

116TH CONGRESS  
1ST SESSION

# S. 301

To enforce work authorization requirements for immigrants.

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IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2019

Mr. PORTMAN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To enforce work authorization requirements for immigrants.

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 “E-Verify Act of 2019”.

5       **SEC. 2. UNLAWFUL EMPLOYMENT OF UNAUTHORIZED**  
6                               **ALIENS.**

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

9       **“SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.**

10       “(a) MAKING EMPLOYMENT OF UNAUTHORIZED  
11       ALIENS UNLAWFUL.—

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

3                   “(A) to hire, recruit, or refer for a fee an  
4           alien for employment in the United States  
5           knowing that the alien is an unauthorized alien  
6           with respect to such employment; or

7                   “(B) to hire, recruit, or refer for a fee for  
8           employment in the United States an individual  
9           without complying with the requirements under  
10          subsections (c) and (d).

11          “(2) CONTINUING EMPLOYMENT.—

12                   “(A) PROHIBITION ON CONTINUED EM-  
13          PLOYMENT OF UNAUTHORIZED ALIENS.—It is  
14          unlawful for an employer, after hiring an alien  
15          for employment, to continue to employ the alien  
16          in the United States knowing that the alien is  
17          (or has become) an unauthorized alien with re-  
18          spect to such employment.

19                   “(B) PROHIBITION ON CONSIDERATION OF  
20          PREVIOUS UNAUTHORIZED STATUS.—Nothing  
21          in this section may be construed to prohibit the  
22          employment of an individual who is authorized  
23          for employment in the United States if such in-  
24          dividual was previously an unauthorized alien.

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

9           “(4) USE OF STATE EMPLOYMENT AGENCY  
10          DOCUMENTATION.—For purposes of paragraphs  
11          (1)(B), (5), and (6), an employer shall be deemed to  
12          have complied with the requirements under sub-  
13          section (c) with respect to the hiring of an individual  
14          who was referred for such employment by a State  
15          employment agency (as defined by the Secretary) if  
16          the employer has and retains (for the period and in  
17          the manner described in subsection (c)(3)) appro-  
18          priate documentation of such referral by such agen-  
19          cy, certifying that such agency has complied with the  
20          procedures described in subsection (c) with respect  
21          to the individual’s referral. An employer that relies  
22          on a State agency’s certification of compliance with  
23          subsection (c) under this paragraph may utilize and  
24          retain the State agency’s certification of compliance

1 with the procedures described in subsection (d), if  
2 any, in the manner provided under this paragraph.

3 “(5) GOOD FAITH DEFENSE.—

4 “(A) DEFENSE.—An employer, person, or  
5 entity that hires, employs, recruits, or refers in-  
6 dividuals for employment in the United States,  
7 or is otherwise obligated to comply with the re-  
8 quirements under this section and establishes  
9 good faith compliance with the requirements  
10 under paragraphs (1) through (4) of subsection  
11 (c) and subsection (d)—

12 “(i) has established an affirmative de-  
13 fense that the employer, person, or entity  
14 has not violated paragraph (1)(A) with re-  
15 spect to hiring and employing; and

16 “(ii) has established compliance with  
17 its obligations under subparagraph (A) and  
18 (B) of paragraph (1) and subsection (c)  
19 unless the Secretary demonstrates by clear  
20 and convincing evidence that the employer  
21 had knowledge that an individuals hired,  
22 employed, recruited, or referred by the em-  
23 ployer, person, or entity is an unauthorized  
24 alien.

1           “(B) EXCEPTION FOR CERTAIN EMPLOY-  
2           ERS.—An employer who is not required to par-  
3           ticipate in the System or who is participating in  
4           the System on a voluntary basis pursuant to  
5           subsection (d)(2)(J) has established an affirma-  
6           tive defense under subparagraph (A) and need  
7           not demonstrate compliance with the require-  
8           ments under subsection (d).

9           “(6) GOOD FAITH COMPLIANCE.—

10           “(A) IN GENERAL.—Except as otherwise  
11           provided in this subsection, an employer, per-  
12           son, or entity is considered to have complied  
13           with a requirement under this subsection not-  
14           withstanding a technical or procedural failure  
15           to meet such requirement if there was a good  
16           faith attempt to comply with the requirement.

17           “(B) EXCEPTION IF FAILURE TO CORRECT  
18           AFTER NOTICE.—Subparagraph (A) shall not  
19           apply if—

20                   “(i) the failure is not de minimis;

21                   “(ii) the Secretary has explained to  
22                   the employer, person, or entity the basis  
23                   for the failure and why it is not de mini-  
24                   mis;

1           “(iii) the employer, person, or entity  
2           has been provided a period of not less than  
3           30 days (beginning after the date of the  
4           explanation) to correct the failure; and

5           “(iv) the employer, person, or entity  
6           has not corrected the failure voluntarily  
7           within such period.

8           “(C) EXCEPTION FOR PATTERN OR PRAC-  
9           TICE VIOLATORS.—Subparagraph (A) shall not  
10          apply to an employer, person, or entity that has  
11          engaged or is engaging in a pattern or practice  
12          of violations of paragraph (1)(A) or (2).

13          “(7) PRESUMPTION.—After the date on which  
14          an employer is required to participate in the System  
15          under subsection (d), the employer is presumed to  
16          have acted with knowledge for purposes of para-  
17          graph (1)(A) if the employer hires, employs, re-  
18          cruits, or refers an employee for a fee and fails to  
19          make an inquiry to verify the employment authoriza-  
20          tion status of the employee through the System.

21          “(8) CONTINUED APPLICATION OF WORKFORCE  
22          AND LABOR PROTECTION REMEDIES DESPITE UNAU-  
23          THORIZED EMPLOYMENT.—

24          “(A) IN GENERAL.—Subject only to sub-  
25          paragraph (B), all rights and remedies provided

1 under any Federal, State, or local law relating  
 2 to workplace rights, including back pay, are  
 3 available to an employee despite—

4 “(i) the employee’s status as an unau-  
 5 thORIZED alien during or after the period of  
 6 employment; or

7 “(ii) the employer’s or employee’s fail-  
 8 ure to comply with the requirements of  
 9 this section.

10 “(B) REINSTATEMENT.—Reinstatement  
 11 shall be available to individuals who—

12 “(i) are authorized to work in the  
 13 United States at the time such relief is or-  
 14 dered or effectuated; or

15 “(ii) lost employment-authorized sta-  
 16 tus due to the unlawful acts of the em-  
 17 ployer under this section.

18 “(b) DEFINITIONS.—In this section:

19 “(1) COMMISSIONER.—The term ‘Commis-  
 20 sioner’ means the Commissioner of Social Security.

21 “(2) DEPARTMENT.—Except as otherwise pro-  
 22 vided, the term ‘Department’ means the Department  
 23 of Homeland Security.

24 “(3) EMPLOYER.—The term ‘employer’ means  
 25 any person or entity, including an agency or depart-

1       ment of a Federal, State, or local government, an  
2       agent, or a System service provider acting on behalf  
3       of an employer, that hires, employs, recruits, or re-  
4       fers for a fee an individual for employment in the  
5       United States that is not casual, sporadic, irregular,  
6       or intermittent (as defined by the Secretary).

7               “(4) EMPLOYMENT AUTHORIZED STATUS.—The  
8       term ‘employment authorized status’ means, with re-  
9       spect to an individual, that the individual is author-  
10      ized to be employed in the United States under the  
11      immigration laws of the United States.

12              “(5) SECRETARY.—Except as otherwise specifi-  
13      cally provided, the term ‘Secretary’ means the Sec-  
14      retary of Homeland Security.

15              “(6) SYSTEM.—The term ‘System’ means the  
16      Employment Verification System established under  
17      subsection (d).

18              “(7) UNAUTHORIZED ALIEN.—The term ‘unau-  
19      thorized alien’ means an alien who, with respect to  
20      employment in the United States at a particular  
21      time—

22                      “(A) is not lawfully admitted for perma-  
23                      nent residence; or

24                      “(B) is not authorized to be employed  
25                      under this Act or by the Secretary.



1           “(8) WORKPLACE RIGHTS.—The term ‘work-  
2           place rights’ means rights guaranteed under Fed-  
3           eral, State, or local labor or employment laws, in-  
4           cluding laws concerning wages and hours, benefits  
5           and employment standards, labor relations, work-  
6           place health and safety, work-related injuries, non-  
7           discrimination, and retaliation for exercising rights  
8           under such laws.

9           “(c) DOCUMENT VERIFICATION REQUIREMENTS.—  
10          Any employer hiring an individual for employment in the  
11          United States shall comply with the following require-  
12          ments and the requirements under subsection (d) to verify  
13          that the individual has employment authorized status.

14                 “(1) ATTESTATION AFTER EXAMINATION OF  
15          DOCUMENTATION.—

16                         “(A) IN GENERAL.—

17                                 “(i) EXAMINATION BY EMPLOYER.—  
18                                 An employer shall attest, under penalty of  
19                                 perjury on a form prescribed by the Sec-  
20                                 retary, that the employer has verified the  
21                                 identity and employment authorization sta-  
22                                 tus of the individual—

23   “(I) by examining—

24   “(aa) a document specified  
25   in subparagraph (C); or

1           “(bb) a document specified  
2           in subparagraph (D) and a docu-  
3           ment specified in subparagraph  
4           (E); and

5           “(II) by using an identity au-  
6           thentication mechanism described in  
7           clause (iii) or (iv) of subparagraph  
8           (F).

9           “(ii) PUBLICATION OF DOCUMENTS.—  
10          The Secretary shall publish a picture of  
11          each document specified in subparagraphs  
12          (C) and (E) on the U.S. Citizenship and  
13          Immigration Services website.

14          “(B) REQUIREMENTS.—

15                 “(i) FORM.—The form referred to in  
16                 subparagraph (A)(i)—

17                         “(I) shall be prescribed by the  
18                         Secretary not later than 6 months  
19                         after the date of the enactment of the  
20                         E-Verify Act of 2019;

21                         “(II) shall be available as—

22                                 “(aa) a paper form;

23                                 “(bb) a form that may be  
24                                 completed by an employer via  
25                                 telephone or video conference;

1 “(cc) an electronic form; or

2 “(dd) a form that is inte-  
3 grated electronically with the re-  
4 quirements under subparagraph  
5 (F) and subsection (d).

6 “(ii) ATTESTATION.—Each such form  
7 shall require the employer to sign an attes-  
8 tation with a handwritten, electronic, or  
9 digital signature, according to standards  
10 prescribed by the Secretary.

11 “(iii) COMPLIANCE.—An employer has  
12 complied with the requirements under this  
13 paragraph with respect to examination of  
14 the documents included in subclauses (I)  
15 and (II) of subparagraph (A)(i) if—

16 “(I) the employer has, in good  
17 faith, followed applicable regulations  
18 and any written procedures or instruc-  
19 tions provided by the Secretary; and

20 “(II) a reasonable person would  
21 conclude that the documentation is  
22 genuine and relates to the individual  
23 presenting such documentation.

24 “(C) DOCUMENTS ESTABLISHING IDEN-  
25 TITY AND EMPLOYMENT AUTHORIZED STA-

1           TUS.—A document is specified in this subpara-  
2           graph if the document is unexpired (unless the  
3           validity of the document is extended by law)  
4           and is 1 of the following:

5                   “(i) A United States passport or pass-  
6                   port card issued to an individual pursuant  
7                   to the Secretary of State’s authority under  
8                   the Act entitled ‘An Act to regulate the  
9                   issue and validity of passports, and for  
10                  other purposes’, approved July 3, 1926 (22  
11                  U.S.C. 211a).

12                  “(ii) A document issued to an alien  
13                  evidencing that the alien is lawfully admit-  
14                  ted for permanent residence or another  
15                  document issued to an individual evidenc-  
16                  ing the individual’s employment authorized  
17                  status, as designated by the Secretary, if  
18                  the document—

19                           “(I) contains a photograph of the  
20                           individual, or such other personal  
21                           identifying information relating to the  
22                           individual as the Secretary deter-  
23                           mines, by regulation, to be sufficient  
24                           for the purposes of this subparagraph;

1 “(II) is evidence of employment  
2 authorized status; and

3 “(III) contains security features  
4 to make the document resistant to  
5 tampering, counterfeiting, and fraudu-  
6 lent use.

7 “(iii) An enhanced driver’s license or  
8 identification card issued to a national of  
9 the United States by a State, an outlying  
10 possession of the United States, or a feder-  
11 ally recognized Indian tribe that—

12 “(I) meets the requirements  
13 under section 202 of the REAL ID  
14 Act of 2005 (division B of Public Law  
15 109–13; 49 U.S.C. 30301 note); and

16 “(II) the Secretary has certified  
17 by notice published in the Federal  
18 Register and through appropriate no-  
19 tice directly to employers registered in  
20 the System 3 months prior to publica-  
21 tion that such enhanced license or  
22 card is suitable for use under this  
23 subparagraph based upon the accu-  
24 racy and security of the issuance proc-  
25 ess, security features on the docu-

1                   ment, and such other factors as the  
2                   Secretary may prescribe.

3                   “(iv) A passport issued by the appro-  
4                   priate authority of a foreign country ac-  
5                   companied by a Form I-94 or Form I-  
6                   94A (or similar successor record), or other  
7                   documentation as designated by the Sec-  
8                   retary that specifies the individual’s status  
9                   in the United States and the duration of  
10                  such status if the proposed employment is  
11                  not in conflict with any restriction or limi-  
12                  tation specified on such form or docu-  
13                  mentation.

14                  “(v) A passport issued by the Fed-  
15                  erated States of Micronesia or the Repub-  
16                  lic of the Marshall Islands with evidence of  
17                  nonimmigrant admission to the United  
18                  States under the Compact of Free Associa-  
19                  tion between the United States and the  
20                  Federated States of Micronesia or the Re-  
21                  public of the Marshall Islands.

22                  “(D) DOCUMENTS ESTABLISHING IDEN-  
23                  TITY OF INDIVIDUAL.—A document is specified  
24                  in this subparagraph if the document is unex-

1           pired (unless the validity of the document is ex-  
2           tended by law) and is 1 of the following:

3                   “(i) A driver’s license or identity card  
4                   that is not described in subparagraph  
5                   (C)(iii) and is issued to an individual by a  
6                   State or an outlying possession of the  
7                   United States, a federally recognized In-  
8                   dian tribe, or an agency (including mili-  
9                   tary) of the Federal Government if the  
10                  driver’s license or identity card includes, at  
11                  a minimum—

12                           “(I) the individual’s photograph,  
13                           name, date of birth, gender, and driv-  
14                           er’s license or identification card num-  
15                           ber; and

16                           “(II) security features to make  
17                           the license or card resistant to tam-  
18                           pering, counterfeiting, and fraudulent  
19                           use.

20                           “(ii) A voter registration card.

21                           “(iii) A document that complies with  
22                   the requirements under section 7209(b)(1)  
23                   of the Intelligence Reform and Terrorism  
24                   Prevention Act of 2004 (Public Law 108–  
25                   458; 8 U.S.C. 1185 note).

1           “(iv) For individuals under 18 years  
2 of age who are unable to present a docu-  
3 ment listed in clause (i) or (ii), documenta-  
4 tion of personal identity of such other type  
5 as the Secretary determines will provide a  
6 reliable means of identification, which may  
7 include an attestation as to the individual’s  
8 identity by a parent or legal guardian  
9 under penalty of perjury.

10           “(E) DOCUMENTS EVIDENCING EMPLOY-  
11           MENT AUTHORIZATION.—A document is speci-  
12           fied in this subparagraph if the document is un-  
13           expired (unless the validity of the document is  
14           extended by law) and is one of the following:

15           “(i) A social security account number  
16           card issued by the Commissioner, other  
17           than a card which specifies on its face that  
18           the card is not valid to evidence employ-  
19           ment authorized status or has other simi-  
20           lar words of limitation.

21           “(ii) Any other documentation evi-  
22           dencing employment authorized status that  
23           the Secretary determines and publishes in  
24           the Federal Register and through appro-  
25           priate notice directly to employers reg-



1           istered within the System to be acceptable  
2           for purposes of this subparagraph if such  
3           documentation, including any electronic se-  
4           curity measures linked to such documenta-  
5           tion, contains security features to make  
6           such documentation resistant to tam-  
7           pering, counterfeiting, and fraudulent use.

