federal Debt Col-
18 lection Procedures Act.

19 “(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR
20 PATTERN OR PRACTICE VIOLATIONS.—

21 “(1) CRIMINAL PENALTY.—Any employer which
22 engages in a pattern or practice of knowing viola-
23 tions of subsection (a)(1)(A) or (a)(2) shall be fined
24 not more than \$75,000 for each unauthorized alien
25 with respect to whom such a violation occurs, im-

1 prisoned for not more than six months for the entire
2 pattern or practice, or both.

3 “(2) ENJOINING OF PATTERN OR PRACTICE
4 VIOLATIONS.—Whenever the Secretary or the Attor-
5 ney General has reasonable cause to believe that an
6 employer is engaged in a pattern or practice of em-
7 ployment, recruitment, or referral in violation of
8 paragraph (1)(A) or (2) of subsection (a), the Attor-
9 ney General may bring a civil action in the appro-
10 priate district court of the United States requesting
11 such relief, including a permanent or temporary in-
12 junction, restraining order, or other order against
13 the employer, as the Secretary deems necessary.

14 “(g) PROHIBITION OF INDEMNITY BONDS.—

15 “(1) PROHIBITION.—It is unlawful for an em-
16 ployer, in the hiring, recruiting, or referring for em-
17 ployment of any individual, to require the individual
18 to post a bond or security, to pay or agree to pay
19 an amount, or otherwise to provide a financial guar-
20 antee or indemnity, against any potential liability
21 arising under this section relating to such hiring, re-
22 cruiting, or referring of the individual.

23 “(2) CIVIL PENALTY.—Any employer which is
24 determined, after notice and opportunity for mitiga-
25 tion of the monetary penalty under subsection (e), to

1 have violated paragraph (1) of this subsection shall
2 be subject to a civil penalty of \$10,000 for each vio-
3 lation and to an administrative order requiring the
4 return of any amounts received in violation of such
5 paragraph to the employee or, if the employee can-
6 not be located, to the general fund of the Treasury.

7 “(h) GOVERNMENT CONTRACTS.—

8 “(1) EMPLOYERS.—Whenever an employer who
9 does not hold Federal contracts, grants, or coopera-
10 tive agreements is determined by the Secretary to be
11 a repeat violator of this section or is convicted of a
12 crime under this section, the employer shall be sub-
13 ject to debarment from the receipt of Federal con-
14 tracts, grants, or cooperative agreements for a pe-
15 riod of up to two years in accordance with the proce-
16 dures and standards prescribed by the Federal Ac-
17 quisition Regulations. The Secretary or the Attorney
18 General shall advise the Administrator of General
19 Services of any such debarment, and the Adminis-
20 trator of General Services shall list the employer on
21 the List of Parties Excluded from Federal Procure-
22 ment and Nonprocurement Programs for the period
23 of the debarment. The Administrator of General
24 Services, in consultation with the Secretary and At-
25 torney General, may waive operation of this sub-

1 section or may limit the duration or scope of the de-
2 barment.

3 “(2) CONTRACTORS AND RECIPIENTS.—When-
4 ever an employer who holds Federal contracts,
5 grants, or cooperative agreements is determined by
6 the Secretary to be a repeat violator of this section
7 or is convicted of a crime under this section, the em-
8 ployer shall be subject to debarment from the receipt
9 of Federal contracts, grants, or cooperative agree-
10 ments for a period of up to two years in accordance
11 with the procedures and standards prescribed by the
12 Federal Acquisition Regulations. Prior to debarring
13 the employer, the Secretary, in cooperation with the
14 Administrator of General Services, shall advise all
15 agencies holding contracts, grants, or cooperative
16 agreements with the employer of the proceedings to
17 debar the employer from the receipt of new Federal
18 contracts, grants, or cooperative agreements for a
19 period of up to two years. After consideration of the
20 views of agencies holding contracts, grants or coop-
21 erative agreements with the employer, the Secretary
22 may, in lieu of proceedings to debar the employer
23 from the receipt of new Federal contracts, grants, or
24 cooperative agreements for a period of up to two
25 years, waive operation of this subsection, limit the

1 duration or scope of the proposed debarment, or
2 may refer to an appropriate lead agency the decision
3 of whether to seek debarment of the employer, for
4 what duration, and under what scope in accordance
5 with the procedures and standards prescribed by the
6 Federal Acquisition Regulation. However, any pro-
7 posed debarment predicated on an administrative de-
8 termination of liability for civil penalty by the Sec-
9 retary or the Attorney General shall not be review-
10 able in any debarment proceeding.

