

114TH CONGRESS
2D SESSION

H. R. 5398

To amend the Immigration and Nationality Act to reform the United States immigration system to provide for a competitive America, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 7, 2016

Mr. RICE of South Carolina introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Ways and Means, Homeland Security, Foreign Affairs, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Immigration and Nationality Act to reform the United States immigration system to provide for a competitive America, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Immigration for a
5 Competitive America Act of 2016”.

Sec. 1. Short title.

TITLE I—CHANGE IN IMMIGRATION ADMISSIONS CAPS

- Sec. 101. Family-sponsored immigrants reduced; employment-sponsored immigrants increased.
- Sec. 102. Increased limits for certain employment-based visas.
- Sec. 103. Conforming amendments.

TITLE II—LEGAL WORKFORCE ACT

- Sec. 201. Employment eligibility verification process.
- Sec. 202. Employment eligibility verification system.
- Sec. 203. Recruitment, referral, and continuation of employment.
- Sec. 204. Good faith defense.
- Sec. 205. Preemption and States' Rights.
- Sec. 206. Repeal.
- Sec. 207. Penalties.
- Sec. 208. Fraud and misuse of documents.
- Sec. 209. Protection of Social Security Administration programs.
- Sec. 210. Fraud prevention.
- Sec. 211. Identity authentication employment eligibility verification pilot program.
- Sec. 212. Inspector General audits.

TITLE III—TAX PROVISIONS

- Sec. 301. Denial of earned income tax credit for aliens receiving work authorization pursuant to certain deferred action programs.
- Sec. 302. Requiring social security number for child tax credit and denying such credit for aliens receiving work authorization pursuant to certain deferred action programs.

TITLE IV—SUSPENSION OF FOREIGN ASSISTANCE

- Sec. 401. Suspension of foreign assistance.

TITLE V—NONIMMIGRANT LABORER NUMERICAL LIMITATIONS EXPANDED

- Sec. 501. H-2B workers.
- Sec. 502. H-2A workers.

TITLE VI—LIMITATIONS ON ISSUANCE OF VISAS

- Sec. 601. Security certification.
- Sec. 602. Inspector General review.

1 **TITLE I—CHANGE IN IMMIGRA-**
2 **TION ADMISSIONS CAPS**

3 **SEC. 101. FAMILY-SPONSORED IMMIGRANTS REDUCED; EM-**
4 **PLOYMENT-SPONSORED IMMIGRANTS IN-**
5 **CREASED.**

6 Section 201 of the Immigration and Nationality Act
7 (8 U.S.C. 1151) is amended—

8 (1) in subsection (c)(1)(B)(ii), by striking
9 “226,000” and inserting “113,000”; and

10 (2) in subsection (d)(1)(A), by striking
11 “140,000” and inserting “253,000”.

12 **SEC. 102. INCREASED LIMITS FOR CERTAIN EMPLOYMENT-**
13 **BASED VISAS.**

14 Section 203(b) of the Immigration and Nationality
15 Act (8 U.S.C. 1153(b)) is amended—

16 (1) in paragraph (3)(B), by striking “10,000”
17 and inserting “15,500”;

18 (2) in paragraph (4), by striking “5,000” and
19 inserting “7,750”; and

20 (3) in paragraph (5)(B)(i), by striking “3,000”
21 and inserting “4,650”.

22 **SEC. 103. CONFORMING AMENDMENTS.**

23 Section 203(a) of the Immigration and Nationality
24 Act (8 U.S.C. 1153(a)) is amended—

1 (1) in paragraph (1), by striking “23,400” and
2 inserting “11,700”;

3 (2) in paragraph (2)—

4 (A) by striking “114,200” and inserting
5 “57,100”; and

6 (B) by striking “226,000” and inserting
7 “113,000”;

8 (3) in paragraph (3), by striking “23,400” and
9 inserting “11,700”; and

10 (4) in paragraph (4), by striking “65,000” and
11 inserting “32,500”.