8           “(F) IDENTITY AUTHENTICATION MECHA-  
9           NISM.—

10           “(i) DEFINITIONS.—In this subpara-  
11           graph:

12           “(I) COVERED IDENTITY DOCU-  
13           MENT.—The term ‘covered identity  
14           document’ means a valid—

15           “(aa) United States pass-  
16           port, passport card, or a docu-  
17           ment evidencing lawful perma-  
18           nent residence status or employ-  
19           ment authorized status issued to  
20           an alien;

21           “(bb) enhanced driver’s li-  
22           cense or identity card issued by a  
23           participating State or an outlying  
24           possession of the United States;  
25           or

1                   “(cc) photograph and appro-  
2                   priate identifying information  
3                   provided by the Secretary of  
4                   State pursuant to the granting of  
5                   a visa.

6                   “(II) PARTICIPATING STATE.—  
7                   The term ‘participating State’ means  
8                   a State that has an agreement with  
9                   the Secretary to provide the Sec-  
10                  retary, for purposes of identity  
11                  verification in the System, with photo-  
12                  graphs and appropriate identifying in-  
13                  formation maintained by the State.

14                  “(ii) REQUIREMENT FOR IDENTITY  
15                  AUTHENTICATION.—In addition to  
16                  verifying the documents specified in sub-  
17                  paragraph (C), (D), or (E), the System  
18                  shall require each employer to verify the  
19                  identity of each newly hired employee  
20                  using the identity authentication mecha-  
21                  nism described in clause (iii), or for an in-  
22                  dividual whose identity is not able to be  
23                  verified using that mechanism, to use the  
24                  additional security measures provided in  
25                  clause (iv) after such measures become

1 available. A failure of the System to verify  
2 the identity of an individual due to the use  
3 of an identity authentication mechanism  
4 shall result in a further action notice under  
5 subsection (d)(4)(C)(iii).

6 “(iii) PHOTO TOOL.—

7 “(I) USE REQUIREMENT.—An  
8 employer that hires an individual who  
9 has presented a covered identity docu-  
10 ment to establish his or her identity  
11 and employment authorization under  
12 this subsection shall verify the identity  
13 of such individual using the photo tool  
14 described in subclause (II).

15 “(II) DEVELOPMENT REQUIRE-  
16 MENT.—The Secretary shall develop  
17 and maintain a photo tool that en-  
18 ables employers to match the photo-  
19 graph on a covered identity document  
20 provided to the employer to a photo-  
21 graph maintained by a U.S. Citizen-  
22 ship and Immigration Services data-  
23 base or other appropriate database.

24 “(III) INDIVIDUAL QUERIES.—  
25 The photo tool capability shall be in-

1           incorporated into the System and made  
2           available to employers not later than 1  
3           year after the date on which regula-  
4           tions are published implementing sub-  
5           section (d).

6                   “(IV) LIMITATIONS ON USE OF  
7           INFORMATION.—Information and im-  
8           ages acquired from State motor vehi-  
9           cle databases through the photo tool  
10          developed under this clause—

11                   “(aa) may only be used for  
12          matching photographs to a cov-  
13          ered identity document for the  
14          purposes of employment verifica-  
15          tion;

16                   “(bb) shall not be collected  
17          or stored by the Federal Govern-  
18          ment; and

19                   “(cc) may only be dissemi-  
20          nated in response to an indi-  
21          vidual photo tool query.

22                   “(iv) ADDITIONAL SECURITY MEAS-  
23          URES.—

24                   “(I) USE REQUIREMENT.—An  
25          employer seeking to hire an individual

1 whose identity is not able to be  
2 verified using the photo tool described  
3 in clause (iii) because the employee  
4 did not present a covered document  
5 for employment eligibility verification  
6 purposes shall verify the identity of  
7 such individual using the additional  
8 security measures described in sub-  
9 clause (II).

10 “(II) DEVELOPMENT REQUIRE-  
11 MENT.—The Secretary shall develop,  
12 after publication in the Federal Reg-  
13 ister and an opportunity for public  
14 comment, specific and effective addi-  
15 tional security measures to adequately  
16 verify the identity of an individual  
17 whose identity is not able to be  
18 verified using the photo tool described  
19 in clause (iii). Such additional security  
20 measures—

21 “(aa) shall be kept up-to-  
22 date with technological advances;

23 “(bb) shall provide a means  
24 of identity authentication in a  
25 manner that provides a high level

1 of certainty as to the identity of  
2 such individual, using immigra-  
3 tion and identifying information  
4 that may include review of iden-  
5 tity documents or background  
6 screening verification techniques  
7 using publicly available informa-  
8 tion; and

9 “(cc) shall be incorporated  
10 into the System and made avail-  
11 able to employers not later than  
12 1 year after the date on which  
13 regulations are published imple-  
14 menting subsection (d).

15 “(III) COMPREHENSIVE USE.—

16 An employer may employ the addi-  
17 tional security measures set forth in  
18 this clause with respect to all individ-  
19 uals the employer hires if the em-  
20 ployer notifies the Secretary of such  
21 election at the time the employer reg-  
22 isters for use of the System under  
23 subsection (d)(4)(A)(i) or anytime  
24 thereafter. An election under this sub-  
25 clause may be withdrawn 90 days

1 after the employer notifies the Sec-  
2 retary of the employer's intent to dis-  
3 continue such election.

4 “(v) AUTOMATED VERIFICATION.—

5 The Secretary—

6 “(I) may establish a program, in  
7 addition to the identity authentication  
8 mechanism described in paragraph  
9 (F)(iii), in which the System auto-  
10 matically verifies information con-  
11 tained in a covered identity document  
12 issued by a participating State, which  
13 is presented under subparagraph  
14 (D)(i), including information needed  
15 to verify that the covered identity doc-  
16 ument matches the State's records;

17 “(II) may not maintain informa-  
18 tion provided by a participating State  
19 in a database maintained by U.S.  
20 Citizenship and Immigration Services;  
21 and

22 “(III) may not use or disclose  
23 such information, except as authorized  
24 under this section.

1           “(G) AUTHORITY TO PROHIBIT USE OF  
2 CERTAIN DOCUMENTS.—If the Secretary deter-  
3 mines, after publication in the Federal Register  
4 and an opportunity for public comment, that  
5 any document or class of documents specified in  
6 subparagraph (B), (C), or (D) does not reliably  
7 establish identity or that employment author-  
8 ized status is being used fraudulently to an un-  
9 acceptable degree, the Secretary—

10           “(i) may prohibit or restrict the use of  
11 such document or class of documents for  
12 purposes of this subsection; and

13           “(ii) shall directly notify all employers  
14 registered within the System of the prohi-  
15 bition through appropriate means.

16           “(H) AUTHORITY TO ALLOW USE OF CER-  
17 TAIN DOCUMENTS.—If the Secretary has deter-  
18 mined that another document or class of docu-  
19 ments, such as a document issued by a federally  
20 recognized Indian tribe, may be used to reliably  
21 establish identity or employment authorized sta-  
22 tus, the Secretary—

23           “(i) may allow the use of that docu-  
24 ment or class of documents for purposes of  
25 this subsection after publication in the



1 Federal Register and an opportunity for  
2 public comment;

3 “(ii) shall publish a description of any  
4 such document or class of documents on  
5 the U.S. Citizenship and Immigration  
6 Services website; and

7 “(iii) shall directly notify all employ-  
8 ers registered within the System of the ad-  
9 dition through appropriate means.

10 “(2) INDIVIDUAL ATTESTATION OF EMPLOY-  
11 MENT AUTHORIZATION.—An individual, upon com-  
12 mencing employment with an employer, shall—

13 “(A) attest, under penalty of perjury, on  
14 the form prescribed by the Secretary, that the  
15 individual is—

16 “(i) a citizen of the United States;

17 “(ii) an alien lawfully admitted for  
18 permanent residence;

19 “(iii) an alien who has employment  
20 authorized status; or

21 “(iv) otherwise authorized by the Sec-  
22 retary to be hired for such employment;

23 “(B) provide such attestation by a hand-  
24 written, electronic, or digital signature; and

1           “(C) provide the individual’s social security  
2 account number to the Secretary, unless the in-  
3 dividual has not yet been issued such a number,  
4 on such form as the Secretary may require.

5           “(3) RETENTION OF VERIFICATION RECORD.—

6           “(A) IN GENERAL.—After completing a  
7 form for an individual in accordance with para-  
8 graphs (1) and (2), the employer shall retain a  
9 version of such completed form and make such  
10 form available for inspection by the Secretary  
11 or the Immigrant and Employee Rights Section  
12 of the Civil Rights Division of the Department  
13 of Justice during the period beginning on the  
14 hiring date of the individual and ending on the  
15 later of—

16                   “(i) the date that is 3 years after such  
17 hiring date; or

18                   “(ii) the date that is 1 year after the  
19 date on which the individual’s employment  
20 with the employer is terminated.

21           “(B) REQUIREMENT FOR ELECTRONIC RE-  
22 TENTION.—The Secretary—

23                   “(i) shall permit an employer to retain  
24 the form described in subparagraph (A) in  
25 electronic form; and

1                   “(ii) shall permit an employer to re-  
2                   tain such form in paper, microfiche, micro-  
3                   film, portable document format, or other  
4                   media.

5                   “(4) COPYING OF DOCUMENTATION AND REC-  
6                   ORDKEEPING.—The Secretary may promulgate regu-  
7                   lations regarding—

8                   “(A) copying documents and related infor-  
9                   mation pertaining to employment verification  
10                  presented by an individual under this sub-  
11                  section; and

12                  “(B) retaining such information during a  
13                  period not to exceed the required retention pe-  
14                  riod set forth in paragraph (3).

15                  “(5) PENALTIES.—An employer that fails to  
16                  comply with any requirement under this subsection  
17                  may be penalized under subsection (e)(4)(B).

18                  “(6) PROTECTION OF CIVIL RIGHTS.—

19                  “(A) IN GENERAL.—Nothing in this sec-  
20                  tion may be construed to diminish any rights  
21                  otherwise protected by Federal law.

22                  “(B) PROHIBITION ON DISCRIMINATION.—  
23                  An employer shall use the procedures for docu-  
24                  ment verification set forth in this paragraph for  
25                  all employees without regard to race, color, reli-

1           gion, sex, national origin, or, unless specifically  
2           permitted in this section, to citizenship status.

3           “(7) RECEIPTS.—The Secretary may authorize  
4           the use of receipts for replacement documents, and  
5           temporary evidence of employment authorization by  
6           an individual to meet a documentation requirement  
7           under this subsection on a temporary basis not to  
8           exceed 1 year, after which time the individual shall  
9           provide documentation sufficient to satisfy the docu-  
10          mentation requirements under this subsection.

11          “(8) NO AUTHORIZATION OF NATIONAL IDENTI-  
12          FICATION CARDS.—Nothing in this section may be  
13          construed to directly or indirectly authorize the  
14          issuance, use, or establishment of a national identi-  
15          fication card.

16          “(d) EMPLOYMENT VERIFICATION SYSTEM.—

17                  “(1) IN GENERAL.—

18                          “(A) ESTABLISHMENT.—The Secretary, in  
19                          consultation with the Commissioner, shall es-  
20                          tablish the Employment Verification System.

21                          “(B) MONITORING.—The Secretary shall  
22                          create the necessary processes to monitor—

23                                  “(i) the functioning of the System, in-  
24                                  cluding the volume of the workflow, the

1 speed of processing of queries, and the  
2 speed and accuracy of responses;

3 “(ii) the misuse of the System, includ-  
4 ing the prevention of fraud or identity  
5 theft;

6 “(iii) whether the use of the System  
7 results in wrongful adverse actions or dis-  
8 crimination based upon a prohibited factor  
9 against citizens or nationals of the United  
10 States or individuals who have employment  
11 authorized status; and

12 “(iv) the security, integrity, and pri-  
13 vacy of the System.

14 “(C) PROCEDURES.—The Secretary—

15 “(i) shall create processes to provide  
16 an individual with direct access to the indi-  
17 vidual’s case history in the System, includ-  
18 ing—

19 “(I) the identities of all persons  
20 or entities that have queried the indi-  
21 vidual through the System;

22 “(II) the date of each such  
23 query; and

24 “(III) the System response for  
25 each such query; and

1 “(ii) in consultation with the Commis-  
2 sioner, shall develop—

3 “(I) protocols to notify an indi-  
4 vidual, in a timely manner through  
5 the use of electronic correspondence  
6 or mail, that a query for the indi-  
7 vidual has been processed through the  
8 System; or

9 “(II) a process for the individual  
10 to submit additional queries to the  
11 System or notify the Secretary of po-  
12 tential identity fraud.

13 “(2) PARTICIPATION REQUIREMENTS.—

14 “(A) FEDERAL GOVERNMENT.—Except as  
15 provided in subparagraph (B), all agencies and  
16 departments in the executive, legislative, or ju-  
17 dicial branches of the Federal Government shall  
18 participate in the System beginning on the ear-  
19 lier of—

20 “(i) the date of the enactment of the  
21 E-Verify Act of 2019, to the extent re-  
22 quired under section 402(e)(1) of the Ille-  
23 gal Immigration Reform and Immigrant  
24 Responsibility Act of 1996 (division C of  
25 Public Law 104–208; 8 U.S.C. 1324a) and

1 as already implemented by each agency or  
2 department; or

3 “(ii) the date that is 90 days after the  
4 date of the enactment of the E-Verify Act  
5 of 2019.

6 “(B) FEDERAL CONTRACTORS.—Federal  
7 contractors shall participate in the System as  
8 provided in the final rule relating to employ-  
9 ment eligibility verification published in the  
10 Federal Register on November 14, 2008 (73  
11 Fed. Reg. 67,651), or any similar subsequent  
12 regulation, for which purpose references to E-  
13 Verify in the final rule shall be construed to  
14 apply to the System.

15 “(C) CRITICAL INFRASTRUCTURE.—

16 “(i) IN GENERAL.—Beginning on the  
17 date that is 1 year after the date on which  
18 regulations are published implementing  
19 this subsection, the Secretary may author-  
20 ize or direct any employer, person, or enti-  
21 ty responsible for granting access to, pro-  
22 tecting, securing, operating, administering,  
23 or regulating part of the critical infrastruc-  
24 ture (as defined in section 1016(e) of the  
25 Critical Infrastructure Protection Act of

1           2001 (42 U.S.C. 5195c(e)) to participate  
2           in the System to the extent the Secretary  
3           determines that such participation will as-  
4           sist in the protection of the critical infra-  
5           structure.

6           “(ii) NOTIFICATION TO EMPLOY-  
7           ERS.—The Secretary shall notify an em-  
8           ployer required to participate in the Sys-  
9           tem under this subparagraph not later  
10          than 90 days before the date on which the  
11          employer is required to participate.

12          “(D) EMPLOYERS WITH MORE THAN 10,000  
13          EMPLOYEES.—Not later than 1 year after regu-  
14          lations are published implementing this sub-  
15          section, all employers with more than 10,000  
16          employees shall participate in the System with  
17          respect to all newly hired employees and em-  
18          ployees with expiring temporary employment  
19          authorization documents.

20          “(E) EMPLOYERS WITH MORE THAN 500  
21          EMPLOYEES.—Not later than 2 years after reg-  
22          ulations are published implementing this sub-  
23          section, all employers with more than 500 em-  
24          ployees shall participate in the System with re-  
25          spect to all newly hired employees and employ-



1           ees with expiring temporary employment au-  
2           thorization documents.

3           “(F) EMPLOYERS WITH MORE THAN 20  
4           EMPLOYEES.—Not later than 3 years after reg-  
5           ulations are published implementing this sub-  
6           section, all employers with more than 20 em-  
7           ployees shall participate in the System with re-  
8           spect to all newly hired employees and employ-  
9           ees with expiring temporary employment au-  
10          thorization documents.

11          “(G) AGRICULTURAL EMPLOYMENT.—Not  
12          later than 4 years after regulations are pub-  
13          lished implementing this subsection, employers  
14          of employees performing agricultural employ-  
15          ment (as defined in section 218A) shall partici-  
16          pate in the System with respect to all newly  
17          hired employees and employees with expiring  
18          temporary employment authorization docu-  
19          ments. An agricultural employee shall not be  
20          counted for purposes of subparagraph (D), (E),  
21          or (F).