11 “(3) SUSPENSION.—Indictments for violations
12 of this section or adequate evidence of actions that
13 could form the basis for debarment under this sub-
14 section shall be considered a cause for suspension
15 under the procedures and standards for suspension
16 prescribed by the Federal Acquisition Regulation.

17 “(4) INADVERTENT VIOLATION.—Inadvertent
18 violations of recordkeeping or verification require-
19 ments, in the absence of any other violations of this
20 section, shall not be a basis for determining that an
21 employer is a repeat violator for purposes of this
22 subsection.

23 “(i) MISCELLANEOUS PROVISIONS.—

24 “(1) DOCUMENTATION.—In providing docu-
25 mentation or endorsement of authorization of aliens

1 (other than aliens lawfully admitted for permanent
2 residence) authorized to be employed in the United
3 States, the Secretary shall provide that any limita-
4 tions with respect to the period or type of employ-
5 ment or employer shall be conspicuously stated on
6 the documentation or endorsement.

7 “(2) PREEMPTION.—The provisions of this sec-
8 tion preempt any State or local law that requires the
9 use of the EEVS in a fashion that conflicts with
10 Federal policies, procedures or timetables, or that
11 imposes civil or criminal sanctions (other than
12 through licensing and similar laws) upon those who
13 employ, or recruit or refer for a fee for employment,
14 unauthorized aliens.

15 “(j) DEPOSIT OF AMOUNTS RECEIVED.—Except as
16 otherwise specified, civil penalties collected under this sec-
17 tion shall be deposited by the Secretary into the general
18 fund of the Treasury.

19 “(k) NO MATCH NOTICE.—

20 “(1) IN GENERAL.—For the purpose of this
21 subsection, a no match notice is written notice from
22 the Social Security Administration (SSA) to an em-
23 ployer reporting earnings on a Form W-2 that em-
24 ployees’ names or corresponding social security ac-
25 count numbers fail to match SSA records. The Sec-

1 retary, in consultation with the Commissioner of the
2 Social Security Administration, is authorized to es-
3 tablish by regulation requirements for verifying the
4 identity and work authorization of employees who
5 are the subject of no-match notices.

6 “(2) NOTIFICATION OF EMPLOYEE.—An em-
7 ployee subject to a no-match notice shall also be
8 issued a no-match notice, within 5 days of the em-
9 ployer, which shall explain—

10 “(A) that the no-match notice has been
11 issued to employer;

12 “(B) that the no-match notice does not
13 represent a binding decision on employment
14 status;

15 “(C) that the employee has the right to re-
16 solve the no-match notice within the period of
17 time designated by (k)(2); and

18 “(D) that the employee is protected from
19 adverse employment consequences during the
20 period of time designated by (k)(2).

21 “(3) TIME PERIOD FOR RESOLUTION.—The
22 Secretary shall establish by regulation a reasonable
23 period of time during which an employer must allow
24 an employee who is subject to a no-match notice to
25 resolve the no-match notice with no adverse employ-

1 ment consequences. The period of time shall be ex-
2 tended in such cases where an employee has sought
3 resolution of the no-match notice, at an office of the
4 Social Security Administration or other appropriate
5 entity, during the designated period of time but final
6 resolution or non-resolution of the no-match noticed
7 has yet to be determined by the office or entity in
8 question. The period of time shall be extended until
9 such time as the pending final resolution or non-res-
10 olution of the no-match notice is determined, pro-
11 vided that the employee has acted in good faith co-
12 operation with the office or entity in question.