12 **TITLE II—LEGAL WORKFORCE** 13 **ACT**

14 **SEC. 201. EMPLOYMENT ELIGIBILITY VERIFICATION PROC-** 15 **ESS.**

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

19 “(b) EMPLOYMENT ELIGIBILITY VERIFICATION
20 PROCESS.—

21 “(1) NEW HIRES, RECRUITMENT, AND REFER-
22 RAL.—The requirements referred to in paragraphs
23 (1)(B) and (3) of subsection (a) are, in the case of
24 a person or other entity hiring, recruiting, or refer-

1 ring an individual for employment in the United
2 States, the following:

3 “(A) ATTESTATION AFTER EXAMINATION
4 OF DOCUMENTATION.—

5 “(i) ATTESTATION.—During the
6 verification period (as defined in subpara-
7 graph (E)), the person or entity shall at-
8 test, under penalty of perjury and on a
9 form, including electronic and telephonic
10 formats, designated or established by the
11 Secretary by regulation not later than 6
12 months after the date of the enactment of
13 the Immigration for a Competitive America
14 Act of 2016, that it has verified that the
15 individual is not an unauthorized alien
16 by—

17 “(I) obtaining from the indi-
18 vidual the individual’s social security
19 account number and recording the
20 number on the form (if the individual
21 claims to have been issued such a
22 number), and, if the individual does
23 not attest to United States nationality
24 under subparagraph (B), obtaining
25 such identification or authorization

1 number established by the Depart-
2 ment of Homeland Security for the
3 alien as the Secretary of Homeland
4 Security may specify, and recording
5 such number on the form; and

6 “(II) examining—

7 “(aa) a document relating to
8 the individual presenting it de-
9 scribed in clause (ii); or

10 “(bb) a document relating to
11 the individual presenting it de-
12 scribed in clause (iii) and a docu-
13 ment relating to the individual
14 presenting it described in clause
15 (iv).

16 “(ii) DOCUMENTS EVIDENCING EM-
17 PLOYMENT AUTHORIZATION AND ESTAB-
18 LISHING IDENTITY.—A document de-
19 scribed in this subparagraph is an individ-
20 ual’s—

21 “(I) unexpired United States
22 passport or passport card;

23 “(II) unexpired permanent resi-
24 dent card that contains a photograph;

1 “(III) unexpired employment au-
2 thorization card that contains a pho-
3 tograph;

4 “(IV) in the case of a non-
5 immigrant alien authorized to work
6 for a specific employer incident to sta-
7 tus, a foreign passport with Form I-
8 94 or Form I-94A, or other docu-
9 mentation as designated by the Sec-
10 retary specifying the alien’s non-
11 immigrant status as long as the pe-
12 riod of status has not yet expired and
13 the proposed employment is not in
14 conflict with any restrictions or limita-
15 tions identified in the documentation;

16 “(V) passport from the Fed-
17 erated States of Micronesia (FSM) or
18 the Republic of the Marshall Islands
19 (RMI) with Form I-94 or Form I-
20 94A, or other documentation as des-
21 ignated by the Secretary, indicating
22 nonimmigrant admission under the
23 Compact of Free Association Between
24 the United States and the FSM or
25 RMI; or

1 “(VI) other document designated
2 by the Secretary of Homeland Secu-
3 rity, if the document—

4 “(aa) contains a photograph
5 of the individual and biometric
6 identification data from the indi-
7 vidual and such other personal
8 identifying information relating
9 to the individual as the Secretary
10 of Homeland Security finds, by
11 regulation, sufficient for purposes
12 of this clause;

13 “(bb) is evidence of author-
14 ization of employment in the
15 United States; and

16 “(cc) contains security fea-
17 tures to make it resistant to tam-
18 pering, counterfeiting, and fraud-
19 ulent use.

20 “(iii) DOCUMENTS EVIDENCING EM-
21 PLOYMENT AUTHORIZATION.—A document
22 described in this subparagraph is an indi-
23 vidual’s social security account number
24 card (other than such a card which speci-
25 fies on the face that the issuance of the

1 card does not authorize employment in the
2 United States).

3 “(iv) DOCUMENTS ESTABLISHING
4 IDENTITY OF INDIVIDUAL.—A document
5 described in this subparagraph is—

6 “(I) an individual’s unexpired
7 State issued driver’s license or identi-
8 fication card if it contains a photo-
9 graph and information such as name,
10 date of birth, gender, height, eye
11 color, and address;

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

14 “(III) an individual’s unexpired
15 Native American tribal identification
16 document issued by a tribal entity rec-
17 ognized by the Bureau of Indian Af-
18 fairs; or

19 “(IV) in the case of an individual
20 under 18 years of age, a parent or
21 legal guardian’s attestation under
22 penalty of law as to the identity and
23 age of the individual.