22          “(H) ALL EMPLOYERS.—Not later than 4  
23          years after regulations are published imple-  
24          menting this subsection, all employers shall par-  
25          ticipate in the System with respect to all newly

1 hired employees and employees with expiring  
2 temporary employment authorization docu-  
3 ments.

4 “(I) TRIBAL GOVERNMENT EMPLOYERS.—

5 “(i) RULEMAKING.—In developing  
6 regulations to implement this subsection,  
7 the Secretary shall—

8 “(I) consider the effects of this  
9 section on federally recognized Indian  
10 tribes and tribal members; and

11 “(II) consult with the govern-  
12 ments of federally recognized Indian  
13 tribes.

14 “(ii) REQUIRED PARTICIPATION.—Not  
15 later than 4 years after regulations are  
16 published implementing this subsection, all  
17 employers owned by, or entities of, the gov-  
18 ernment of a federally recognized Indian  
19 tribe shall participate in the System with  
20 respect to all newly hired employees and  
21 employees with expiring temporary employ-  
22 ment authorization documents.

23 “(J) IMMIGRATION LAW VIOLATORS.—

24 “(i) ORDERS FINDING VIOLATIONS.—  
25 An order finding any employer to have vio-

1           lated this section or section 274C may, in  
2           the Secretary’s discretion, require the em-  
3           ployer to participate in the System with re-  
4           spect to newly hired employees and em-  
5           ployees with expiring temporary employ-  
6           ment authorization documents, if such em-  
7           ployer is not otherwise required to partici-  
8           pate in the System under this section. The  
9           Secretary shall monitor such employer’s  
10          compliance with System procedures.

11           “(ii) PATTERN OR PRACTICE OF VIO-  
12          LATIONS.—The Secretary may require an  
13          employer that is required to participate in  
14          the System with respect to newly hired em-  
15          ployees to participate in the System with  
16          respect to the employer’s current employ-  
17          ees if the employer is determined by the  
18          Secretary or other appropriate authority to  
19          have engaged in a pattern or practice of  
20          violations of the immigration laws of the  
21          United States.

22           “(K) VOLUNTARY PARTICIPATION.—The  
23          Secretary may permit any employer that is not  
24          required to participate in the System under this  
25          section to do so on a voluntary basis.

1           “(3) CONSEQUENCE OF FAILURE TO PARTICI-  
2           PATE.—

3           “(A) IN GENERAL.—Except as provided in  
4           subparagraph (B), the failure, other than a de  
5           minimis or inadvertent failure, of an employer  
6           that is required to participate in the System to  
7           comply with the requirements of the System  
8           with respect to an individual—

9                   “(i) shall be treated as a violation of  
10                   subsection (a)(1)(B) with respect to that  
11                   individual; and

12                   “(ii) creates a rebuttable presumption  
13                   that the employer has violated paragraph  
14                   (1)(A) or (2) of subsection (a).

15           “(B) EXCEPTION.—

16                   “(i) IN GENERAL.—Subparagraph (A)  
17                   shall not apply in a criminal prosecution.

18                   “(ii) USE AS EVIDENCE.—Nothing in  
19                   this paragraph may be construed to limit  
20                   the use in the prosecution of a Federal  
21                   crime, in a manner otherwise consistent  
22                   with Federal criminal law and procedure,  
23                   of evidence relating to the employer’s fail-  
24                   ure to comply with requirements of the  
25                   System.

1           “(4) PROCEDURES FOR PARTICIPANTS IN THE  
2           SYSTEM.—

3           “(A) IN GENERAL.—An employer partici-  
4           pating in the System shall register such partici-  
5           pation with the Secretary and, when hiring any  
6           individual for employment in the United States,  
7           shall comply with the following:

8           “(i) REGISTRATION OF EMPLOYERS.—  
9           The Secretary, through notice in the Fed-  
10          eral Register, shall prescribe procedures  
11          that employers shall be required to follow  
12          to register with the System.

13          “(ii) UPDATING INFORMATION.—The  
14          employer is responsible for providing notice  
15          of any change to the information required  
16          under subclauses (I), (II), and (III) of  
17          clause (v) before conducting any further  
18          inquiries within the System, or on such  
19          other schedule as the Secretary may pre-  
20          scribe.

21          “(iii) TRAINING.—The Secretary shall  
22          require employers to undergo such training  
23          as the Secretary determines to be nec-  
24          essary to ensure proper use, protection of  
25          civil rights and civil liberties, privacy, in-

1           tegrity, and security of the System. To the  
2           extent practicable, such training shall be  
3           made available electronically on the U.S.  
4           Citizenship and Immigration Services  
5           website.

6           “(iv) NOTIFICATION TO EMPLOY-  
7           EES.—The employer shall inform individ-  
8           uals hired for employment that the Sys-  
9           tem—

10                   “(I) will be used by the employer;

11                   “(II) may be used for immigra-  
12                   tion enforcement purposes; and

13                   “(III) may not be used to dis-  
14                   criminate or to take adverse action  
15                   against a national of the United  
16                   States or an alien who has employ-  
17                   ment authorized status.

18           “(v) PROVISION OF ADDITIONAL IN-  
19           FORMATION.—The employer shall obtain  
20           from the individual (and the individual  
21           shall provide) and shall record in such  
22           manner as the Secretary may specify—

23                   “(I) the individual’s social secu-  
24                   rity account number;

1           “(II) if the individual does not  
2           attest to United States citizenship or  
3           status as a national of the United  
4           States under subsection (c)(2), such  
5           identification or authorization number  
6           established by the Department as the  
7           Secretary shall specify; and

8           “(III) such other information as  
9           the Secretary may require to deter-  
10          mine the identity and employment au-  
11          thorization of an individual.

12          “(vi) PRESENTATION OF DOCUMENTA-  
13          TION.—The employer, and the individual  
14          whose identity and employment authorized  
15          status are being confirmed, shall fulfill the  
16          requirements under subsection (c).

17          “(B) SEEKING CONFIRMATION.—

18          “(i) IN GENERAL.—An employer shall  
19          use the System to confirm the identity and  
20          employment authorized status of any indi-  
21          vidual during—

22                 “(I) the period beginning on the  
23                 date on which the individual accepts  
24                 an offer of employment and ending 3

1 business days after the date on which  
2 employment begins; or

3 “(II) such other reasonable pe-  
4 riod as the Secretary may prescribe.

5 “(ii) LIMITATION.—An employer may  
6 not make the starting date of an individ-  
7 ual’s employment or training or any other  
8 term and condition of employment depend-  
9 ent on the receipt of a confirmation of  
10 identity and employment authorized status  
11 by the System.

12 “(iii) REVERIFICATION.—If an indi-  
13 vidual has a limited period of employment  
14 authorized status, the individual’s em-  
15 ployer shall re-verify such status through  
16 the System not later than 3 business days  
17 after the last day of such period.

18 “(iv) OTHER EMPLOYMENT.—For em-  
19 ployers directed by the Secretary to par-  
20 ticipate in the System under paragraph  
21 (2)(C)(i) to protect critical infrastructure  
22 or otherwise specified circumstances in this  
23 section to verify their entire workforce, the  
24 System may be used for initial verification  
25 of an individual who was hired before the



1 employer became subject to the System,  
2 and the employer shall initiate all required  
3 procedures on or before such date as the  
4 Secretary shall specify.

5 “(v) NOTIFICATION.—

6 “(I) IN GENERAL.—The Sec-  
7 retary shall provide, and the employer  
8 shall use, as part of the System, a  
9 method of notifying employers of a  
10 confirmation or nonconfirmation of an  
11 individual’s identity and employment  
12 authorized status, or a notice that  
13 further action is required to verify  
14 such identity or employment eligibility  
15 (referred to in this subsection as a  
16 ‘further action notice’).

17 “(II) PROCEDURES.—The Sec-  
18 retary shall—

19 “(aa) directly notify the in-  
20 dividual and the employer, by  
21 means of electronic correspond-  
22 ence, mail, text message, tele-  
23 phone, or other direct commu-  
24 nication, of a nonconfirmation or  
25 further action notice;

1           “(bb) provide information  
2           about filing an administrative ap-  
3           peal under paragraph (6) and a  
4           filing for review before an admin-  
5           istrative law judge under para-  
6           graph (7); and

7           “(cc) establish procedures to  
8           directly notify the individual and  
9           the employer of a confirmation.

10          “(III) IMPLEMENTATION.—The  
11          Secretary may provide for a phased-in  
12          implementation of the notification re-  
13          quirements under this clause, as ap-  
14          propriate. The notification system  
15          shall cover all inquiries not later than  
16          1 year from the date of the enactment  
17          of the E-Verify Act of 2019.

18          “(C) CONFIRMATION OR NONCONFIRMA-  
19          TION.—

20          “(i) INITIAL RESPONSE.—

21                 “(I) IN GENERAL.—Except as  
22                 provided in subclause (II), the System  
23                 shall provide—

24                         “(aa) a confirmation of an  
25                         individual’s identity and employ-

1                   ment authorized status or a fur-  
2                   ther action notice at the time of  
3                   the inquiry; and

4                   “(bb) an appropriate code  
5                   indicating such confirmation or  
6                   such further action notice.

7                   “(II)     ALTERNATIVE     DEAD-  
8                   LINE.—If the System is unable to  
9                   provide immediate confirmation or  
10                  further action notice for technological  
11                  reasons or due to unforeseen cir-  
12                  cumstances, the System shall provide  
13                  a confirmation or further action notice  
14                  not later than 3 business days after  
15                  the initial inquiry.

16                  “(ii) CONFIRMATION UPON INITIAL  
17                  INQUIRY.—If the employer receives an ap-  
18                  propriate confirmation of an individual’s  
19                  identity and employment authorized status  
20                  under the System, the employer shall  
21                  record the confirmation in such manner as  
22                  the Secretary may specify.

23                  “(iii) FURTHER ACTION NOTICE AND  
24                  LATER CONFIRMATION OR NONCONFIRMA-  
25                  TION.—

1                   “(I) NOTIFICATION AND AC-  
2                   KNOWLEDGMENT THAT FURTHER AC-  
3                   TION IS REQUIRED.—Not later than 3  
4                   business days after an employer re-  
5                   ceives a further action notice of an in-  
6                   dividual’s identity or employment eli-  
7                   gibility under the System, or during  
8                   such other reasonable time as the Sec-  
9                   retary may prescribe, the employer  
10                  shall notify the individual for whom  
11                  the confirmation is sought of the fur-  
12                  ther action notice and any procedures  
13                  specified by the Secretary for address-  
14                  ing such notice. The employer shall  
15                  give the further action notice to the  
16                  individual in writing and the employer  
17                  shall acknowledge in the System  
18                  under penalty of perjury that it pro-  
19                  vided the employee with the further  
20                  action notice. The individual shall af-  
21                  firmatively acknowledge in writing, or  
22                  in such other manner as the Secretary  
23                  may specify, the receipt of the further  
24                  action notice from the employer. If  
25                  the individual refuses to acknowledge

1 the receipt of the further action no-  
2 tice, or acknowledges in writing that  
3 the individual will not contest the fur-  
4 ther action notice under subclause  
5 (II), the employer shall notify the Sec-  
6 retary in such manner as the Sec-  
7 retary may specify.

8 “(II) CONTEST.—Not later than  
9 10 business days after receiving noti-  
10 fication of a further action notice  
11 under subclause (I), the individual  
12 shall contact the appropriate Federal  
13 agency and, if the Secretary so re-  
14 quires, appear in person for purposes  
15 of verifying the individual’s identity  
16 and employment eligibility. The Sec-  
17 retary, in consultation with the Com-  
18 missioner and other appropriate Fed-  
19 eral agencies, shall specify an avail-  
20 able secondary verification procedure  
21 to confirm the validity of information  
22 provided and to provide a confirma-  
23 tion or nonconfirmation. Any proce-  
24 dures for reexamination shall not limit

1 in any way an employee's right to ap-  
2 peal a nonconfirmation.

3 “(III) NO CONTEST.—If the indi-  
4 vidual refuses to acknowledge receipt  
5 of the further action notice, acknowl-  
6 edges that the individual will not con-  
7 test the further action notice as pro-  
8 vided in subclause (I), or does not  
9 contact the appropriate Federal agen-  
10 cy within the period specified in sub-  
11 clause (II), following expiration of the  
12 period specified in subclause (II), a  
13 nonconfirmation shall be issued. The  
14 employer shall record the noncon-  
15 firmation in such manner as the Sec-  
16 retary may specify and terminate the  
17 individual's employment. An individ-  
18 ual's failure to contest a further ac-  
19 tion notice shall not be considered an  
20 admission of guilt with respect to any  
21 violation of this section or any provi-  
22 sion of law.

23 “(IV) CONFIRMATION OR NON-  
24 CONFIRMATION.—Unless the period is  
25 extended in accordance with this sub-

1 clause, the System shall provide a  
2 confirmation or nonconfirmation not  
3 later than 10 business days after the  
4 date on which the individual contests  
5 the further action notice under sub-  
6 clause (II). If the Secretary deter-  
7 mines that good cause exists, after  
8 taking into account adverse impacts  
9 to the employer, and including time to  
10 permit the individual to obtain and  
11 provide needed evidence of identity or  
12 employment eligibility, the Secretary  
13 shall extend the period for providing  
14 confirmation or nonconfirmation for  
15 stated periods beyond 10 business  
16 days. When confirmation or noncon-  
17 firmation is provided, the confirma-  
18 tion system shall provide an appro-  
19 priate code indicating such confirma-  
20 tion or nonconfirmation.

21 “(V) REEXAMINATION.—Nothing  
22 in this section may be construed to  
23 prevent the Secretary from estab-  
24 lishing procedures to reexamine a case  
25 where a confirmation or nonconfirma-

1           tion has been provided if subsequently  
2           received information indicates that the  
3           confirmation or nonconfirmation may  
4           not have been correct. Any procedures  
5           for reexamination shall not limit in  
6           any way an employee's right to appeal  
7           a nonconfirmation.

8                       “(VI)     EMPLOYEE     PROTEC-  
9                       TIONS.—An employer may not termi-  
10                      nate employment or take any other  
11                      adverse action against an individual  
12                      solely because of a failure of the indi-  
13                      vidual to have identity and employ-  
14                      ment eligibility confirmed under this  
15                      subsection until—

16                               “(aa) a nonconfirmation has  
17                               been issued;

18                               “(bb) if the further action  
19                               notice was contested, the period  
20                               to timely file an administrative  
21                               appeal has expired without an  
22                               appeal or the contestation to the  
23                               further action notice is with-  
24                               drawn; or



1                   “(cc) if an appeal before an  
2                   administrative law judge under  
3                   paragraph (7) has been filed, the  
4                   nonconfirmation has been upheld  
5                   or the appeal has been withdrawn  
6                   or dismissed.

7                   “(iv) NOTICE OF NONCONFIRMA-  
8                   TION.—Not later than 3 business days  
9                   after an employer receives a nonconfirma-  
10                  tion, or during such other reasonable time  
11                  as the Secretary may provide, the employer  
12                  shall notify the individual who is the sub-  
13                  ject of the nonconfirmation, and provide  
14                  information about filing an administrative  
15                  appeal pursuant to paragraph (6) and a  
16                  request for a hearing before an administra-  
17                  tive law judge pursuant to paragraph (7).  
18                  The employer shall give the nonconfirma-  
19                  tion notice to the individual in writing and  
20                  the employer shall acknowledge in the Sys-  
21                  tem under penalty of perjury that it pro-  
22                  vided the notice (or adequately attempted  
23                  to provide notice, but was unable to do so  
24                  despite reasonable efforts). The individual  
25                  shall affirmatively acknowledge in writing,

1 or in such other manner as the Secretary  
2 may prescribe, the receipt of the noncon-  
3 firmation notice from the employer. If the  
4 individual refuses or fails to acknowledge  
5 the receipt of the nonconfirmation notice,  
6 the employer shall notify the Secretary in  
7 such manner as the Secretary may pre-  
8 scribe.

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

11 “(i) TERMINATION OF CONTINUED  
12 EMPLOYMENT.—Except as provided in  
13 clause (iii), an employer that has received  
14 a nonconfirmation regarding an individual  
15 and has made reasonable efforts to notify  
16 the individual in accordance with subpara-  
17 graph (C)(iv) shall terminate the employ-  
18 ment of the individual upon the expiration  
19 of the time period specified in paragraph  
20 (7).

