

111TH CONGRESS  
1ST SESSION

# H. R. 662

To evaluate and extend the basic pilot program for employment eligibility confirmation and to ensure the protection of Social Security beneficiaries.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 23, 2009

Ms. GIFFORDS (for herself, Ms. KIRKPATRICK of Arizona, Mr. MOORE of Kansas, Mr. SAM JOHNSON of Texas, Mr. SHULER, Mr. CALVERT, Mr. BILBRAY, and Mr. ELLSWORTH) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Education and Labor and Ways and Means, 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

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## A BILL

To evaluate and extend the basic pilot program for employment eligibility confirmation and to ensure the protection of Social Security beneficiaries.

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 “Employee Verification  
5 Amendment Act of 2009”.

1 **SEC. 2. EXTENSION OF PROGRAMS.**

2 Section 401(b) of the Illegal Immigration Reform and  
3 Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a  
4 note) is amended by striking “11-year period” and insert-  
5 ing “16-year period”.

6 **SEC. 3. PROTECTION OF SOCIAL SECURITY ADMINISTRA-**  
7 **TION PROGRAMS.**

8 (a) **FUNDING UNDER AGREEMENT.**—Effective for  
9 fiscal years beginning on or after October 1, 2008, the  
10 Commissioner of Social Security and the Secretary of  
11 Homeland Security shall enter into and maintain an  
12 agreement which shall—

13 (1) provide funds to the Commissioner for the  
14 full costs of the responsibilities of the Commissioner  
15 under section 404 of the Illegal Immigration Reform  
16 and Immigrant Responsibility Act of 1996 (8 U.S.C.  
17 1324a note), including (but not limited to)—

18 (A) acquiring, installing, and maintaining  
19 technological equipment and systems necessary  
20 for the fulfillment of the responsibilities of the  
21 Commissioner under such section 404, but only  
22 that portion of such costs that are attributable  
23 exclusively to such responsibilities; and

24 (B) responding to individuals who contest  
25 a tentative nonconfirmation provided by the

1           basic pilot confirmation system established  
2           under such section;

3           (2) provide such funds quarterly in advance of  
4           the applicable quarter based on estimating method-  
5           ology agreed to by the Commissioner and the Sec-  
6           retary (except in such instances where the delayed  
7           enactment of an annual appropriation may preclude  
8           such quarterly payments); and

9           (3) require an annual accounting and reconcili-  
10          ation of the actual costs incurred and the funds pro-  
11          vided under the agreement, which shall be reviewed  
12          by the Office of Inspector General of the Social Se-  
13          curity Administration and the Department of Home-  
14          land Security.

15          (b) CONTINUATION OF EMPLOYMENT VERIFICATION  
16          IN ABSENCE OF TIMELY AGREEMENT.—In any case in  
17          which the agreement required under subsection (a) for any  
18          fiscal year beginning on or after October 1, 2008, has not  
19          been reached as of October 1 of such fiscal year, the latest  
20          agreement between the Commissioner and the Secretary  
21          of Homeland Security providing for funding to cover the  
22          costs of the responsibilities of the Commissioner under  
23          section 404 of the Illegal Immigration Reform and Immig-  
24          grant Responsibility Act of 1996 (8 U.S.C. 1324a note)  
25          shall be deemed in effect on an interim basis for such fis-

1 cal year until such time as an agreement required under  
2 subsection (a) is subsequently reached, except that the  
3 terms of such interim agreement shall be modified by the  
4 Director of the Office of Management and Budget to ad-  
5 just for inflation and any increase or decrease in the vol-  
6 ume of requests under the basic pilot confirmation system.  
7 In any case in which an interim agreement applies for any  
8 fiscal year under this subsection, the Commissioner and  
9 the Secretary shall, not later than October 1 of such fiscal  
10 year, notify the Committee on Ways and Means, the Com-  
11 mittee on the Judiciary, and the Committee on Appropria-  
12 tions of the House of Representatives and the Committee  
13 on Finance, the Committee on the Judiciary, and the  
14 Committee on Appropriations of the Senate of the failure  
15 to reach the agreement required under subsection (a) for  
16 such fiscal year. Until such time as the agreement re-  
17 quired under subsection (a) has been reached for such fis-  
18 cal year, the Commissioner and the Secretary shall, not  
19 later than the end of each 90-day period after October  
20 1 of such fiscal year, notify such Committees of the status  
21 of negotiations between the Commissioner and the Sec-  
22 retary in order to reach such an agreement.