24 “(v) AUTHORITY TO PROHIBIT USE OF
25 CERTAIN DOCUMENTS.—If the Secretary of

1 Homeland Security finds, by regulation,
2 that any document described in clause (i),
3 (ii), or (iii) as establishing employment au-
4 thorization or identity does not reliably es-
5 tablish such authorization or identity or is
6 being used fraudulently to an unacceptable
7 degree, the Secretary may prohibit or place
8 conditions on its use for purposes of this
9 paragraph.

10 “(vi) SIGNATURE.—Such attestation
11 may be manifested by either a handwritten
12 or electronic signature.

13 “(B) INDIVIDUAL ATTESTATION OF EM-
14 PLOYMENT AUTHORIZATION.—During the
15 verification period (as defined in subparagraph
16 (E)), the individual shall attest, under penalty
17 of perjury on the form designated or established
18 for purposes of subparagraph (A), that the indi-
19 vidual is a citizen or national of the United
20 States, an alien lawfully admitted for perma-
21 nent residence, or an alien who is authorized
22 under this Act or by the Secretary of Homeland
23 Security to be hired, recruited, or referred for
24 such employment. Such attestation may be
25 manifested by either a handwritten or electronic

1 signature. The individual shall also provide that
2 individual's social security account number (if
3 the individual claims to have been issued such
4 a number), and, if the individual does not attest
5 to United States nationality under this sub-
6 paragraph, such identification or authorization
7 number established by the Department of
8 Homeland Security for the alien as the Sec-
9 retary may specify.

10 “(C) RETENTION OF VERIFICATION FORM
11 AND VERIFICATION.—

12 “(i) IN GENERAL.—After completion
13 of such form in accordance with subpara-
14 graphs (A) and (B), the person or entity
15 shall—

16 “(I) retain a paper, microfiche,
17 microfilm, or electronic version of the
18 form and make it available for inspec-
19 tion by officers of the Department of
20 Homeland Security, the Special Coun-
21 sel for Immigration-Related Unfair
22 Employment Practices, or the Depart-
23 ment of Labor during a period begin-
24 ning on the date of the recruiting or
25 referral of the individual, or, in the

1 case of the hiring of an individual, the
2 date on which the verification is com-
3 pleted, and ending—

4 “(aa) in the case of the re-
5 cruiting or referral of an indi-
6 vidual, 3 years after the date of
7 the recruiting or referral; and

8 “(bb) in the case of the hir-
9 ing of an individual, the later of
10 3 years after the date the
11 verification is completed or one
12 year after the date the individ-
13 ual’s employment is terminated;
14 and

15 “(II) during the verification pe-
16 riod (as defined in subparagraph (E)),
17 make an inquiry, as provided in sub-
18 section (d), using the verification sys-
19 tem to seek verification of the identity
20 and employment eligibility of an indi-
21 vidual.

22 “(ii) CONFIRMATION.—

23 “(I) CONFIRMATION RE-
24 CEIVED.—If the person or other entity
25 receives an appropriate confirmation

1 of an individual's identity and work
2 eligibility under the verification sys-
3 tem within the time period specified,
4 the person or entity shall record on
5 the form an appropriate code that is
6 provided under the system and that
7 indicates a final confirmation of such
8 identity and work eligibility of the in-
9 dividual.

10 “(II) TENTATIVE NONCONFIRMA-
11 TION RECEIVED.—If the person or
12 other entity receives a tentative non-
13 confirmation of an individual's iden-
14 tity or work eligibility under the
15 verification system within the time pe-
16 riod specified, the person or entity
17 shall so inform the individual for
18 whom the verification is sought. If the
19 individual does not contest the non-
20 confirmation within the time period
21 specified, the nonconfirmation shall be
22 considered final. The person or entity
23 shall then record on the form an ap-
24 propriate code which has been pro-
25 vided under the system to indicate a

1 final nonconfirmation. If the indi-
2 vidual does contest the nonconfirma-
3 tion, the individual shall utilize the
4 process for secondary verification pro-
5 vided under subsection (d). The non-
6 confirmation will remain tentative
7 until a final confirmation or noncon-
8 firmation is provided by the
9 verification system within the time pe-
10 riod specified. In no case shall an em-
11 ployer terminate employment of an in-
12 dividual because of a failure of the in-
13 dividual to have identity and work eli-
14 gibility confirmed under this section
15 until a nonconfirmation becomes final.
16 Nothing in this clause shall apply to a
17 termination of employment for any
18 reason other than because of such a
19 failure. In no case shall an employer
20 rescind the offer of employment to an
21 individual because of a failure of the
22 individual to have identity and work
23 eligibility confirmed under this sub-
24 section until a nonconfirmation be-
25 comes final. Nothing in this subclause

1 shall apply to a rescission of the offer
2 of employment for any reason other
3 than because of such a failure.