21 “(ii) CONTINUED EMPLOYMENT  
22 AFTER NONCONFIRMATION.—If the em-  
23 ployer continues to employ an individual  
24 after receiving nonconfirmation and ex-  
25 haustion of all appeals or expiration of all

1 rights to appeal if not appealed, in viola-  
2 tion of clause (i), a rebuttable presumption  
3 is created that the employer has violated  
4 paragraphs (1)(A) and (2) of subsection  
5 (a). Such presumption shall not apply in  
6 any prosecution under subsection (k)(1).

7 “(iii) EFFECT OF ADMINISTRATIVE  
8 APPEAL OR REVIEW BY ADMINISTRATIVE  
9 LAW JUDGE.—If an individual files an ad-  
10 ministrative appeal of the nonconfirmation  
11 within the time period specified in para-  
12 graph (6)(A), or files for review with an  
13 administrative law judge specified in para-  
14 graph (7)(A), the employer shall not termi-  
15 nate the individual’s employment under  
16 this subparagraph prior to the resolution  
17 of the administrative appeal unless the  
18 Secretary or the Commissioner terminates  
19 the stay under paragraph (6)(B) or (7)(B).

20 “(iv) WEEKLY REPORT.—The Direc-  
21 tor of U.S. Citizenship and Immigration  
22 Services shall submit a weekly report to  
23 the Assistant Secretary for Immigration  
24 and Customs Enforcement that includes,

1 for each individual who receives final non-  
2 confirmation through the System—

3 “(I) the name of such individual;

4 “(II) his or her social security  
5 number or alien file number;

6 “(III) the name and contact in-  
7 formation for his or her current em-  
8 ployer; and

9 “(IV) any other critical informa-  
10 tion that the Assistant Secretary de-  
11 termines to be appropriate.

12 “(v) OTHER REFERRAL.—The Direc-  
13 tor of U.S. Citizenship and Immigration  
14 Services shall refer to the Assistant Sec-  
15 retary for Immigration and Customs En-  
16 forcement for appropriate action by the  
17 Assistant Secretary, or for referral by the  
18 Assistant Secretary to another law enforce-  
19 ment agency, as appropriate—

20 “(I) any case in which the Direc-  
21 tor believes that a social security  
22 number has been falsely or fraudu-  
23 lently used; and

24 “(II) any case in which a false or  
25 fraudulent document is used by an

1           employee who has received a further  
2           action notice to resolve such notice.

3           “(E) OBLIGATION TO RESPOND TO QUE-  
4           RIES AND ADDITIONAL INFORMATION.—

5           “(i) IN GENERAL.—Employers shall  
6           comply with requests for information from  
7           the Secretary and the Immigrant and Em-  
8           ployee Rights Section of the Civil Rights  
9           Division of the Department of Justice, in-  
10          cluding queries concerning current and  
11          former employees, within the time frame  
12          during which records are required to be  
13          maintained under this section regarding  
14          such former employees, if such information  
15          relates to the functioning of the System,  
16          the accuracy of the responses provided by  
17          the System, or any suspected misuse, dis-  
18          crimination, fraud, or identity theft in the  
19          use of the System. Failure to comply with  
20          a request under this clause constitutes a  
21          violation of subsection (a)(1)(B).

22          “(ii) ACTION BY INDIVIDUALS.—

23                 “(I) IN GENERAL.—Individuals  
24                 being verified through the System  
25                 may be required to take further action

1 to address questions identified by the  
2 Secretary or the Commissioner re-  
3 garding the documents relied upon for  
4 purposes of subsection (c).

5 “(II) NOTIFICATION.—Not later  
6 than 3 business days after the receipt  
7 of such questions regarding an indi-  
8 vidual, or during such other reason-  
9 able time as the Secretary may pre-  
10 scribe, the employer shall—

11 “(aa) notify the individual of  
12 any such requirement for further  
13 actions; and

14 “(bb) record the date and  
15 manner of such notification.

16 “(III) ACKNOWLEDGMENT.—The  
17 individual shall acknowledge the noti-  
18 fication received from the employer  
19 under subclause (II) in writing, or in  
20 such other manner as the Secretary  
21 may prescribe.

22 “(iii) RULEMAKING.—

23 “(I) IN GENERAL.—The Sec-  
24 retary, in consultation with the Com-  
25 missioner and the Attorney General,

1 is authorized to issue regulations im-  
2 plementing, clarifying, and supple-  
3 menting the requirements under this  
4 subparagraph—

5 “(aa) to facilitate the func-  
6 tioning, accuracy, and fairness of  
7 the System;

8 “(bb) to prevent misuse, dis-  
9 crimination, fraud, or identity  
10 theft in the use of the System;  
11 and

12 “(cc) to protect and main-  
13 tain the confidentiality of infor-  
14 mation that could be used to lo-  
15 cate or otherwise place at risk of  
16 harm victims of domestic vio-  
17 lence, dating violence, sexual as-  
18 sault, stalking, and human traf-  
19 ficking, and of the applicant or  
20 beneficiary of any petition de-  
21 scribed in section 384(a)(2) of  
22 the Illegal Immigration Reform  
23 and Immigrant Responsibility  
24 Act of 1996 (8 U.S.C.  
25 1367(a)(2)).

1                   “(II) NOTICE.—The regulations  
2                   issued under subclause (I) shall be—

3                           “(aa) published in the Fed-  
4                           eral Register; and

5                           “(bb) provided directly to all  
6                           employers registered in the Sys-  
7                           tem.

8                   “(F) DESIGNATED AGENTS.—The Sec-  
9                   retary shall establish a process—

10                           “(i) for certifying, on an annual basis  
11                           or at such times as the Secretary may pre-  
12                           scribe, designated agents and other System  
13                           service providers seeking access to the Sys-  
14                           tem to perform verification queries on be-  
15                           half of employers, based upon training,  
16                           usage, privacy, and security standards pre-  
17                           scribed by the Secretary;

18                           “(ii) for ensuring that designated  
19                           agents and other System service providers  
20                           are subject to monitoring to the same ex-  
21                           tent as direct access users; and

22                           “(iii) for establishing standards for  
23                           certification of electronic I–9 programs.

24                   “(G) REQUIREMENT TO PROVIDE INFOR-  
25                   MATION.—



1           “(i) IN GENERAL.—No later than 3  
2 months after the date of the enactment of  
3 the E-Verify Act of 2019, the Secretary, in  
4 consultation with the Secretary of Labor,  
5 the Secretary of Agriculture, the Commis-  
6 sioner, the Attorney General, the Equal  
7 Employment Opportunity Commission, and  
8 the Administrator of the Small Business  
9 Administration, shall commence a cam-  
10 paign to disseminate information respect-  
11 ing the procedures, rights, and remedies  
12 prescribed under this section.

13           “(ii) CAMPAIGN REQUIREMENTS.—  
14 The campaign authorized under clause  
15 (i)—

16           “(I) shall be aimed at increasing  
17 the knowledge of employers, employ-  
18 ees, and the general public concerning  
19 employer and employee rights, respon-  
20 sibilities, and remedies under this sec-  
21 tion; and

22           “(II) shall be coordinated with  
23 the public education campaign con-  
24 ducted by U.S. Citizenship and Immi-  
25 gration Services.

1           “(iii) ASSESSMENT.—The Secretary  
2           shall assess the success of the campaign in  
3           achieving the goals of the campaign.

4           “(iv) AUTHORITY TO CONTRACT.—In  
5           order to carry out and assess the campaign  
6           under this subparagraph, the Secretary  
7           may, to the extent deemed appropriate and  
8           subject to the availability of appropria-  
9           tions, contract with public and private or-  
10          ganizations for outreach and assessment  
11          activities under the campaign.

12          “(v) AUTHORIZATION OF APPROPRIA-  
13          TIONS.—There are authorized to be appro-  
14          priated, for each of the fiscal years 2020  
15          through 2022, such sums as may be nec-  
16          essary to carry out this subparagraph.

17          “(H) AUTHORITY TO MODIFY INFORMA-  
18          TION REQUIREMENTS.—Based on a regular re-  
19          view of the System and the document  
20          verification procedures to identify misuse or  
21          fraudulent use and to assess the security of the  
22          documents and processes used to establish iden-  
23          tity or employment authorized status, the Sec-  
24          retary, in consultation with the Commissioner,  
25          after publication of notice in the Federal Reg-

1           ister and an opportunity for public comment,  
2           may modify, if the Secretary determines that  
3           the modification is necessary to ensure that the  
4           System accurately and reliably determines the  
5           identity and employment authorized status of  
6           employees and maintains existing protections  
7           against misuse, discrimination, fraud, and iden-  
8           tity theft—

9                   “(i) the information that shall be pre-  
10                   sented to the employer by an individual;

11                   “(ii) the information that shall be pro-  
12                   vided to the System by the employer; and

13                   “(iii) the procedures that shall be fol-  
14                   lowed by employers with respect to the  
15                   process of verifying an individual through  
16                   the System.

17           “(I) SELF-VERIFICATION.—Subject to ap-  
18           propriate safeguards to prevent misuse of the  
19           system, the Secretary, in consultation with the  
20           Commissioner, shall establish a secure self-  
21           verification procedure to permit an individual  
22           who seeks to verify the individual’s own employ-  
23           ment eligibility to contact the appropriate agen-  
24           cy and, in a timely manner, correct or update  
25           the information contained in the System.

1           “(5) PROTECTION FROM LIABILITY FOR AC-  
2           TIONS TAKEN ON THE BASIS OF INFORMATION PRO-  
3           VIDED BY THE SYSTEM.—An employer shall not be  
4           liable to a job applicant, an employee, the Federal  
5           Government, or a State or local government, under  
6           Federal, State, or local criminal or civil law for any  
7           employment-related action taken with respect to a  
8           job applicant or employee in good faith reliance on  
9           information provided by the System.

10           “(6) ADMINISTRATIVE APPEAL.—

11           “(A) IN GENERAL.—An individual who is  
12           notified of a nonconfirmation may, not later  
13           than 10 business days after the date that such  
14           notice is received, file an administrative appeal  
15           of such nonconfirmation with the Commissioner  
16           if the notice is based on records maintained by  
17           the Commissioner, or in any other case, with  
18           the Secretary. An individual who does not time-  
19           ly contest a further action notice timely received  
20           by that individual for which the individual ac-  
21           knowledged receipt may not be granted a review  
22           under this paragraph.

23           “(B) ADMINISTRATIVE STAY OF NONCON-  
24           FIRMATION.—The nonconfirmation shall be  
25           automatically stayed upon the timely filing of

1 an administrative appeal, unless the noncon-  
2 firmation resulted after the individual acknowl-  
3 edged receipt of the further action notice but  
4 failed to contact the appropriate agency within  
5 the time provided. The stay shall remain in ef-  
6 fect until the resolution of the appeal, unless  
7 the Secretary or the Commissioner terminates  
8 the stay based on a determination that the ad-  
9 ministrative appeal is frivolous or filed for pur-  
10 poses of delay.

11 “(C) REVIEW FOR ERROR.—The Secretary  
12 and the Commissioner shall develop procedures  
13 for resolving administrative appeals regarding  
14 nonconfirmations based upon the information  
15 that the individual has provided, including any  
16 additional evidence or argument that was not  
17 previously considered. Any such additional evi-  
18 dence or argument shall be filed within 10 busi-  
19 ness days of the date the appeal was originally  
20 filed. Appeals shall be resolved within 20 busi-  
21 ness days after the individual has submitted all  
22 evidence and arguments the individual wishes to  
23 submit, or has stated in writing that there is no  
24 additional evidence that the individual wishes to  
25 submit. The Secretary and the Commissioner

1           may, on a case by case basis for good cause, ex-  
2           tend the filing and submission period in order  
3           to ensure accurate resolution of an appeal be-  
4           fore the Secretary or the Commissioner.

5           “(D) PREPONDERANCE OF EVIDENCE.—  
6           Administrative appeal under this paragraph  
7           shall be limited to whether a nonconfirmation  
8           notice is supported by a preponderance of the  
9           evidence.

10          “(E) DAMAGES, FEES, AND COSTS.—No  
11          money damages, fees, or costs may be awarded  
12          in the administrative appeal process under this  
13          paragraph.

14          “(7) REVIEW BY ADMINISTRATIVE LAW  
15          JUDGE.—

16          “(A) IN GENERAL.—Not later than 30  
17          days after the date an individual receives a final  
18          determination on an administrative appeal  
19          under paragraph (6), the individual may obtain  
20          review of such determination by filing a com-  
21          plaint with a Department of Justice administra-  
22          tive law judge in accordance with this para-  
23          graph.

24          “(B) STAY OF NONCONFIRMATION.—The  
25          nonconfirmation related to such final deter-

1           mination shall be automatically stayed upon the  
2           timely filing of a complaint under this para-  
3           graph, and the stay shall remain in effect until  
4           the resolution of the complaint, unless the ad-  
5           ministrative law judge determines that the ac-  
6           tion is frivolous or filed for purposes of delay.

7           “(C) SERVICE.—The respondent to com-  
8           plaint filed under this paragraph is either the  
9           Secretary or the Commissioner, but not both,  
10          depending upon who issued the administrative  
11          order under paragraph (6). In addition to serv-  
12          ing the respondent, the plaintiff shall serve the  
13          Attorney General.

14          “(D) AUTHORITY OF ADMINISTRATIVE  
15          LAW JUDGE.—

16                 “(i) RULES OF PRACTICE.—The Sec-  
17                 retary shall promulgate regulations regard-  
18                 ing the rules of practice in appeals brought  
19                 pursuant to this subsection.

20                 “(ii) AUTHORITY OF ADMINISTRATIVE  
21                 LAW JUDGE.—The administrative law  
22                 judge shall have power to—

23                         “(I) terminate a stay of a non-  
24                         confirmation under subparagraph (B)  
25                         if the administrative law judge deter-

1 mines that the action is frivolous or  
2 filed for purposes of delay;

3 “(II) adduce evidence at a hear-  
4 ing;

5 “(III) compel by subpoena the  
6 attendance of witnesses and the pro-  
7 duction of evidence at any designated  
8 place or hearing;

9 “(IV) resolve claims of identity  
10 theft; and

11 “(V) enter, upon the pleadings  
12 and any evidence adduced at a hear-  
13 ing, a decision affirming or reversing  
14 the result of the agency, with or with-  
15 out remanding the cause for a rehear-  
16 ing.

17 “(iii) SUBPOENA.—In case of contu-  
18 macy or refusal to obey a subpoena law-  
19 fully issued under this section and upon  
20 application of the administrative law judge,  
21 an appropriate district court of the United  
22 States may issue an order requiring com-  
23 pliance with such subpoena and any failure  
24 to obey such order may be punished by  
25 such court as a contempt of such court.



1           “(iv) TRAINING.—An administrative  
2 law judge hearing cases shall have special  
3 training respecting employment authorized  
4 status verification.

5           “(E) ORDER BY ADMINISTRATIVE LAW  
6 JUDGE.—

7           “(i) IN GENERAL.—The administra-  
8 tive law judge shall issue and cause to be  
9 served to the parties in the proceeding an  
10 order which may be appealed as provided  
11 in subparagraph (G).

12           “(ii) CONTENTS OF ORDER.—Such an  
13 order shall uphold or reverse the final de-  
14 termination on the request for reconsider-  
15 ation and order lost wages and other ap-  
16 propriate remedies as provided in subpara-  
17 graph (F).

18           “(F) COMPENSATION FOR ERROR.—

19           “(i) IN GENERAL.—In cases in which  
20 the administrative law judge reverses the  
21 final determination of the Secretary or the  
22 Commissioner made under paragraph (6),  
23 and the administrative law judge finds  
24 that—

1           “(I) the nonconfirmation was due  
2           to gross negligence or intentional mis-  
3           conduct of the employer, the adminis-  
4           trative law judge may order the em-  
5           ployer to pay the individual lost  
6           wages, and reasonable costs and attor-  
7           neys’ fees incurred during administra-  
8           tive and judicial review; or

9           “(II) such final determination  
10          was erroneous by reason of the neg-  
11          ligence of the Secretary or the Com-  
12          missioner, the administrative law  
13          judge may order the Secretary or the  
14          Commissioner to pay the individual  
15          lost wages, and reasonable costs and  
16          attorneys’ fees incurred during the ad-  
17          ministrative appeal and the adminis-  
18          trative law judge review.