1 **SEC. 4. GAO STUDY OF BASIC PILOT CONFIRMATION SYS-**  
2 **TEM.**

3 (a) **IN GENERAL.**—As soon as practicable after the  
4 date of the enactment of this Act, the Comptroller General  
5 of the United States shall conduct a study regarding erro-  
6 neous tentative nonconfirmations under the basic pilot  
7 confirmation system established under section 404(a) of  
8 the Illegal Immigration Reform and Immigrant Responsi-  
9 bility Act of 1996 (8 U.S.C. 1324a note).

10 (b) **MATTERS TO BE STUDIED.**—In the study re-  
11 quired under subsection (a), the Comptroller General shall  
12 determine and analyze—

13 (1) the causes of erroneous tentative noncon-  
14 firmations under the basic pilot confirmation system;

15 (2) the processes by which such erroneous ten-  
16 tative nonconfirmations are remedied; and

17 (3) the effect of such erroneous tentative non-  
18 confirmations on individuals, employers, and Federal  
19 agencies.

20 (c) **REPORT.**—Not later than 2 years after the date  
21 of the enactment of this Act, the Comptroller General shall  
22 submit the results of the study required under subsection  
23 (a) to the Committee on Ways and Means and the Com-  
24 mittee on the Judiciary of the House of Representatives  
25 and the Committee on Finance and the Committee on the  
26 Judiciary of the Senate.

1 **SEC. 5. GAO STUDY OF EFFECTS OF BASIC PILOT PROGRAM**  
2 **ON SMALL ENTITIES.**

3 (a) IN GENERAL.—Not later than 2 years after the  
4 date of the enactment of this Act, the Comptroller General  
5 of the United States shall submit to the Committees on  
6 the Judiciary of the United States House of Representa-  
7 tives and the Senate a report containing the Comptroller  
8 General’s analysis of the effects of the basic pilot program  
9 described in section 403(a) of the Illegal Immigration Re-  
10 form and Immigrant Responsibility Act of 1996 (8 U.S.C.  
11 1324a note) on small entities (as defined in section 601  
12 of title 5, United States Code). The report shall detail—

13 (1) the costs of compliance with such program  
14 on small entities;

15 (2) a description and an estimate of the number  
16 of small entities enrolled and participating in such  
17 program or an explanation of why no such estimate  
18 is available;

19 (3) the projected reporting, recordkeeping and  
20 other compliance requirements of such program on  
21 small entities;

22 (4) factors that impact small entities’ enroll-  
23 ment and participation in such program, including  
24 access to appropriate technology, geography, entity  
25 size, and class of entity; and

1           (5) the steps, if any, the Secretary of Homeland  
2           Security has taken to minimize the economic impact  
3           of participating in such program on small entities.

4           (b) DIRECT AND INDIRECT EFFECTS.—The report  
5           shall cover, and treat separately, direct effects (such as  
6           wages, time, and fees spent on compliance) and indirect  
7           effects (such as the effect on cash flow, sales, and competi-  
8           tiveness).

9           (c) SPECIFIC CONTENTS.—The report shall provide  
10          specific and separate details with respect to—

11           (1) small businesses (as defined in section 601  
12           of title 5, United States Code) with fewer than 50  
13           employees; and

14           (2) small entities operating in States that have  
15           mandated use of the basic pilot program.

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