13 “(4) CONTINUED EMPLOYMENT IN CASE OF UN-
14 RESOLVED NO-MATCH.—The Secretary shall estab-
15 lish by regulation a procedure for verifying employer
16 compliance with any provision of subsection (a)(2) in
17 the case of unresolved no-match notices.

18 “(5) CHALLENGES TO VALIDITY.—

19 “(A) IN GENERAL.—Any right, benefit, or
20 claim not otherwise waived or limited pursuant
21 to this section is available in an action insti-
22 tuted in the United States District Court for
23 the District of Columbia, but shall be limited to
24 determinations of—

1 “(i) whether this section, or any regu-
2 lation issued to implement this section, vio-
3 lates the Constitution of the United States;
4 or

5 “(ii) whether such a regulation issued
6 by or under the authority of the Secretary
7 to implement this section, is contrary to
8 applicable provisions of this section or was
9 issued in violation of title 5, chapter 5,
10 United States Code.

11 “(B) DEADLINES FOR BRINGING AC-
12 TIONS.—Any action instituted under this para-
13 graph must be filed no later than 90 days after
14 the date the challenged section or regulation de-
15 scribed in clause (i) or (ii) of subparagraph (A)
16 is first implemented.

17 “(C) CLASS ACTIONS.—The court may not
18 certify a class under Rule 23 of the Federal
19 Rules of Civil Procedure in any action under
20 this section.

21 “(D) RULE OF CONSTRUCTION.—In deter-
22 mining whether the Secretary’s interpretation
23 regarding any provision of this section is con-
24 trary to law, a court shall accord to such inter-

1 pretation the maximum deference permissible
2 under the Constitution.

3 “(E) NO ATTORNEYS’ FEES.—Notwith-
4 standing any other provision of law, the court
5 shall not award fees or other expenses to any
6 person or entity based upon any action relating
7 to this title brought pursuant to this sub-
8 section.”.

9 **SEC. 4. EFFECTIVE DATE.**

10 This title shall become effective on the date of enact-
11 ment.

12 **SEC. 5. DISCLOSURE OF CERTAIN TAXPAYER INFORMATION**
13 **TO ASSIST IN IMMIGRATION ENFORCEMENT.**

14 (a) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY
15 INFORMATION.—

16 (1) IN GENERAL.—Section 6103(l) of the Inter-
17 nal Revenue Code of 1986 is amended by adding at
18 the end the following new paragraph:

19 “(21) DISCLOSURE OF CERTAIN TAXPAYER
20 IDENTITY INFORMATION BY SOCIAL SECURITY AD-
21 MINISTRATION TO DEPARTMENT OF HOMELAND SE-
22 CURITY.—

23 “(A) IN GENERAL.—From taxpayer iden-
24 tity information or other information which has
25 been disclosed or otherwise made available to

1 the Social Security Administration and upon
2 written request by the Secretary of Homeland
3 Security (in this paragraph referred to as the
4 ‘Secretary’), the Commissioner of Social Secu-
5 rity shall disclose directly to officers, employees,
6 and contractors of the Department of Home-
7 land Security—

8 “(i) the taxpayer identity information
9 of each person who has filed an informa-
10 tion return required by reason of section
11 6051 after calendar year 2005 and before
12 the date specified in subparagraph (D)
13 which contains—

14 “(I) 1 (or any greater number
15 the Secretary shall request) taxpayer
16 identifying number, name, and ad-
17 dress of any employee (within the
18 meaning of such section) that did not
19 match the records maintained by the
20 Commissioner of Social Security, or

21 “(II) 2 (or any greater number
22 the Secretary shall request) names,
23 and addresses of employees (within
24 the meaning of such section), with the
25 same taxpayer identifying number,

1 and the taxpayer identity of each such
2 employee, and

3 “(ii) the taxpayer identity of each per-
4 son who has filed an information return re-
5 quired by reason of section 6051 after cal-
6 endar year 2005 and before the date speci-
7 fied in subparagraph (D) which contains
8 the taxpayer identifying number (assigned
9 under section 6109) of an employee (within
10 the meaning of section 6051)—

