

110TH CONGRESS
2^D SESSION

H. R. 6633

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2008

Received; read twice and referred to the Committee on the Judiciary

AN ACT

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

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Employee Verification
3 Amendment Act of 2008”.

4 **SEC. 2. EXTENSION OF PROGRAMS.**

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

9 **SEC. 3. PROTECTION OF SOCIAL SECURITY ADMINISTRA-**
10 **TION PROGRAMS.**

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

16 (1) provide funds to the Commissioner for the
17 full costs of the responsibilities of the Commissioner
18 under section 404 of the Illegal Immigration Reform
19 and Immigrant Responsibility Act of 1996 (8 U.S.C.
20 1324a note), including (but not limited to)—

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

1 (B) responding to individuals who contest
2 a tentative nonconfirmation provided by the
3 basic pilot confirmation system established
4 under such section;

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

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

17 (b) CONTINUATION OF EMPLOYMENT VERIFICATION
18 IN ABSENCE OF TIMELY AGREEMENT.—In any case in
19 which the agreement required under subsection (a) for any
20 fiscal year beginning on or after October 1, 2008, has not
21 been reached as of October 1 of such fiscal year, the latest
22 agreement between the Commissioner and the Secretary
23 of Homeland Security providing for funding to cover the
24 costs of the responsibilities of the Commissioner under
25 section 404 of the Illegal Immigration Reform and Immi-

1 grant Responsibility Act of 1996 (8 U.S.C. 1324a note)
2 shall be deemed in effect on an interim basis for such fis-
3 cal year until such time as an agreement required under
4 subsection (a) is subsequently reached, except that the
5 terms of such interim agreement shall be modified by the
6 Director of the Office of Management and Budget to ad-
7 just for inflation and any increase or decrease in the vol-
8 ume of requests under the basic pilot confirmation system.
9 In any case in which an interim agreement applies for any
10 fiscal year under this subsection, the Commissioner and
11 the Secretary shall, not later than October 1 of such fiscal
12 year, notify the Committee on Ways and Means, the Com-
13 mittee on the Judiciary, and the Committee on Appropria-
14 tions of the House of Representatives and the Committee
15 on Finance, the Committee on the Judiciary, and the
16 Committee on Appropriations of the Senate of the failure
17 to reach the agreement required under subsection (a) for
18 such fiscal year. Until such time as the agreement re-
19 quired under subsection (a) has been reached for such fis-
20 cal year, the Commissioner and the Secretary shall, not
21 later than the end of each 90-day period after October
22 1 of such fiscal year, notify such Committees of the status
23 of negotiations between the Commissioner and the Sec-
24 retary in order to reach such an agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Passed the House of Representatives July 31, 2008.

Attest: LORRAINE C. MILLER,
Clerk.