19          “(ii)    CALCULATION    OF    LOST  
20          WAGES.—Lost wages shall be calculated  
21          based on the wage rate and work schedule  
22          that prevailed prior to termination. The in-  
23          dividual shall be compensated for wages  
24          lost beginning on the first scheduled work  
25          day after employment was terminated and

1 ending 120 days after completion of the  
2 administrative law judge's review described  
3 in this paragraph or the day after the indi-  
4 vidual is reinstated or obtains employment  
5 elsewhere, whichever occurs first. If the in-  
6 dividual obtains employment elsewhere at a  
7 lower wage rate, the individual shall be  
8 compensated for the difference in wages  
9 for the period ending 120 days after com-  
10 pletion of the administrative law judge re-  
11 view process. No lost wages shall be award-  
12 ed for any period of time during which the  
13 individual was not in employment author-  
14 ized status.

15 “(iii) PAYMENT OF COMPENSATION.—

16 Notwithstanding any other law, payment of  
17 compensation for lost wages, costs, and at-  
18 torneys' fees under this paragraph, or com-  
19 promise settlements of the same, shall be  
20 made as provided by section 1304 of title  
21 31, United States Code. Appropriations  
22 made available to the Secretary or the  
23 Commissioner, accounts provided for under  
24 section 286, and funds from the Federal  
25 Old-Age and Survivors Insurance Trust

1 Fund or the Federal Disability Insurance  
2 Trust Fund shall not be available to pay  
3 such compensation.

4 “(G) APPEAL.—No later than 45 days  
5 after the entry of such final order, any person  
6 adversely affected by such final order may seek  
7 review of such order in the United States Court  
8 of Appeals for the circuit in which the violation  
9 is alleged to have occurred or in which the em-  
10 ployer resides or transacts business.

11 “(8) MANAGEMENT OF THE SYSTEM.—

12 “(A) IN GENERAL.—The Secretary is au-  
13 thorized to establish, manage, and modify the  
14 System, which shall—

15 “(i) respond to inquiries made by par-  
16 ticipating employers at any time through  
17 the internet, or such other means as the  
18 Secretary may designate, concerning an in-  
19 dividual’s identity and whether the indi-  
20 vidual is in employment authorized status;

21 “(ii) maintain records of the inquiries  
22 that were made, of confirmations provided  
23 (or not provided), and of the codes pro-  
24 vided to employers as evidence of their

1 compliance with their obligations under the  
2 System; and

3 “(iii) provide information to, and re-  
4 quire action by, employers and individuals  
5 using the System.

6 “(B) DESIGN AND OPERATION OF SYS-  
7 TEM.—The System shall be designed and oper-  
8 ated—

9 “(i) to maximize its reliability and  
10 ease of use by employers consistent with  
11 protecting the privacy and security of the  
12 underlying information, and ensuring full  
13 notice of such use to employees;

14 “(ii) to maximize its ease of use by  
15 employees, including direct notification of  
16 its use, of results, and ability to challenge  
17 results;

18 “(iii) to respond accurately to all in-  
19 quiries made by employers on whether in-  
20 dividuals are authorized to be employed  
21 and to register any times when the system  
22 is unable to receive inquiries;

23 “(iv) to maintain appropriate adminis-  
24 trative, technical, and physical safeguards  
25 to prevent unauthorized disclosure of per-

1           sonal information, misuse by employers  
2           and employees, and discrimination;

3           “(v) to require regularly scheduled re-  
4           resher training of all users of the System  
5           to ensure compliance with all procedures;

6           “(vi) to allow for auditing of the use  
7           of the System to detect misuse, discrimina-  
8           tion, fraud, and identity theft, to protect  
9           privacy and assess System accuracy, and  
10          to preserve the integrity and security of  
11          the information in all of the System, in-  
12          cluding—

13                 “(I) to develop and use tools and  
14                 processes to detect or prevent fraud  
15                 and identity theft, such as multiple  
16                 uses of the same identifying informa-  
17                 tion or documents to fraudulently gain  
18                 employment;

19                 “(II) to develop and use tools  
20                 and processes to detect and prevent  
21                 misuse of the system by employers  
22                 and employees;

23                 “(III) to develop tools and proc-  
24                 esses to detect anomalies in the use of

1 the system that may indicate potential  
2 fraud or misuse of the system; and

3 “(IV) to audit documents and in-  
4 formation submitted by employees to  
5 employers, including authority to con-  
6 duct interviews with employers and  
7 employees, and obtain information  
8 concerning employment from the em-  
9 ployer;

10 “(vii) to confirm identity and employ-  
11 ment authorization through verification  
12 and comparison of records as determined  
13 necessary by the Secretary;

14 “(viii) to confirm electronically the  
15 issuance of the employment authorization  
16 or identity document and—

17 “(I) if such photograph is avail-  
18 able, to display the digital photograph  
19 that the issuer placed on the docu-  
20 ment so that the employer can com-  
21 pare the photograph displayed to the  
22 photograph on the document pre-  
23 sented by the employee; or

24 “(II) if a photograph is not avail-  
25 able from the issuer, to confirm the

1 authenticity of the document using  
2 such additional security measures set  
3 forth in subsection (c)(1)(F)(iv);

4 “(ix) to employ specific and effective  
5 additional security measures set forth in  
6 subsection (c)(1)(F)(iv) to adequately  
7 verify the identity of an individual that are  
8 designed and operated—

9 “(I) to use state-of-the-art tech-  
10 nology to determine to a high degree  
11 of accuracy whether an individual pre-  
12 senting biographic information is the  
13 individual with that true identity;

14 “(II) to retain under the control  
15 of the Secretary the use of all deter-  
16 minations communicated by the Sys-  
17 tem, regardless of the entity operating  
18 the system pursuant to a contract or  
19 other agreement with a nongovern-  
20 mental entity or entities to the extent  
21 helpful in acquiring the best tech-  
22 nology to implement the additional se-  
23 curity measures;

24 “(III) to be integrated with the  
25 System so that employment authoriza-



1 tions will be determined for all indi-  
2 viduals identified as presenting their  
3 true identities through the databases  
4 maintained by the Commissioner of  
5 Social Security and the Secretary;

6 “(IV) to use tools and processes  
7 to detect and prevent further action  
8 notices and final nonconfirmations  
9 that are not correlated to fraud or  
10 identity theft;

11 “(V) to make risk-based assess-  
12 ments regarding the reliability of a  
13 claim of identity made by an indi-  
14 vidual presenting biographic informa-  
15 tion and to tailor the identity deter-  
16 mination in accordance with those as-  
17 sessments;

18 “(VI) to permit queries to be pre-  
19 sented to individuals subject to iden-  
20 tity verification at the time their iden-  
21 tities are being verified in a manner  
22 that permits rapid communication  
23 through the internet, mobile phone,  
24 and landline telephone connections to  
25 facilitate identity proofing;

1           “(VII) to generate queries that  
2 conform to the context of the identity  
3 verification process and the cir-  
4 cumstances of the individual whose  
5 identity is being verified;

6           “(VIII) to use publicly available  
7 databases and databases under the ju-  
8 risdiction of the Commissioner of So-  
9 cial Security, the Secretary, and the  
10 Secretary of State to formulate que-  
11 ries to be presented to individuals  
12 whose identities are being verified, as  
13 appropriate;

14           “(IX) to not retain data collected  
15 by the System within any database  
16 separate from the database in which  
17 the operating system is located and to  
18 limit access to the existing databases  
19 to a reference process that shields the  
20 operator of the System from acquiring  
21 possession of the data beyond the for-  
22 mulation of queries and verification of  
23 responses;

24           “(X) to not permit individuals or  
25 entities using the System to access

1 any data related to the individuals  
2 whose identities are being verified be-  
3 yond confirmations, further action no-  
4 tices, and final nonconfirmations of  
5 identity;

6 “(XI) to include, if feasible, a ca-  
7 pability for permitting document or  
8 other inputs that can be offered to in-  
9 dividuals and entities using the Sys-  
10 tem and that may be used at the op-  
11 tion of employees to facilitate identity  
12 verification, but would not be required  
13 of either employers or employees; and

14 “(XII) to the greatest extent pos-  
15 sible, in accordance with the time  
16 frames specified in this section; and

17 “(x) to provide appropriate notifica-  
18 tion directly to employers registered with  
19 the System of all changes made by the  
20 Secretary or the Commissioner related to  
21 allowed and prohibited documents, and use  
22 of the System.

23 “(C) SAFEGUARDS TO THE SYSTEM.—

24 “(i) REQUIREMENT TO DEVELOP.—

25 The Secretary, in consultation with the

1 Commissioner and other appropriate Fed-  
2 eral and State agencies, shall develop poli-  
3 cies and procedures to ensure protection of  
4 the privacy and security of personally iden-  
5 tifiable information and identifiers con-  
6 tained in the records accessed or main-  
7 tained by the System. The Secretary, in  
8 consultation with the Commissioner and  
9 other appropriate Federal and State agen-  
10 cies, shall develop and deploy appropriate  
11 privacy and security training for the Fed-  
12 eral and State employees accessing the  
13 records under the System.

14 “(ii) PRIVACY AUDITS.—The Sec-  
15 retary, acting through the Chief Privacy  
16 Officer of the Department, shall conduct  
17 regular privacy audits of the policies and  
18 procedures established under clause (i) and  
19 the compliance of the Department with the  
20 limitations set forth in subsection  
21 (c)(1)(F)(iii)(IV), including any collection,  
22 use, dissemination, and maintenance of  
23 personally identifiable information and any  
24 associated information technology systems,  
25 as well as scope of requests for this infor-

1           mation. The Chief Privacy Officer shall re-  
2           view the results of the audits and rec-  
3           ommend to the Secretary any changes nec-  
4           essary to improve the privacy protections  
5           of the program.

6           “(iii) ACCURACY AUDITS.—

7                   “(I) IN GENERAL.—Not later  
8                   than November 30 of each year, the  
9                   Inspector General of the Department  
10                  of Homeland Security shall submit a  
11                  report to the Secretary, with a copy to  
12                  the President of the Senate and the  
13                  Speaker of the House of Representa-  
14                  tives, that sets forth the error rate of  
15                  the System for the previous fiscal year  
16                  and the assessments required to be  
17                  submitted by the Secretary under sub-  
18                  paragraphs (A) and (B) of paragraph  
19                  (10). The report shall describe in de-  
20                  tail the methodology employed for  
21                  purposes of the report, and shall make  
22                  recommendations for how error rates  
23                  may be reduced.

24                  “(II) ERROR RATE DEFINED.—In  
25                  this clause, the term ‘error rate’

1 means the percentage determined by  
2 dividing—

3 “(aa) the number of employ-  
4 ment authorized individuals who  
5 received further action notices,  
6 contested such notices, and were  
7 subsequently found to be employ-  
8 ment authorized; by

9 “(bb) the number of System  
10 inquiries submitted for employ-  
11 ment authorized individuals.

12 “(III) ERROR RATE DETERMINA-  
13 TION.—The audits required under this  
14 clause shall—

15 “(aa) determine the error  
16 rate for identity determinations  
17 pursuant to subsection (c)(1)(F)  
18 for individuals presenting their  
19 true identities in the same man-  
20 ner and applying the same stand-  
21 ard as for employment authoriza-  
22 tion; and

23 “(bb) include recommenda-  
24 tions, as provided in subclause

1 (I), but no reduction in fines pur-  
2 suant to subclause (IV)

3 “(IV) REDUCTION OF PENALTIES

4 FOR RECORDKEEPING OR

5 VERIFICATION PRACTICES FOLLOWING

6 PERSISTENT SYSTEM INACCURA-

7 CIES.—Notwithstanding subsection

8 (e)(4)(C)(i), in any calendar year fol-

9 lowing a report by the Inspector Gen-

10 eral under subclause (I) that the Sys-

11 tem had an error rate higher than 0.3

12 percent for the previous fiscal year,

13 the civil penalty assessable by the Sec-

14 retary or an administrative law judge

15 under that subsection for each first-

16 time violation by an employer who has

17 not previously been penalized under

18 this section may not exceed \$1,000.

19 “(iv) RECORDS SECURITY PRO-

20 GRAM.—Any person, including a private

21 third party vendor, who retains document

22 verification or System data pursuant to

23 this section shall implement an effective

24 records security program that—

1           “(I) ensures that only authorized  
2           personnel have access to document  
3           verification or System data; and

4           “(II) ensures that whenever such  
5           data is created, completed, updated,  
6           modified, altered, or corrected in elec-  
7           tronic format, a secure record is cre-  
8           ated that establishes the date of ac-  
9           cess, the identity of the individual who  
10          accessed the electronic record, and the  
11          particular action taken.

12          “(v) RECORDS SECURITY PROGRAM.—  
13          In addition to the security measures de-  
14          scribed in clause (iv), a private third party  
15          vendor who retains document verification  
16          or System data pursuant to this section  
17          shall implement an effective records secu-  
18          rity program that—

19               “(I) provides for backup and re-  
20               covery of any records maintained in  
21               electronic format to protect against  
22               information loss, such as power inter-  
23               ruptions; and

24               “(II) ensures that employees are  
25               trained to minimize the risk of unau-



1                   thorized or accidental alteration or  
2                   erasure of such data in electronic for-  
3                   mat.

4                   “(vi) AUTHORIZED PERSONNEL DE-  
5                   FINED.—In this subparagraph, the term  
6                   ‘authorized personnel’ means anyone reg-  
7                   istered as a System user, or anyone with  
8                   partial or full responsibility for completion  
9                   of employment authorization verification or  
10                  retention of data in connection with em-  
11                  ployment authorization verification on be-  
12                  half of an employer.

13                  “(D) AVAILABLE FACILITIES AND ALTER-  
14                  NATIVE ACCOMMODATIONS.—The Secretary  
15                  shall make appropriate arrangements and de-  
16                  velop standards to allow employers or employ-  
17                  ees, including remote hires, who are otherwise  
18                  unable to access the System to use electronic  
19                  and telephonic formats (including video confer-  
20                  encing, scanning technology, and other available  
21                  technologies), Federal Government facilities,  
22                  public facilities, or other available locations in  
23                  order to use the System.

24                  “(E) RESPONSIBILITIES OF THE SEC-  
25                  RETARY.—

1           “(i) IN GENERAL.—As part of the  
2           System, the Secretary shall maintain a re-  
3           liable, secure method, which, operating  
4           through the System and within the time  
5           periods specified, compares the name, alien  
6           identification or authorization number, or  
7           other information as determined relevant  
8           by the Secretary, provided in an inquiry  
9           against such information maintained or  
10          accessed by the Secretary in order to con-  
11          firm (or not confirm) the validity of the in-  
12          formation provided, the correspondence of  
13          the name and number, whether the alien  
14          has employment authorized status (or, to  
15          the extent that the Secretary determines to  
16          be feasible and appropriate, whether the  
17          records available to the Secretary verify  
18          the identity or status of a national of the  
19          United States), and such other information  
20          as the Secretary may prescribe.

21           “(ii) PHOTOGRAPH DISPLAY.—As part  
22          of the System, the Secretary shall establish  
23          a reliable, secure method, which, operating  
24          through the System, displays the digital

1 photograph described in subparagraph  
2 (B)(viii)(I).

3 “(iii) TIMING OF NOTICES.—The Sec-  
4 retary shall have authority to prescribe  
5 when a confirmation, nonconfirmation, or  
6 further action notice shall be issued.

7 “(iv) USE OF INFORMATION.—The  
8 Secretary shall perform regular audits  
9 under the System, as described in subpara-  
10 graph (B)(vi) and shall use the informa-  
11 tion obtained from such audits, as well as  
12 any information obtained from the Com-  
13 missioner pursuant to part E of title XI of  
14 the Social Security Act (42 U.S.C. 1301 et  
15 seq.), for the purposes of this section and  
16 to administer and enforce the immigration  
17 laws.

18 “(v) IDENTITY FRAUD PROTECTION.—  
19 To prevent identity fraud, not later than  
20 18 months after the date of the enactment  
21 of the E-Verify Act of 2019, the Secretary  
22 shall—

23 “(I) in consultation with the  
24 Commissioner, establish a program to  
25 provide a reliable, secure method for

1 an individual to temporarily suspend  
2 or limit the use of the individual's so-  
3 cial security account number or other  
4 identifying information for verification  
5 by the System; and

6 “(II) for each individual being  
7 verified through the System—

8 “(aa) notify the individual  
9 that the individual has the option  
10 to limit the use of the individ-  
11 ual's social security account num-  
12 ber or other identifying informa-  
13 tion for verification by the Sys-  
14 tem; and

15 “(bb) provide instructions to  
16 the individuals for exercising the  
17 option referred to in item (aa).