11 “(I) who is under the age of 14
12 (or any lesser age the Secretary shall
13 request), according to the records
14 maintained by the Commissioner of
15 Social Security,

16 “(II) whose date of death, ac-
17 cording to the records so maintained,
18 occurred in a calendar year preceding
19 the calendar year for which the infor-
20 mation return was filed,

21 “(III) whose taxpayer identifying
22 number is contained in more than one
23 (or any greater number the Secretary
24 shall request) information return filed
25 in such calendar year, or

1 “(IV) who is not authorized to
2 work in the United States, according
3 to the records maintained by the
4 Commissioner of Social Security,
5 and the taxpayer identity and date of birth
6 of each such employee.

7 “(B) REIMBURSEMENT.—The Secretary
8 shall transfer to the Commissioner the funds
9 necessary to cover the additional cost directly
10 incurred by the Commissioner in carrying out
11 the searches or manipulations requested by the
12 Secretary.”.

13 (2) COMPLIANCE BY DHS CONTRACTORS
14 WITH CONFIDENTIALITY SAFEGUARDS.—

15 (A) IN GENERAL.—Section 6103(p) of
16 such Code is amended by adding at the
17 end the following new paragraph:

18 “(9) DISCLOSURE TO DHS CONTRACTORS.—
19 Notwithstanding any other provision of this section,
20 no return or return information shall be disclosed to
21 any contractor of the Department of Homeland Se-
22 curity unless such Department, to the satisfaction of
23 the Secretary—

24 “(A) has requirements in effect which re-
25 quire each such contractor which would have

1 access to returns or return information to pro-
2 vide safeguards (within the meaning of para-
3 graph (4)) to protect the confidentiality of such
4 returns or return information,

5 “(B) agrees to conduct an on-site review
6 every 3 years (mid-point review in the case of
7 contracts or agreements of less than 3 years in
8 duration) of each contractor to determine com-
9 pliance with such requirements,

10 “(C) submits the findings of the most re-
11 cent review conducted under subparagraph (B)
12 to the Secretary as part of the report required
13 by paragraph (4)(E), and

14 “(D) certifies to the Secretary for the most
15 recent annual period that such contractor is in
16 compliance with all such requirements.

17 The certification required by subparagraph (D) shall
18 include the name and address of each contractor, a
19 description of the contract or agreement with such
20 contractor, and the duration of such contract or
21 agreement.”.

22 (3) CONFORMING AMENDMENTS.—

23 (A) Section 6103(a)(3) of such Code is
24 amended by striking “or (20)” and inserting
25 “(20), or (21)”.

1 (B) Section 6103(p)(3)(A) of such Code is
2 amended by adding at the end the following
3 new sentence: “The Commissioner of Social Se-
4 curity shall provide to the Secretary such infor-
5 mation as the Secretary may require in carrying
6 out this paragraph with respect to return infor-
7 mation inspected or disclosed under the author-
8 ity of subsection (l)(21).”.

9 (C) Section 6103(p)(4) of such Code is
10 amended—

11 (i) by striking “or (17)” both places it
12 appears and inserting “(17), or (21)”; and

13 (ii) by striking “or (20)” each place it
14 appears and inserting “(20), or (21)”.

15 (D) Section 6103(p)(8)(B) of such Code is
16 amended by inserting “or paragraph (9)” after
17 “subparagraph (A)”.

18 (E) Section 7213(a)(2) of such Code is
19 amended by striking “or (20)” and inserting
20 “(20), or (21)”.

21 (b) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to the Secretary of
23 Homeland Security such sums as are necessary to carry
24 out the amendments made by this section.

25 (c) REPEAL OF REPORTING REQUIREMENTS.—

1 (1) REPORT ON EARNINGS OF ALIENS NOT AU-
2 THORIZED TO WORK.—Subsection (c) of section 290
3 of the Immigration and Nationality Act (8 U.S.C.
4 1360) is repealed.