4 “(III) FINAL CONFIRMATION OR
5 NONCONFIRMATION RECEIVED.—If a
6 final confirmation or nonconfirmation
7 is provided by the verification system
8 regarding an individual, the person or
9 entity shall record on the form an ap-
10 propriate code that is provided under
11 the system and that indicates a con-
12 firmation or nonconfirmation of iden-
13 tity and work eligibility of the indi-
14 vidual.

15 “(IV) EXTENSION OF TIME.—If
16 the person or other entity in good
17 faith attempts to make an inquiry
18 during the time period specified and
19 the verification system has registered
20 that not all inquiries were received
21 during such time, the person or entity
22 may make an inquiry in the first sub-
23 sequent working day in which the
24 verification system registers that it
25 has received all inquiries. If the

1 verification system cannot receive in-
2 quires at all times during a day, the
3 person or entity merely has to assert
4 that the entity attempted to make the
5 inquiry on that day for the previous
6 sentence to apply to such an inquiry,
7 and does not have to provide any ad-
8 ditional proof concerning such inquiry.

9 “(V) CONSEQUENCES OF NON-
10 CONFIRMATION.—

11 “(aa) TERMINATION OR NO-
12 TIFICATION OF CONTINUED EM-
13 PLOYMENT.—If the person or
14 other entity has received a final
15 nonconfirmation regarding an in-
16 dividual, the person or entity
17 may terminate employment of the
18 individual (or decline to recruit
19 or refer the individual). If the
20 person or entity does not termi-
21 nate employment of the indi-
22 vidual or proceeds to recruit or
23 refer the individual, the person or
24 entity shall notify the Secretary
25 of Homeland Security of such

1 fact through the verification sys-
2 tem or in such other manner as
3 the Secretary may specify.

4 “(bb) FAILURE TO NO-
5 TIFY.—If the person or entity
6 fails to provide notice with re-
7 spect to an individual as required
8 under item (aa), the failure is
9 deemed to constitute a violation
10 of subsection (a)(1)(A) with re-
11 spect to that individual.

12 “(VI) CONTINUED EMPLOYMENT
13 AFTER FINAL NONCONFIRMATION.—If
14 the person or other entity continues to
15 employ (or to recruit or refer) an indi-
16 vidual after receiving final noncon-
17 firmation, a rebuttable presumption is
18 created that the person or entity has
19 violated subsection (a)(1)(A).

20 “(D) EFFECTIVE DATES OF NEW PROCE-
21 DURES.—

22 “(i) HIRING.—Except as provided in
23 clause (iii), the provisions of this para-
24 graph shall apply to a person or other enti-

1 ty hiring an individual for employment in
2 the United States as follows:

3 “(I) With respect to employers
4 having 10,000 or more employees in
5 the United States on the date of the
6 enactment of the Immigration for a
7 Competitive America Act of 2016, on
8 the date that is 6 months after the
9 date of the enactment of such Act.

10 “(II) With respect to employers
11 having 500 or more employees in the
12 United States, but less than 10,000
13 employees in the United States, on
14 the date of the enactment of the Im-
15 migration for a Competitive America
16 Act of 2016, on the date that is 12
17 months after the date of the enact-
18 ment of such Act.

19 “(III) With respect to employers
20 having 20 or more employees in the
21 United States, but less than 500 em-
22 ployees in the United States, on the
23 date of the enactment of the Immigra-
24 tion for a Competitive America Act of
25 2016, on the date that is 18 months

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

3 “(IV) With respect to employers
4 having 1 or more employees in the
5 United States, but less than 20 em-
6 ployees in the United States, on the
7 date of the enactment of the Immigra-
8 tion for a Competitive America Act of
9 2016, on the date that is 24 months
10 after the date of the enactment of
11 such Act.