18 “(vi) ALLOWING PARENTS TO PRE-  
19 VENT THEFT OF THEIR CHILD'S IDEN-  
20 TITY.—The Secretary, in consultation with  
21 the Commissioner, shall establish a pro-  
22 gram that provides a reliable, secure meth-  
23 od by which parents or legal guardians  
24 may suspend or limit the use of the social  
25 security account number or other identi-

1           fying information of a minor under their  
2           care for the purposes of the System. The  
3           Secretary may implement the program on  
4           a limited pilot program basis before mak-  
5           ing it fully available to all individuals.

6           “(vii) PROTECTION FROM MULTIPLE  
7           USE.—The Secretary and the Commis-  
8           sioner shall establish a procedure for iden-  
9           tifying and handling a situation in which a  
10          social security account number has been  
11          identified to be subject to unusual multiple  
12          use in the System or is otherwise suspected  
13          or determined to have been compromised  
14          by identity fraud. Such procedure shall in-  
15          clude notifying the legitimate holder of the  
16          social security number at the appropriate  
17          time.

18          “(viii) MONITORING AND COMPLIANCE  
19          UNIT.—The Secretary shall establish or  
20          designate a monitoring and compliance  
21          unit to detect and reduce identity fraud  
22          and other misuse of the System.

23          “(ix) CIVIL RIGHTS AND CIVIL LIB-  
24          ERTIES ASSESSMENTS.—

1           “(I) REQUIREMENT TO CON-  
2           DUCT.—The Secretary shall conduct  
3           regular civil rights and civil liberties  
4           assessments of the System, including  
5           participation by employers, other pri-  
6           vate entities, and Federal, State, and  
7           local government entities.

8           “(II) REQUIREMENT TO RE-  
9           SPOND.—Employers, other private en-  
10          tities, and Federal, State, and local  
11          entities shall timely respond to any re-  
12          quest in connection with such an as-  
13          sessment.

14          “(III) ASSESSMENT AND REC-  
15          COMMENDATIONS.—The Officer for  
16          Civil Rights and Civil Liberties of the  
17          Department shall review the results of  
18          each such assessment and recommend  
19          to the Secretary any changes nec-  
20          essary to improve the civil rights and  
21          civil liberties protections of the Sys-  
22          tem.

23          “(F) GRANTS TO STATES.—

24                 “(i) IN GENERAL.—The Secretary  
25                 shall create and administer a grant pro-

1           gram to help provide funding for States  
2           that grant—

3                   “(I) the Secretary access to driv-  
4                   er’s license information as needed to  
5                   confirm that a driver’s license pre-  
6                   sented under subsection (c)(1)(D)(i)  
7                   confirms the identity of the subject of  
8                   the System check, and that a driver’s  
9                   license matches the State’s records;  
10                  and

11                   “(II) such assistance as the Sec-  
12                   retary may request in order to resolve  
13                   further action notices or nonconfirma-  
14                   tions relating to such information.

15                   “(ii) CONSTRUCTION WITH THE DRIV-  
16                   ER’S PRIVACY PROTECTION ACT OF 1994.—  
17                   The provision of a photograph to the Sec-  
18                   retary as described in clause (i) may not be  
19                   construed as a violation of section 2721 of  
20                   title 18, United States Code, and is a per-  
21                   missible use under subsection (b)(1) of  
22                   that section.

23                   “(iii) AUTHORIZATION OF APPROPRIA-  
24                   TIONS.—There is authorized to be appro-

1            appropriated \$500,000,000 to carry out this  
2            subparagraph.

3            “(G) RESPONSIBILITIES OF THE SEC-  
4            RETARY OF STATE.—As part of the System, the  
5            Secretary of State shall provide to the Sec-  
6            retary access to passport and visa information  
7            as needed to confirm that a passport, passport  
8            card, or visa presented under subsection  
9            (c)(1)(C) confirms the identity of the subject of  
10           the System check, and that a passport, passport  
11           card, or visa photograph matches the Secretary  
12           of State’s records, and shall provide such assist-  
13           ance as the Secretary may request in order to  
14           resolve further action notices or nonconfirma-  
15           tions relating to such information.

16           “(H) UPDATING INFORMATION.—The  
17           Commissioner, the Secretary, and the Secretary  
18           of State shall update their information in a  
19           manner that promotes maximum accuracy and  
20           shall provide a process for the prompt correc-  
21           tion of erroneous information.

22           “(9) LIMITATION ON USE OF THE SYSTEM.—  
23           Notwithstanding any other provision of law, no de-  
24           partment, bureau, or other agency of the United  
25           States Government or any other entity may use,



1 share, or transmit any information, database, or  
2 other records assembled under this subsection for  
3 any purpose other than for employment verification  
4 or to ensure secure, appropriate, and nondiscrim-  
5 inatory use of the System.

6 “(10) ANNUAL REPORT AND CERTIFICATION.—

7 Not later than 18 months after the promulgation of  
8 regulations to implement this subsection, and annu-  
9 ally thereafter, the Secretary shall submit a report  
10 to Congress that includes the following:

11 “(A) An assessment, as submitted to the  
12 Secretary by the Inspector General of the De-  
13 partment of Homeland Security pursuant to  
14 paragraph (8)(C)(iii)(I), of the accuracy rates  
15 of further action notices and other System no-  
16 tices provided by employers to individuals who  
17 are authorized to be employed in the United  
18 States.

19 “(B) An assessment, as submitted to the  
20 Secretary by the Inspector General of the De-  
21 partment of Homeland Security pursuant to  
22 paragraph (8)(C)(iii)(I), of the accuracy rates  
23 of further action notices and other System no-  
24 tices provided directly (by the System) in a

1           timely fashion to individuals who are not au-  
2           thorized to be employed in the United States.

3           “(C) An assessment of any challenges  
4           faced by small employers in using the System.

5           “(D) An assessment of the rate of em-  
6           ployer noncompliance (in addition to failure to  
7           provide required notices in a timely fashion) in  
8           each of the following categories:

9                   “(i) Taking adverse action based on a  
10                  further action notice.

11                  “(ii) Use of the System for non-  
12                  employees or other individuals before they  
13                  are offered employment.

14                  “(iii) Use of the System to reverify  
15                  employment authorized status of current  
16                  employees except if authorized to do so.

17                  “(iv) Use of the System selectively,  
18                  except in cases in which such use is au-  
19                  thorized.

20                  “(v) Use of the System to deny em-  
21                  ployment or post-employment benefits or  
22                  otherwise interfere with labor rights.

23                  “(vi) Requiring employees or appli-  
24                  cants to use any self-verification feature or  
25                  to provide self-verification results.

1           “(vii) Discouraging individuals who  
2           receive a further action notice from chal-  
3           lenging the further action notice or appeal-  
4           ing a determination made by the System.

5           “(E) An assessment of the rate of em-  
6           ployee noncompliance in each of the following  
7           categories:

8                   “(i) Obtaining employment when un-  
9                   authorized with an employer complying  
10                  with the System in good faith.

11                  “(ii) Failure to provide required docu-  
12                  ments in a timely manner.

13                  “(iii) Attempting to use fraudulent  
14                  documents or documents not related to the  
15                  individual.

16                  “(iv) Misuse of the administrative ap-  
17                  peal and judicial review process.

18           “(F) An assessment of the amount of time  
19           taken for—

20                   “(i) the System to provide the con-  
21                   firmation or further action notice;

22                   “(ii) individuals to contest further ac-  
23                   tion notices;

1           “(iii) the System to provide a con-  
2           firmation or nonconfirmation of a con-  
3           tested further action notice;

4           “(iv) individuals to file an administra-  
5           tive appeal of a nonconfirmation; and

6           “(v) resolving administrative appeals  
7           regarding nonconfirmations.

8           “(11) ANNUAL GAO STUDY AND REPORT.—

9           “(A) REQUIREMENT.—The Comptroller  
10          General shall, for each year, undertake a study  
11          to evaluate the accuracy, efficiency, integrity,  
12          and impact of the System.

13          “(B) REPORT.—Not later than 18 months  
14          after the promulgation of regulations to imple-  
15          ment this subsection, and yearly thereafter, the  
16          Comptroller General shall submit to Congress a  
17          report containing the findings of the study car-  
18          ried out under this paragraph. Each such re-  
19          port shall include, at a minimum, the following:

20                  “(i) An assessment of System per-  
21                  formance with respect to the rate at which  
22                  individuals who are eligible for employment  
23                  in the United States are correctly approved  
24                  within the required periods, including a  
25                  separate assessment of such rate for natu-

1 realized United States citizens, nationals of  
2 the United States, and aliens.

3 “(ii) An assessment of the privacy and  
4 confidentiality of the System and of the  
5 overall security of the System with respect  
6 to cybertheft and theft or misuse of private  
7 data.

8 “(iii) An assessment of whether the  
9 System is being implemented in a manner  
10 that is not discriminatory or used for retal-  
11 iation against employees.

12 “(iv) An assessment of the most com-  
13 mon causes for the erroneous issuance of  
14 nonconfirmations by the System and rec-  
15 ommendations to correct such causes.

16 “(v) The recommendations of the  
17 Comptroller General regarding System im-  
18 provements.

19 “(vi) An assessment of the frequency  
20 and magnitude of changes made to the  
21 System and the impact on the ability for  
22 employers to comply in good faith.

23 “(vii) An assessment of the direct and  
24 indirect costs incurred by employers in  
25 complying with the System, including costs

1 associated with retaining potential employ-  
2 ees through the administrative appeals  
3 process and receiving a nonconfirmation.

4 “(viii) An assessment of any backlogs  
5 or delays in the System providing the con-  
6 firmation or further action notice and im-  
7 pacts to hiring by employers.

8 “(ix) An assessment of the effect of  
9 the identity authentication mechanism and  
10 any other security measures set forth in  
11 subsection (c)(1)(F)(iv) to verify identity  
12 incorporated into the System or otherwise  
13 used by employers on employees.

14 “(12) OUTREACH AND PARTNERSHIP.—

15 “(A) OUTREACH.—The Secretary may con-  
16 duct outreach and establish programs to assist  
17 employers in verifying employment authoriza-  
18 tion and preventing identity fraud.

19 “(B) PARTNERSHIP INITIATIVE.—The Sec-  
20 retary may establish partnership initiatives be-  
21 tween the Federal Government and private sec-  
22 tor employers to foster cooperative relationships  
23 and to strengthen overall hiring practices.

24 “(e) COMPLIANCE.—

1           “(1) COMPLAINTS AND INVESTIGATIONS.—The  
2 Secretary shall establish procedures—

3           “(A) for individuals and entities to file  
4 complaints respecting potential violations of  
5 subsections (a) or (f)(1);

6           “(B) for the investigation of those com-  
7 plaints which the Secretary deems appropriate  
8 to investigate; and

9           “(C) for providing notification to the Im-  
10 migrant and Employee Rights Section of the  
11 Civil Rights Division of the Department of Jus-  
12 tice of potential violations of section 274B.

13           “(2) AUTHORITY IN INVESTIGATIONS.—In con-  
14 ducting investigations and proceedings under this  
15 subsection—

16           “(A) immigration officers shall have rea-  
17 sonable access to examine evidence of the em-  
18 ployer being investigated;

19           “(B) immigration officers designated by  
20 the Secretary, and administrative law judges  
21 and other persons authorized to conduct pro-  
22 ceedings under this section, may compel by sub-  
23 poena the attendance of relevant witnesses and  
24 the production of relevant evidence at any des-  
25 ignated place in an investigation or case under

1           this subsection. In case of refusal to fully com-  
2           ply with a subpoena lawfully issued under this  
3           paragraph, the Secretary may request that the  
4           Attorney General apply in an appropriate dis-  
5           trict court of the United States for an order re-  
6           quiring compliance with the subpoena, and any  
7           failure to obey such order may be punished by  
8           the court as contempt. Failure to cooperate  
9           with the subpoena shall be subject to further  
10          penalties, including further fines and the void-  
11          ing of any mitigation of penalties or termi-  
12          nation of proceedings under paragraph (4)(E);  
13          and

14                 “(C) the Secretary, in cooperation with the  
15          Commissioner and the Attorney General, and in  
16          consultation with other relevant agencies, shall  
17          establish a Joint Employment Fraud Task  
18          Force consisting of, at a minimum—

19                         “(i) the System’s compliance per-  
20                         sonnel;

21                         “(ii) immigration law enforcement of-  
22                         ficers;

23                         “(iii) personnel of the Immigrant and  
24                         Employee Rights Section of the Civil



1 Rights Division of the Department of Jus-  
2 tice;

3 “(iv) personnel of the Office for Civil  
4 Rights and Civil Liberties of the Depart-  
5 ment; and

6 “(v) personnel of Office of Inspector  
7 General of the Social Security Administra-  
8 tion.

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 in  
13 the previous 3 years, the Secretary shall issue  
14 to the employer concerned a written notice of  
15 the Department’s intention to issue a claim for  
16 a monetary or other penalty. Such pre-penalty  
17 notice shall—

18 “(i) describe the violation;

19 “(ii) specify the laws and regulations  
20 allegedly violated;

21 “(iii) disclose the material facts which  
22 establish the alleged violation;

23 “(iv) describe the penalty sought to be  
24 imposed; and

1           “(v) inform such employer that such  
2           employer shall have a reasonable oppor-  
3           tunity to make representations as to why a  
4           monetary or other penalty should not be  
5           imposed.

6           “(B) EMPLOYER’S RESPONSE.—Whenever  
7           any employer receives written pre-penalty notice  
8           of a fine or other penalty in accordance with  
9           subparagraph (A), the employer may, within 60  
10          days from receipt of such notice, file with the  
11          Secretary its written response to the notice.  
12          The response may include any relevant evidence  
13          or proffer of evidence that the employer wishes  
14          to present with respect to whether the employer  
15          violated this section and whether, if so, the pen-  
16          alty should be mitigated, and shall be filed and  
17          considered in accordance with procedures to be  
18          established by the Secretary.

19          “(C) RIGHT TO A HEARING.—Before  
20          issuance of an order imposing a penalty on any  
21          employer, person, or entity, the employer, per-  
22          son, or entity shall be entitled to a hearing be-  
23          fore an administrative law judge, if requested  
24          within 60 days of the notice of penalty. The  
25          hearing shall be held at the nearest location

1 practicable to the place where the employer,  
2 person, or entity resides or of the place where  
3 the alleged violation occurred.

4 “(D) ISSUANCE OF ORDERS.—If no hear-  
5 ing is so requested, the Secretary’s imposition  
6 of the order shall constitute a final and  
7 unappealable order. If a hearing is requested  
8 and the administrative law judge determines,  
9 upon clear and convincing evidence received,  
10 that there was a violation, the administrative  
11 law judge shall issue the final determination  
12 with a written penalty claim. The penalty claim  
13 shall specify all charges in the information pro-  
14 vided under clauses (i) through (iii) of subpara-  
15 graph (A) and any mitigation of the penalty  
16 that the administrative law judge deems appro-  
17 priate under paragraph (4)(E).

18 “(4) CIVIL PENALTIES.—

19 “(A) HIRING OR CONTINUING TO EMPLOY  
20 UNAUTHORIZED ALIENS.—Any employer that  
21 violates any provision of subsection (a)(1)(A) or  
22 (a)(2) shall—

23 “(i) pay a civil penalty of not less  
24 than \$3,500 and not more than \$7,500 for  
25 each unauthorized alien with respect to

1           which each violation of either subsection  
2           (a)(1)(A) or (a)(2) occurred;

3           “(ii) if the employer has previously  
4           been fined as a result of a previous en-  
5           forcement action or previous violation  
6           under this paragraph, pay a civil penalty of  
7           not less than \$5,000 and not more than  
8           \$15,000 for each unauthorized alien with  
9           respect to which a violation of either sub-  
10          section (a)(1)(A) or (a)(2) occurred; and

11          “(iii) if the employer has previously  
12          been fined more than once under this para-  
13          graph, pay a civil penalty of not less than  
14          \$10,000 and not more than \$25,000 for  
15          each unauthorized alien with respect to  
16          which a violation of either subsection  
17          (a)(1)(A) or (a)(2) occurred.