5 (2) REPORT ON FRAUDULENT USE OF SOCIAL
6 SECURITY ACCOUNT NUMBERS.—Subsection (b) of
7 section 414 of the Illegal Immigration Reform and
8 Immigrant Responsibility Act of 1996 (division C of
9 Public Law 104–208; 8 U.S.C. 1360 note) is re-
10 pealed.

11 (d) EFFECTIVE DATES.—

12 (1) IN GENERAL.—The amendments made by
13 subsection (a) shall apply to disclosures made after
14 the date of the enactment of this Act.

15 (2) CERTIFICATIONS.—The first certification
16 under section 6103(p)(9)(D) of the Internal Revenue
17 Code of 1986, as added by subsection (a)(2), shall
18 be made with respect to calendar year 2007.

19 (3) REPEALS.—The repeals made by subsection
20 (c) shall take effect on the date of the enactment of
21 this Act.

1 **SEC. 6. RESPONSIBILITIES OF THE SOCIAL SECURITY AD-**
2 **MINISTRATION.**

3 Section 205(c)(12) of the Social Security Act, 42
4 U.S.C. 405(c)(2), is amended by adding at the end the
5 following new subparagraphs:

6 “(I) RESPONSIBILITIES OF THE COMMIS-
7 SIONER OF SOCIAL SECURITY.—

8 “(i) EMPLOYMENT VERIFICATION.—

9 As part of the verification system, the
10 Commissioner of Social Security shall, sub-
11 ject to the provisions of section 274A(d) of
12 the Immigration and Nationality Act, es-
13 tablish a reliable, secure method that, op-
14 erating through the EEVS and within the
15 time periods specified in section 274A(d)
16 of the Immigration and Nationality Act:

17 “(I) compares the name, Social
18 Security account number and avail-
19 able citizenship information provided
20 in an inquiry against such information
21 maintained by the Commissioner in
22 order to confirm (or not confirm) the
23 validity of the information provided
24 regarding an individual whose identity
25 and employment eligibility must be
26 confirmed;

1 “(II) the correspondence of the
2 name, number, and any other identi-
3 fying information;

4 “(III) whether the name and
5 number belong to an individual who is
6 deceased;

7 “(IV) whether an individual is a
8 national of the United States (when
9 available); and

10 “(V) whether the individual has
11 presented a Social Security account
12 number that is not valid for employ-
13 ment.

14 The EEVS shall not disclose or release so-
15 cial security information to employers
16 through the confirmation system (other
17 than such confirmation or nonconfirma-
18 tion).

19 “(ii) SOCIAL SECURITY ADMINISTRA-
20 TION DATABASE IMPROVEMENTS.—For
21 purposes of preventing identity theft, pro-
22 tecting employees, and reducing burden on
23 employers, and notwithstanding section
24 6103 of title 26, United States Code, the
25 Commissioner of Social Security, in con-

1 sultation with the Secretary, shall review
2 the Social Security Administration data-
3 bases and information technology to iden-
4 tify any deficiencies and discrepancies re-
5 lated to name, birth date, citizenship sta-
6 tus, or death records of the Social Security
7 accounts and Social Security account hold-
8 ers likely to contribute to fraudulent use of
9 documents, or identity theft, or to affect
10 the proper functioning of the EEVS or ac-
11 curacy of no-match notices and shall cor-
12 rect any identified errors. The Commis-
13 sioner shall ensure that a system for iden-
14 tifying and correcting such deficiencies and
15 discrepancies is adopted to ensure the ac-
16 curacy of the Social Security Administra-
17 tion’s databases.

18 “(iii) SOCIAL SECURITY UPDATE PUB-
19 LIC INFORMATION CAMPAIGN.—The Com-
20 missioner shall implement a public infor-
21 mation campaign explaining the impor-
22 tance of verifying the accuracy of a citi-
23 zen’s or other authorized Social Security
24 card holder’s information in the Social Se-
25 curity Administration Database.

1 “(I) The campaign shall include
2 information on how to verify that an
3 individual’s record in the Social Security
4 Database is correct and make
5 corrections if needed.

6 “(II) The campaign shall target
7 groups of individuals who are most
8 likely to have outdated records, such
9 as persons who have changed their
10 name (such as may be the case in
11 marriage or divorce), naturalized citizens,
12 and other groups of individuals
13 identified by the Commissioner.

14 “(III) In order to carry out the
15 campaign under this paragraph, the
16 Commissioner may, to the extent
17 deemed appropriate and subject to the
18 availability of appropriations, contract
19 with public and private organizations
20 for outreach activities under the campaign.
21

22 “(IV) There are authorized to be
23 appropriated to carry out this paragraph
24 \$10,000,000 for each fiscal
25 year 2008 through 2010.

1 “(iv) NOTIFICATION TO ‘FREEZE’ USE
2 OF SOCIAL SECURITY NUMBER.—The Com-
3 missioner of Social Security, in consulta-
4 tion with the Secretary of Homeland Secu-
5 rity, shall establish a secure process where-
6 by an individual can request that the Com-
7 missioner preclude any confirmation under
8 the EEVS based on that individual’s Social
9 Security number until it is reactivated by
10 that individual.

11 “(v) SOCIAL SECURITY ADMINISTRA-
12 TION NO-MATCH RESOLUTION SUPPORT.—
13 The Commissioner shall take necessary
14 steps to ensure prompt final resolution or
15 non-resolution of no-match notices when
16 employees subject to such notices inquire
17 about the no-match notice at an office of
18 the Social Security Administration when-
19 ever possible.”.

20 **SEC. 7. IMMIGRATION ENFORCEMENT SUPPORT BY THE IN-**
21 **TERNAL REVENUE SERVICE AND THE SOCIAL**
22 **SECURITY ADMINISTRATION.**

23 (a) TIGHTENING REQUIREMENTS FOR THE PROVI-
24 SION OF SOCIAL SECURITY NUMBERS ON FORM W-2
25 WAGE AND TAX STATEMENTS.—Section 6724 of the In-

1 ternal Revenue Code of 1986 (relating to waiver; defini-
2 tions and special rules) is amended by adding at the end
3 the following new subsection:

4 “(f) SPECIAL RULES WITH RESPECT TO SOCIAL SE-
5 CURITY NUMBERS ON WITHHOLDING EXEMPTION CER-
6 TIFICATES.—

7 “(1) EMPLOYEE SOCIAL SECURITY ACCOUNT
8 NUMBER EXEMPTION.—Subsection (a) shall not
9 apply with respect to the Social Security account
10 number of an employee furnished under section
11 6051(a)(2).

12 “(2) EXCEPTION.—

13 “(A) IN GENERAL.—Except as provided in
14 subparagraph (B), the exemption to reasonable
15 cause waiver eligibility for employee Social Se-
16 curity account numbers shall not apply in any
17 case in which the employer—

18 “(i) receives confirmation that the dis-
19 crepancy described in section 205(c)(2)(I)
20 of the Social Security Act has been re-
21 solved, or

22 “(ii) corrects a clerical error made by
23 the employer with respect to the Social Se-
24 curity account number of an employee
25 within 60 days after notification under sec-

1 tion 205(c)(2)(1) of the Social Security
2 Act that the Social Security account num-
3 ber contained in wage records provided to
4 the Social Security Administration by the
5 employer with respect to the employee does
6 not match the Social Security account
7 number of the employee contained in rel-
8 evant records otherwise maintained by the
9 Social Security Administration.

10 “(B) EXCEPTION NOT APPLICABLE TO
11 FREQUENT OFFENDERS.—Subparagraph (A)
12 shall not apply—

13 “(i) in any case in which not less than
14 50 of the statements required to be made
15 by an employer pursuant to section 6051
16 either fail to include an employee’s social
17 security account number or include an in-
18 correct Social Security account number, or

19 “(ii) with respect to any employer who
20 has received written notification under sec-
21 tion 205(c)(2)(1) of the Social Security
22 Act during each of the 3 preceding taxable
23 years that the social security account num-
24 bers in the wage records provided to the
25 Social Security Administration by such em-

1 ployer with respect to 10 more employees
2 do not match relevant records otherwise
3 maintained by the Social Security Adminis-
4 tration.”.