18          “(B) ENHANCED PENALTIES.—After the  
19          Secretary certifies to Congress that the System  
20          has been established, implemented, and made  
21          mandatory for use by all employers in the  
22          United States, the Secretary may establish an  
23          enhanced civil penalty for an employer who—

1 “(i) fails to query the System to verify  
2 the identify and work authorized status of  
3 an individual; and

4 “(ii) violates a Federal, State, or local  
5 law related to—

6 “(I) the payment of wages;

7 “(II) hours worked by employees;

8 or

9 “(III) workplace health and safe-  
10 ty.

11 “(C) RECORDKEEPING OR VERIFICATION  
12 PRACTICES.—Any employer that violates or fails  
13 to comply with any requirement under sub-  
14 section (a)(1)(B), other than a minor or inad-  
15 vertent failure, as determined by the Secretary,  
16 shall pay a civil penalty of—

17 “(i) not less than \$500 and not more  
18 than \$2,000 for each violation;

19 “(ii) if an employer has previously  
20 been fined under this paragraph, not less  
21 than \$1,000 and not more than \$4,000 for  
22 each violation; and

23 “(iii) if an employer has previously  
24 been fined more than once under this para-

1 graph, not less than \$2,000 and not more  
2 than \$8,000 for each violation.

3 “(D) OTHER PENALTIES.—The Secretary  
4 may impose additional penalties for violations,  
5 including cease and desist orders, specially de-  
6 signed compliance plans to prevent further vio-  
7 lations, suspended fines to take effect in the  
8 event of a further violation, and in appropriate  
9 cases, the remedy provided by subsection (f)(2).

10 “(E) MITIGATION.—The Secretary or, if  
11 an employer requests a hearing, the administra-  
12 tive law judge, is authorized, upon such terms  
13 and conditions as the Secretary or administra-  
14 tive law judge deems reasonable and just and in  
15 accordance with such procedures as the Sec-  
16 retary may establish or any procedures estab-  
17 lished governing the administrative law judge’s  
18 assessment of penalties, to reduce or mitigate  
19 penalties imposed upon employers, based upon  
20 factors including, the employer’s hiring volume,  
21 compliance history, good-faith implementation  
22 of a compliance program, the size and level of  
23 sophistication of the employer, and voluntary  
24 disclosure of violations of this subsection to the  
25 Secretary. The Secretary or administrative law

1 judge shall not mitigate a penalty below the  
2 minimum penalty provided by this section, ex-  
3 cept that the Secretary may, in the case of an  
4 employer subject to penalty for recordkeeping  
5 or verification violations only who has not pre-  
6 viously been penalized under this section, in the  
7 Secretary's or administrative law judge's discre-  
8 tion, mitigate the penalty below the statutory  
9 minimum or remit it entirely. In any case where  
10 a civil money penalty has been imposed on an  
11 employer under section 274B for an action or  
12 omission that is also a violation of this section,  
13 the Secretary or administrative law judge shall  
14 mitigate any civil money penalty under this sec-  
15 tion by the amount of the penalty imposed  
16 under section 274B.

17 “(F) EFFECTIVE DATE.—The civil money  
18 penalty amounts and the enhanced penalties  
19 provided by subparagraphs (A), (B), and (C) of  
20 this paragraph and by subsection (f)(2) shall  
21 apply to violations of this section committed on  
22 or after the date that is 1 year after the date  
23 of the enactment of the E-Verify Act of 2019.  
24 For violations committed prior to such date of  
25 enactment, the civil money penalty amounts

1 provided by regulations implementing this sec-  
2 tion as in effect the minute before such date of  
3 enactment with respect to knowing hiring or  
4 continuing employment, verification, or indem-  
5 nity bond violations, as appropriate, shall apply.

6 “(5) ORDER OF INTERNAL REVIEW AND CER-  
7 TIFICATION OF COMPLIANCE.—

8 “(A) EMPLOYER COMPLIANCE.—If the  
9 Secretary has reasonable cause to believe that  
10 an employer has failed to comply with this sec-  
11 tion, the Secretary is authorized, at any time,  
12 to require that the employer certify that it is in  
13 compliance with this section, or has instituted a  
14 program to come into compliance.

15 “(B) EMPLOYER CERTIFICATION.—

16 “(i) REQUIREMENT.—Except as pro-  
17 vided in subparagraph (C), not later than  
18 60 days after receiving a notice from the  
19 Secretary requiring a certification under  
20 subparagraph (A), an official with respon-  
21 sibility for, and authority to bind the com-  
22 pany on, all hiring and immigration com-  
23 pliance notices shall certify under penalty  
24 of perjury that the employer is in conform-  
25 ance with the requirements of paragraphs



1 (1) through (4) of subsection (c), per-  
2 taining to document verification require-  
3 ments, and with subsection (d), pertaining  
4 to the System (once the System is imple-  
5 mented with respect to that employer ac-  
6 cording to the requirements under sub-  
7 section (d)(2)), and with any additional re-  
8 quirements that the Secretary may promul-  
9 gate by regulation pursuant to subsection  
10 (c) or (d) or that the employer has insti-  
11 tuted a program to come into compliance  
12 with these requirements.

13 “(ii) APPLICATION.—Clause (i) shall  
14 not apply until the date that the Secretary  
15 certifies to Congress that the System has  
16 been established, implemented, and made  
17 mandatory for use by all employers in the  
18 United States.

19 “(C) EXTENSION OF DEADLINE.—At the  
20 request of the employer, the Secretary may ex-  
21 tend the 60-day deadline for good cause.

22 “(D) STANDARDS OR METHODS.—The Sec-  
23 retary is authorized to publish in the Federal  
24 Register standards or methods for such certifi-  
25 cation, require specific recordkeeping practices

1 with respect to such certifications, and audit  
2 the records thereof at any time. This authority  
3 shall not be construed to diminish or qualify  
4 any other penalty provided by this section.

5 “(6) REQUIREMENTS FOR REVIEW OF A FINAL  
6 DETERMINATION.—With respect to judicial review of  
7 a final determination or penalty order issued under  
8 paragraph (3)(D), the following requirements apply:

9 “(A) DEADLINE.—The petition for review  
10 must be filed no later than 30 days after the  
11 date of the final determination or penalty order  
12 issued under paragraph (3)(D).

13 “(B) VENUE AND FORMS.—The petition  
14 for review shall be filed with the court of ap-  
15 peals for the judicial circuit where the employ-  
16 er’s principal place of business was located  
17 when the final determination or penalty order  
18 was made. The record and briefs do not have  
19 to be printed. The court shall review the pro-  
20 ceeding on a typewritten or electronically filed  
21 record and briefs.

22 “(C) SERVICE.—The respondent is the  
23 Secretary. In addition to serving the respond-  
24 ent, the petitioner shall serve the Attorney Gen-  
25 eral.

1           “(D) PETITIONER’S BRIEF.—The peti-  
2           tioner shall serve and file a brief in connection  
3           with a petition for judicial review not later than  
4           40 days after the date on which the administra-  
5           tive record is available, and may serve and file  
6           a reply brief not later than 14 days after serv-  
7           ice of the brief of the respondent, and the court  
8           may not extend these deadlines, except for good  
9           cause shown. If a petitioner fails to file a brief  
10          within the time provided in this paragraph, the  
11          court shall dismiss the appeal unless a manifest  
12          injustice would result.

13           “(E) SCOPE AND STANDARD FOR RE-  
14          VIEW.—The court of appeals shall conduct a de  
15          novo review of the administrative record on  
16          which the final determination was based and  
17          any additional evidence that the Court finds  
18          was previously unavailable at the time of the  
19          administrative hearing.

20           “(F) EXHAUSTION OF ADMINISTRATIVE  
21          REMEDIES.—A court may review a final deter-  
22          mination under paragraph (3)(C) only if—

23                   “(i) the petitioner has exhausted all  
24                   administrative remedies available to the pe-  
25                   titioner as of right, including any adminis-

1           trative remedies established by regulation;  
2           and

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

11          “(G) ENFORCEMENT OF ORDERS.—If the  
12          final determination issued against the employer  
13          under this subsection is not subjected to review  
14          as provided in this paragraph, the Attorney  
15          General, upon request by the Secretary, may  
16          bring a civil action to enforce compliance with  
17          the final determination in any appropriate dis-  
18          trict court of the United States. The court, on  
19          a proper showing, shall issue a temporary re-  
20          straining order or a preliminary or permanent  
21          injunction requiring that the employer comply  
22          with the final determination issued against that  
23          employer under this subsection. In any such  
24          civil action, the validity and appropriateness of

1           the final determination shall not be subject to  
2           review.

3           “(7) CREATION OF LIEN.—If any employer lia-  
4           ble for a fee or penalty under this section neglects  
5           or refuses to pay such liability after demand and  
6           fails to file a petition for review (if applicable) as  
7           provided in paragraph (6), the amount of the fee or  
8           penalty shall be a lien in favor of the United States  
9           on all property and rights to property, whether real  
10          or personal, belonging to such employer. If a petition  
11          for review is filed as provided in paragraph (6), the  
12          lien shall arise upon the entry of a final judgment  
13          by the court. The lien continues for 20 years or until  
14          the liability is satisfied, remitted, set aside, or termi-  
15          nated.

16          “(8) FILING NOTICE OF LIEN.—

17                  “(A) PLACE FOR FILING.—The notice of a  
18                  lien referred to in paragraph (7) shall be filed  
19                  as described in 1 of the following:

20                          “(i) UNDER STATE LAWS.—

21                                  “(I) REAL PROPERTY.—In the  
22                                  case of real property, in 1 office with-  
23                                  in the State (or the county, or other  
24                                  governmental subdivision), as des-  
25                                  ignated by the laws of such State, in

1           which the property subject to the lien  
2           is situated.

3           “(II) PERSONAL PROPERTY.—In  
4           the case of personal property, whether  
5           tangible or intangible, in 1 office with-  
6           in the State (or the county, or other  
7           governmental subdivision), as des-  
8           ignated by the laws of such State, in  
9           which the property subject to the lien  
10          is situated, except that State law  
11          merely conforming to or reenacting  
12          Federal law establishing a national fil-  
13          ing system does not constitute a sec-  
14          ond office for filing as designated by  
15          the laws of such State.

16          “(ii) WITH CLERK OF DISTRICT  
17          COURT.—In the office of the clerk of the  
18          United States district court for the judicial  
19          district in which the property subject to  
20          the lien is situated, whenever the State has  
21          not by law designated 1 office which meets  
22          the requirements of clause (i).

23          “(iii) WITH RECORDER OF DEEDS OF  
24          THE DISTRICT OF COLUMBIA.—In the of-  
25          fice of the Recorder of Deeds of the Dis-

1           trict of Columbia, if the property subject to  
2           the lien is situated in the District of Co-  
3           lumbia.

4           “(B) SITUS OF PROPERTY SUBJECT TO  
5           LIEN.—For purposes of subparagraph (A),  
6           property shall be deemed to be situated as fol-  
7           lows:

8                   “(i) REAL PROPERTY.—In the case of  
9                   real property, at its physical location.

10                   “(ii) PERSONAL PROPERTY.—In the  
11                   case of personal property, whether tangible  
12                   or intangible, at the residence of the tax-  
13                   payer at the time the notice of lien is filed.

14           “(C) DETERMINATION OF RESIDENCE.—  
15           For purposes of subparagraph (B)(ii), the resi-  
16           dence of a corporation or partnership shall be  
17           deemed to be the place at which the principal  
18           executive office of the business is located, and  
19           the residence of a taxpayer whose residence is  
20           outside the United States shall be deemed to be  
21           in the District of Columbia.

22           “(D) EFFECT OF FILING NOTICE OF  
23           LIEN.—

24                   “(i) IN GENERAL.—Upon filing of a  
25                   notice of lien in the manner described in

1 this paragraph, the lien shall be valid  
2 against any purchaser, holder of a security  
3 interest, mechanic's lien, or judgment lien  
4 creditor, except with respect to properties  
5 or transactions specified in subsection (b),  
6 (c), or (d) of section 6323 of the Internal  
7 Revenue Code of 1986 for which a notice  
8 of tax lien properly filed on the same date  
9 would not be valid.

10 “(ii) NOTICE OF LIEN.—The notice of  
11 lien shall be considered a notice of lien for  
12 taxes payable to the United States for the  
13 purpose of any State or local law providing  
14 for the filing of a notice of a tax lien. A  
15 notice of lien that is registered, recorded,  
16 docketed, or indexed in accordance with  
17 the rules and requirements relating to  
18 judgments of the courts of the State where  
19 the notice of lien is registered, recorded,  
20 docketed, or indexed shall be considered  
21 for all purposes as the filing prescribed by  
22 this section.

23 “(iii) OTHER PROVISIONS.—Section  
24 3201(e) of title 28, United States Code,



1           shall apply to liens filed pursuant to this  
2           paragraph.

3           “(E) ENFORCEMENT OF A LIEN.—A lien  
4           obtained through this paragraph shall be con-  
5           sidered a debt as defined by section 3002 of  
6           title 28, United States Code, and enforceable  
7           pursuant to chapter 176 of such title.

8           “(9) ATTORNEY GENERAL ADJUDICATION.—  
9           The Attorney General shall have jurisdiction to adju-  
10          dicate administrative proceedings under this sub-  
11          section. Such proceedings shall be conducted in ac-  
12          cordance with section 554 of title 5, United States  
13          Code.

14          “(f) CRIMINAL AND CIVIL PENALTIES AND INJUNC-  
15          TIONS.—

16          “(1) PROHIBITION OF INDEMNITY BONDS.—It  
17          is unlawful for an employer, in the hiring of any in-  
18          dividual, to require the individual to post a bond or  
19          security, to pay or agree to pay an amount, or other-  
20          wise to provide a financial guarantee or indemnity,  
21          against any potential liability arising under this sec-  
22          tion relating to such hiring of the individual.

23          “(2) CIVIL PENALTY.—Any employer who is de-  
24          termined, after notice and opportunity for mitigation  
25          of the monetary penalty under subsection (e), to

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

7 “(g) GOVERNMENT CONTRACTS.—

8 “(1) CONTRACTORS AND RECIPIENTS.—When-  
9 ever an employer who is a Federal contractor (mean-  
10 ing an employer who holds a Federal contract,  
11 grant, or cooperative agreement, or reasonably may  
12 be expected to submit an offer for or be awarded a  
13 government contract) is determined by the Secretary  
14 to have violated this section on more than 3 occa-  
15 sions or is convicted of a crime under this section,  
16 the employer shall be considered for debarment from  
17 the receipt of Federal contracts, grants, or coopera-  
18 tive agreements in accordance with the procedures  
19 and standards and for the periods prescribed by the  
20 Federal Acquisition Regulation. However, any ad-  
21 ministrative determination of liability for civil pen-  
22 alty by the Secretary or the Attorney General shall  
23 not be reviewable in any debarment proceeding.

24 “(2) INADVERTENT VIOLATIONS.—Inadvertent  
25 violations of recordkeeping or verification require-

1       ments, in the absence of any other violations of this  
2       section, shall not be a basis for determining that an  
3       employer is a repeat violator for purposes of this  
4       subsection.

5           “(3) OTHER REMEDIES AVAILABLE.—Nothing  
6       in this subsection shall be construed to modify or  
7       limit any remedy available to any agency or official  
8       of the Federal Government for violation of any con-  
9       tractual requirement to participate in the System, as  
10      provided in the final rule relating to employment eli-  
11      gibility verification published in the Federal Register  
12      on November 14, 2008 (73 Fed. Reg. 67,651), or  
13      any similar subsequent regulation.

14          “(h) PREEMPTION.—The provisions of this section  
15      preempt any State or local law, ordinance, policy, or rule,  
16      including any criminal or civil fine or penalty structure,  
17      relating to the hiring, continued employment, or status  
18      verification for employment eligibility purposes, of unau-  
19      thorized aliens. A State, locality, municipality, or political  
20      subdivision may exercise its authority over business licens-  
21      ing and similar laws as a penalty for failure to use the  
22      System.

23          “(i) DEPOSIT OF AMOUNTS RECEIVED.—Except as  
24      otherwise specified, civil penalties collected under this sec-

1 tion shall be deposited by the Secretary into the Treasury  
2 as miscellaneous receipts.