5 (b) ENFORCEMENT.—

6 (1) IN GENERAL.—Not later than 90 days after
7 the date of the enactment of this Act, the Secretary
8 of the Treasury, in consultation with the Secretary
9 of Homeland Security, shall establish a unit within
10 the Criminal Investigation office of the Internal Rev-
11 enue Service to investigate violations of the Internal
12 Revenue Code of 1986 related to the employment of
13 individuals who are not authorized to work in the
14 United States.

15 (2) SPECIAL AGENTS; SUPPORT STAFF.—The
16 Secretary of the Treasury shall assign to the unit a
17 minimum of 10 full-time special agents and nec-
18 essary support staff and is authorized to employ up
19 to 200 full time special agents for this unit based on
20 investigative requirements and work load.

21 (3) REPORTS.—During each of the first 5 cal-
22 endar years beginning after the establishment of
23 such unit and biennially thereafter, the unit shall
24 transmit to Congress a report that describes its ac-

1 activities and includes the number of investigations
2 and cases referred for prosecution.

3 (c) INCREASE IN PENALTY ON EMPLOYER FAILING
4 TO FILE CORRECT INFORMATION RETURNS.—Section
5 6721 of such Code (relating to failure to file correct infor-
6 mation returns) is amended as follows—

7 (1) in subsection (a)(1)—

8 (A) by striking “\$50” and inserting
9 “\$200”, and

10 (B) by striking “\$250,000” and inserting
11 “\$1,000,000”,

12 (2) in subsection (b)(1)(A), by striking “\$15 in
13 lieu of \$50” and inserting “\$60 in lieu of \$200”,

14 (3) in subsection (b)(1)(B), by striking
15 “\$75,000” and inserting “\$300,000”,

16 (4) in subsection (b)(2)(A), by striking “\$30 in
17 lieu of \$50” and inserting “\$120 in lieu of \$200”,

18 (5) in subsection (b)(2)(B), by striking
19 “\$150,000” and inserting “\$600,000”,

20 (6) in subsection (d)(A) in paragraph (1)—

21 (A) by striking “\$100,000’ for
22 ‘\$250,000’” and inserting “\$400,000’ for
23 ‘\$1,000,000’” in subparagraph (A),

1 (B) by striking “‘\$25,000’ for ‘\$75,000’”
2 and inserting “‘\$100,000’ for ‘\$300,000’” in
3 subparagraph (B), and

4 (C) by striking “‘\$50,000’ for ‘\$150,000’”
5 and inserting “‘\$200,000’ for ‘\$600,000’” in
6 subparagraph (C),

7 (D) in paragraph (2)(A), by striking
8 “\$5,000,000” and inserting “\$2,000,000”, and

9 (E) in the heading, by striking
10 “\$5,000,000” and inserting “\$2,000,000”,

11 (7) in subsection (e)(2)—

12 (A) by striking “\$100” and inserting
13 “\$400”,

14 (B) by striking “\$25,000” and inserting
15 “\$100,000” in subparagraph (C)(i), and

16 (C) by striking “\$100,000” and inserting
17 “\$400,000” in subparagraph (C)(ii), and

18 (8) in subsection (e)(3)(A), by striking
19 “\$250,000” and inserting “\$1,000,000”.

20 (d) EFFECTIVE DATE.—The amendments made by
21 subsections (b) and (c) shall apply to failures occurring
22 after enactment of this Act.

1 **SEC. 8. ADDITIONAL WORKSITE ENFORCEMENT AND**
2 **FRAUD DETECTION AGENTS.**

3 (a) INCREASE IN NUMBER OF PERSONNEL.—The
4 Secretary shall, subject to the availability of appropria-
5 tions for such purpose, increase, by not less than 1,150,
6 the number of personnel of the Bureau of Immigration
7 and Customs Enforcement during the 5-year period begin-
8 ning on the date of the enactment of this Act for the pur-
9 pose of increasing enforcement of compliance with sections
10 274A and 274C of the Immigration and Nationality Act
11 (8 U.S.C. 1324a and 1324e).

12 (b) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to the Secretary for
14 each of the fiscal years 2007 through 2011 such sums as
15 may be necessary to carry out this section.

16 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) There are authorized to be appropriated to the
18 Secretary of Homeland Security such sums as may be nec-
19 essary to carry out the provisions of this Act, and the
20 amendments made by this Act, including the following ap-
21 propriations:

22 (1) In each of the five years beginning on the
23 date of the enactment of this Act, the appropriations
24 necessary to increase to a level not less than 4500
25 the number of personnel of the Department of
26 Homeland Security assigned exclusively or prin-

1 cipally to an office or offices dedicated to monitoring
2 and enforcing compliance with sections 274A and
3 274C of the Immigration and Nationality Act (8
4 U.S.C. 1324a and 1324c), including compliance with
5 the requirements of the EEVS. These personnel
6 shall perform the following compliance and moni-
7 toring activities:

8 (A) Verify Employment Identification
9 Numbers of employers participating in the
10 EEVS.

11 (B) Verify compliance of employers partici-
12 pating in the EEVS with the requirements for
13 participation that are prescribed by the Sec-
14 retary.

15 (C) Monitor the EEVS for multiple uses of
16 Social Security Numbers and any immigration
17 identification numbers for evidence that could
18 indicate identity theft or fraud.

19 (D) Monitor the EEVS to identify dis-
20 criminatory practices.

21 (E) Monitor the EEVS to identify employ-
22 ers who are not using the system properly, in-
23 cluding employers who fail to make appropriate
24 records with respect to their queries and any

1 notices of confirmation, nonconfirmation, or
2 further action.

3 (F) Identify instances where employees al-
4 lege that an employer violated their privacy
5 rights.

6 (G) Analyze and audit the use of the
7 EEVS and the data obtained through the
8 EEVS to identify fraud trends, including fraud
9 trends across industries, geographical areas, or
10 employer size.

11 (H) Analyze and audit the use of the
12 EEVS and the data obtained through the
13 EEVS to develop compliance tools as necessary
14 to respond to changing patterns of fraud.

15 (I) Provide employers with additional
16 training and other information on the proper
17 use of the EEVS.

18 (J) Perform threshold evaluation of cases
19 for referral to the U.S. Immigration and Cus-
20 toms Enforcement and to liaise with the U.S.
21 Immigration and Customs Enforcement with re-
22 spect to these referrals.

23 (K) Any other compliance and monitoring
24 activities that, in the Secretary's judgment, are

1 necessary to ensure the functioning of the
2 EEVS.

3 (L) Investigate identity theft and fraud de-
4 tected through the EEVS and undertake the
5 necessary enforcement actions.

6 (M) Investigate use of fraudulent docu-
7 ments or access to fraudulent documents
8 through local facilitation and undertake the
9 necessary enforcement actions.

10 (N) Provide support to the U.S. Citizen-
11 ship and Immigration Services with respect to
12 the evaluation of cases for referral to the U.S.
13 Immigration and Customs Enforcement.

14 (O) Perform any other investigations that,
15 in the Secretary's judgment, are necessary to
16 ensure the functioning of the EEVS, and un-
17 dertake any enforcement actions necessary as a
18 result of these investigations.

19 (2) The appropriations necessary to acquire, in-
20 stall and maintain technological equipment necessary
21 to support the functioning of the EEVS and the
22 connectivity between U.S. Citizenship and Immigra-
23 tion Services and the U.S. Immigration and Cus-
24 toms Enforcement with respect to the sharing of in-

1 formation to support the EEVS and related immi-
2 gration enforcement actions.

3 (b) There are authorized to be appropriated to Com-
4 missioner of Social Security such sums as may be nec-
5 essary to carry out the provisions of this Act, including
6 section 6 of this Act.

○