3 “(j) CHALLENGES TO VALIDITY OF THE SYSTEM.—

4 “(1) IN GENERAL.—Any right, benefit, or claim  
5 not otherwise waived or limited pursuant to this sec-  
6 tion is available in an action instituted in the United  
7 States District Court for the District of Columbia,  
8 but shall be limited to determinations of—

9 “(A) whether this section, or any regula-  
10 tion issued to implement this section, violates  
11 the Constitution of the United States; or

12 “(B) whether such a regulation issued by  
13 or under the authority of the Secretary to im-  
14 plement this section, is contrary to applicable  
15 provisions of this section or was issued in viola-  
16 tion of chapter 5 of title 5, United States Code.

17 “(2) DEADLINES FOR BRINGING ACTIONS.—

18 Any action instituted under this subsection must be  
19 filed no later than 180 days after the date the chal-  
20 lenged section or regulation described in subpara-  
21 graph (A) or (B) of paragraph (1) becomes effective.  
22 No court shall have jurisdiction to review any chal-  
23 lenge described in subparagraph (B) after the time  
24 period specified in this subsection expires.

1       “(k) CRIMINAL PENALTIES AND INJUNCTIONS FOR  
2 PATTERN OR PRACTICE VIOLATIONS.—

3               “(1) PATTERN AND PRACTICE.—Any employer  
4 who engages in a pattern or practice of knowing vio-  
5 lations of subsection (a)(1)(A) or (a)(2) shall be  
6 fined under title 18, United States Code, no more  
7 than \$10,000 for each unauthorized alien with re-  
8 spect to whom such violation occurs, imprisoned for  
9 not more than 2 years for the entire pattern or prac-  
10 tice, or both.

11               “(2) TERM OF IMPRISONMENT.—The maximum  
12 term of imprisonment of a person convicted of any  
13 criminal offense under the United States Code shall  
14 be increased by 5 years if the offense is committed  
15 as part of a pattern or practice of violations of sub-  
16 section (a)(1)(A) or (a)(2).

17               “(3) ENJOINING OF PATTERN OR PRACTICE  
18 VIOLATIONS.—Whenever the Secretary or the Attor-  
19 ney General has reasonable cause to believe that an  
20 employer is engaged in a pattern or practice of em-  
21 ployment in violation of subsection (a)(1)(A) or  
22 (a)(2), the Attorney General may bring a civil action  
23 in the appropriate district court of the United States  
24 requesting such relief, including a permanent or  
25 temporary injunction, restraining order, or other

1 order against the employer, as the Secretary or the  
2 Attorney General determines to be necessary.

3 “(l) CRIMINAL PENALTIES FOR UNLAWFUL AND  
4 ABUSIVE EMPLOYMENT.—

5 “(1) IN GENERAL.—Any person who, during  
6 any 12-month period, knowingly employs or hires,  
7 employs, recruits, or refers for a fee for employment  
8 10 or more individuals within the United States who  
9 are under the control and supervision of such per-  
10 son—

11 “(A) knowing that the individuals are un-  
12 authorized aliens; and

13 “(B) under conditions that violate section  
14 5(a) of the Occupational Safety and Health Act  
15 of 1970 (29 U.S.C. 654(a)) (relating to occupa-  
16 tional safety and health), section 6 or 7 of the  
17 Fair Labor Standards Act of 1938 (29 U.S.C.  
18 206 and 207) (relating to minimum wages and  
19 maximum hours of employment), section 3142  
20 of title 40, United States Code (relating to re-  
21 quired wages on construction contracts), or sec-  
22 tion 6703 or 6704 of title 41, United States  
23 Code (relating to required wages on service con-  
24 tracts),

1 shall be fined under title 18, United States Code, or  
2 imprisoned for not more than 10 years, or both.

3 “(2) ATTEMPT AND CONSPIRACY.—Any person  
4 who attempts or conspires to commit any offense  
5 under this section shall be punished in the same  
6 manner as a person who completes the offense.

7 “(m) LIMITATION ON ADJUSTMENT OF STATUS.—  
8 The Secretary may not adjust the status of aliens who  
9 have been granted registered provisional immigrant sta-  
10 tus, except for aliens granted blue card status as described  
11 in section 245D(b), unless the Secretary, after consulta-  
12 tion with the Comptroller General of the United States,  
13 certifies in writing to the President and Congress that the  
14 Secretary has implemented the System, including the full  
15 incorporation of the photo tool and additional security  
16 measures, required by this section, and has required the  
17 use of the System by all employers to prevent unauthor-  
18 ized workers from obtaining employment in the United  
19 States.”.

20 **SEC. 3. REPORT ON USE OF THE SYSTEM IN THE AGRICUL-**  
21 **TURAL INDUSTRY.**

22 (a) IN GENERAL.—Not later than 18 months after  
23 the date of the enactment of this Act, the Secretary of  
24 Homeland Security, in consultation with the Secretary of  
25 Agriculture, shall submit a report to Congress that as-

1 sses implementation of the Employment Verification  
2 System established under section 274A(d) of the Immigra-  
3 tion and Nationality Act, as amended by section 2, in the  
4 agricultural industry, including the use of such System  
5 technology in agriculture industry hiring processes, user,  
6 contractor, and third-party employer agent employment  
7 practices, timing and logistics regarding employment  
8 verification and reverification processes to meet agri-  
9 culture industry practices, and identification of potential  
10 challenges and modifications to meet the unique needs of  
11 the agriculture industry.

12 (b) CONTENTS.—The report required under sub-  
13 section (a) shall review—

14 (1) the modality of access, training and out-  
15 reach, customer support, processes for further action  
16 notices and secondary verifications for short-term  
17 workers, monitoring, and compliance procedures for  
18 such System;

19 (2) the interaction of such System with the  
20 process to admit nonimmigrant workers pursuant to  
21 section 218 or 218A of the Immigration and Nation-  
22 ality Act (8 U.S.C. 1188 et seq.) and with enforce-  
23 ment of the immigration laws; and



1 (3) the collaborative use of processes of other  
2 Federal and State agencies that intersect with the  
3 agriculture industry.

4 **SEC. 4. REPORT ON IMPACT OF THE SYSTEM ON EMPLOY-**  
5 **ERS.**

6 Not later than 18 months after the date of the enact-  
7 ment of this Act, the Secretary of Homeland Security shall  
8 submit a report to Congress that assesses—

9 (1) the implementation by employers of the  
10 Employment Verification System established under  
11 section 274A(d) of the Immigration and Nationality  
12 Act, as amended by section 2;

13 (2) any adverse impact on the revenues, busi-  
14 ness processes, or profitability of employers required  
15 to use such System; and

16 (3) the economic impact of such System on  
17 small businesses.

18 **SEC. 5. GOVERNMENT ACCOUNTABILITY OFFICE STUDY OF**  
19 **THE EFFECTS OF DOCUMENT REQUIRE-**  
20 **MENTS ON EMPLOYMENT AUTHORIZED PER-**  
21 **SONS AND EMPLOYERS.**

22 (a) STUDY.—The Comptroller General of the United  
23 States shall carry out a study of—

24 (1) the effects of the documentary requirements  
25 under section 274A of the Immigration and Nation-

1 ality Act, as amended by section 2, on employers,  
2 naturalized United States citizens, nationals of the  
3 United States, and individuals with employment au-  
4 thorized status; and

5 (2) the challenges such employers, citizens, na-  
6 tionals, or individuals may face in obtaining the doc-  
7 umentation required under that section.

8 (b) REPORT.—

9 (1) IN GENERAL.—Not later than 4 years after  
10 the date of the enactment of this Act, the Comp-  
11 troller General shall submit a report to Congress  
12 containing the findings of the study carried out  
13 under subsection (a).

14 (2) CONTENTS.—The report required under  
15 paragraph (1) shall include—

16 (A) an assessment of available information  
17 regarding the number of working age nationals  
18 of the United States and individuals who have  
19 employment authorized status who lack docu-  
20 ments required for employment by such section  
21 274A;

22 (B) a description of the additional steps  
23 required for individuals who have employment  
24 authorized status and do not possess the docu-

1           ments required by such section 274A to obtain  
2           such documents;

3           (C) a general assessment of the average fi-  
4           nancial costs for individuals who have employ-  
5           ment authorized status who do not possess the  
6           documents required by such section 274A to ob-  
7           tain such documents;

8           (D) a general assessment of the average fi-  
9           nancial costs and challenges for employers who  
10          have been required to participate in the Em-  
11          ployment Verification System established by  
12          subsection (d) of such section 274A;

13          (E) a description of the barriers to individ-  
14          uals who have employment authorized status in  
15          obtaining the documents required by such sec-  
16          tion 274A, including barriers imposed by the  
17          executive branch of the Government; and

18          (F) any particular challenges facing indi-  
19          viduals who have employment authorized status  
20          who are members of a federally recognized In-  
21          dian tribe in complying with the provisions of  
22          such section 274A.

1 **SEC. 6. REPEAL OF PILOT PROGRAMS AND E-VERIFY AND**  
2 **TRANSITION PROCEDURES.**

3 (a) REPEAL.—Sections 401, 402, 403, 404, and 405  
4 of the Illegal Immigration Reform and Immigrant Respon-  
5 sibility Act of 1996 (division C of Public Law 104–208;  
6 8 U.S.C. 1324a note) are repealed.

7 (b) TRANSITION PROCEDURES.—

8 (1) CONTINUATION OF E-VERIFY PROGRAM.—

9 Notwithstanding the repeals made by subsection (a),  
10 the Secretary of Homeland Security shall continue  
11 to operate the E-Verify Program described in section  
12 403 of the Illegal Immigration Reform and Immig-  
13 rant Responsibility Act of 1996 (division C of Pub-  
14 lic Law 104–208; 8 U.S.C. 1324a note), as in effect  
15 on the day immediately preceding the date of the en-  
16 actment of this Act, until the Secretary determines  
17 that the transition to the System described in sec-  
18 tion 274A(d) of the Immigration and Nationality  
19 Act, as amended by section 2, is complete.

20 (2) TRANSITION TO THE SYSTEM.—Any em-  
21 ployer that was participating in the E-Verify Pro-  
22 gram described in section 403 of the Illegal Immig-  
23 ration Reform and Immigrant Responsibility Act of  
24 1996 (division C of Public Law 104–208; 8 U.S.C.  
25 1324a note), as in effect on the day immediately  
26 preceding the date of the enactment of this Act,

1 shall participate in the System described in section  
2 274A(d) of the Immigration and Nationality Act, as  
3 amended by section 2, to the same extent and in the  
4 same manner that the employer participated in such  
5 E-Verify Program.

6 (c) CONSTRUCTION.—The repeal made by subsection  
7 (a) may not be construed to limit the authority of the Sec-  
8 retary of Homeland Security to allow, or continue to allow,  
9 the participation in such System of employers who have  
10 participated in such E-Verify Program, as in effect on the  
11 day immediately preceding the date of the enactment of  
12 this Act.

13 (d) CONFORMING AMENDMENT.—Section 274(a) of  
14 the Immigration and Nationality Act (8 U.S.C. 1324(a))  
15 is amended—

16 (1) by striking paragraph (3); and

17 (2) by redesignating paragraph (4) as para-  
18 graph (3).

19 **SEC. 7. TAXPAYER ADDRESS INFORMATION.**

20 Section 6103(m) of the Internal Revenue Code of  
21 1986 is amended by adding at the end the following:

22 “(8) TAXPAYER ADDRESS INFORMATION FUR-  
23 NISHED TO SECRETARY OF HOMELAND SECURITY.—

24 Upon written request from the Secretary of Home-  
25 land Security, the Secretary shall disclose the mail-

1 ing address of any taxpayer who is entitled to re-  
2 ceive a notification from the Secretary of Homeland  
3 Security pursuant to paragraphs (1)(C) and  
4 (8)(E)(vii) of section 274A(d) of the Immigration  
5 and Nationality Act (8 U.S.C. 1324a(d)) for use  
6 only by employees of the Department of Homeland  
7 for the purpose of mailing such notification to such  
8 taxpayer.”.

9 **SEC. 8. SOCIAL SECURITY ACCOUNT STATEMENTS.**

10 Section 1143(a)(2) of the Social Security Act (42  
11 U.S.C. 1320b–13(a)(2)) is amended—

12 (a) in subparagraph (D), by striking “and” at the  
13 end;

14 (b) in subparagraph (E), by striking the period at  
15 the end and inserting “; and”; and

16 (c) by adding at the end the following:

17 “(F) to the extent resources are available,  
18 information in the Commissioner’s records indi-  
19 cating that a query was submitted to the em-  
20 ployment verification system established under  
21 section 274A(d) of the Immigration and Na-  
22 tionality Act (8 U.S.C. 1324a(d)) under that  
23 individual’s name or social security number;  
24 and

1           “(G) a toll-free telephone number operated  
 2           by the Department of Homeland Security for  
 3           employment verification system inquiries and a  
 4           link to self-verification procedure established  
 5           under section 274A(d)(4)(I) of such Act (8  
 6           U.S.C. 1324a(d)(4)(I)).”.

7 **SEC. 9. GOOD FAITH COMPLIANCE.**

8           Section 274B(a) of the Immigration and Nationality  
 9 Act (8 U.S.C. 1324b(a)) is amended by adding at the end  
 10 the following:

11           “(7) TREATMENT OF CERTAIN VIOLATIONS  
 12 AFTER REASONABLE STEPS IN GOOD FAITH.—Not-  
 13 withstanding paragraphs (4) and (6), a person,  
 14 other entity, or employment agency shall not be lia-  
 15 ble for civil penalties described in subsection  
 16 (g)(2)(B)(iv) that are related to a violation of any  
 17 such paragraph if the person, entity, or employment  
 18 agency has taken reasonable steps, in good faith, to  
 19 comply with such paragraphs at issue, unless the  
 20 person, other entity, or employment agency—

21           “(A) was, for similar conduct, subject to—

22           “(i) a reasonable cause determination  
 23 by the Office of Special Counsel for Immi-  
 24 gration Related Unfair Employment Prac-  
 25 tices; or

1                   “(ii) a finding by an administrative  
2                   law judge that a violation of this section  
3                   has occurred; or

4                   “(B) committed the violation in order to  
5                   interfere with workplace rights (as defined in  
6                   section 274A(b)(8)).

7                   “(8) GOOD FAITH.—As used in paragraph (7),  
8                   the term ‘good faith’ shall not include any action  
9                   taken in order to interfere with ‘workplace rights’  
10                  (as defined in section 274A(b)(8)). Neither the Of-  
11                  fice of Special Counsel nor an administrative law  
12                  judge hearing a claim under this section shall have  
13                  any authority to assess workplace rights other than  
14                  those guaranteed under this section.

15                  “(9) RULES OF CONSTRUCTION.—Nothing in  
16                  this section may be construed—

17                         “(A) to permit the Office of Special Coun-  
18                         sel for Immigration-Related Unfair Employ-  
19                         ment Practices or an administrative law judge  
20                         hearing a claim under this Section to enforce  
21                         any workplace rights other than those guaran-  
22                         teed under this section; or

23                         “(B) to prohibit any person, other entity,  
24                         or employment agency from using an identity  
25                         verification system, service, or method (in addi-



1           tion to the employment verification system de-  
2           scribed in section 274A(d)), until the date on  
3           which the employer is required to participate in  
4           the System under section 274A(d)(2) and the  
5           additional security measures mandated by sec-  
6           tion 274A(e)(F)(iv) have become available to  
7           verify the identity of a newly hired employee, if  
8           such system—

9                   “(i) is used in a uniform manner for  
10                   all newly hired employees;

11                   “(ii) is not used for the purpose or  
12                   with the intent of discriminating against  
13                   any individual;

14                   “(iii) provides for timely notice to em-  
15                   ployees run through the system of a mis-  
16                   match or failure to confirm identity; and

17                   “(iv) sets out procedures for employ-  
18                   ees run through the system to resolve a  
19                   mismatch or other failure to confirm iden-  
20                   tity.

21           “(10) LIABILITY.—A person, entity, or employ-  
22           ment agency that uses an identity verification sys-  
23           tem, service, or method in a way that conflicts with  
24           the requirements under paragraph (7) shall be sub-  
25           ject to liability under paragraph (4)(I).

1       “(j) MAINTENANCE OF REASONABLE LEVELS OF  
2 SERVICE AND ENFORCEMENT.—There are authorized to  
3 be appropriated such sums as may be necessary to main-  
4 tain reasonable levels of service and enforcement in admin-  
5 istering the Employment Verification System.”.

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