12 “(ii) RECRUITING AND REFERRING.—
13 Except as provided in clause (iii), the pro-
14 visions of this paragraph shall apply to a
15 person or other entity recruiting or refer-
16 ring an individual for employment in the
17 United States on the date that is 12
18 months after the date of the enactment of
19 the Immigration for a Competitive America
20 Act of 2016.

21 “(iii) AGRICULTURAL LABOR OR SERV-
22 ICES.—With respect to an employee per-
23 forming agricultural labor or services, this
24 paragraph shall not apply with respect to
25 the verification of the employee until the

1 date that is 24 months after the date of
2 the enactment of the Immigration for a
3 Competitive America Act of 2016. For
4 purposes of the preceding sentence, the
5 term ‘agricultural labor or services’ has the
6 meaning given such term by the Secretary
7 of Agriculture in regulations and includes
8 agricultural labor as defined in section
9 3121(g) of the Internal Revenue Code of
10 1986, agriculture as defined in section 3(f)
11 of the Fair Labor Standards Act of 1938
12 (29 U.S.C. 203(f)), the handling, planting,
13 drying, packing, packaging, processing,
14 freezing, or grading prior to delivery for
15 storage of any agricultural or horticultural
16 commodity in its unmanufactured state, all
17 activities required for the preparation,
18 processing or manufacturing of a product
19 of agriculture (as such term is defined in
20 such section 3(f)) for further distribution,
21 and activities similar to all the foregoing
22 as they relate to fish or shellfish in aqua-
23 culture facilities. An employee described in
24 this clause shall not be counted for pur-
25 poses of clause (i).

1 “(iv) TRANSITION RULE.—Subject to
2 paragraph (4), the following shall apply to
3 a person or other entity hiring, recruiting,
4 or referring an individual for employment
5 in the United States until the effective
6 date or dates applicable under clauses (i)
7 through (iii):

8 “(I) This subsection, as in effect
9 before the enactment of the Immigra-
10 tion for a Competitive America Act of
11 2016.

12 “(II) Subtitle A of title IV of the
13 Illegal Immigration Reform and Im-
14 migrant Responsibility Act of 1996 (8
15 U.S.C. 1324a note), as in effect be-
16 fore the effective date in section
17 206(c) of the Immigration for a Com-
18 petitive America Act of 2016.

19 “(III) Any other provision of
20 Federal law requiring the person or
21 entity to participate in the E-Verify
22 Program described in section 403(a)
23 of the Illegal Immigration Reform and
24 Immigrant Responsibility Act of 1996
25 (8 U.S.C. 1324a note), as in effect be-

1 fore the effective date in section
2 206(c) of the Immigration for a Com-
3 petitive America Act of 2016, includ-
4 ing Executive Order 13465 (8 U.S.C.
5 1324a note; relating to Government
6 procurement).

7 “(E) VERIFICATION PERIOD DEFINED.—

8 “(i) IN GENERAL.—For purposes of
9 this paragraph:

10 “(I) In the case of recruitment or
11 referral, the term ‘verification period’
12 means the period ending on the date
13 recruiting or referring commences.

14 “(II) In the case of hiring, the
15 term ‘verification period’ means the
16 period beginning on the date on which
17 an offer of employment is extended
18 and ending on the date that is 3 busi-
19 ness days after the date of hire, ex-
20 cept as provided in clause (iii). The
21 offer of employment may be condi-
22 tioned in accordance with clause (ii).

23 “(ii) JOB OFFER MAY BE CONDI-
24 TIONAL.—A person or other entity may
25 offer a prospective employee an employ-

1 ment position that is conditioned on final
2 verification of the identity and employment
3 eligibility of the employee using the proce-
4 dures established under this paragraph.

5 “(iii) SPECIAL RULE.—Notwith-
6 standing clause (i)(II), in the case of an
7 alien who is authorized for employment
8 and who provides evidence from the Social
9 Security Administration that the alien has
10 applied for a social security account num-
11 ber, the verification period ends three busi-
12 ness days after the alien receives the social
13 security account number.

14 “(2) REVERIFICATION FOR INDIVIDUALS WITH
15 LIMITED WORK AUTHORIZATION.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), a person or entity shall
18 make an inquiry, as provided in subsection (d),
19 using the verification system to seek
20 reverification of the identity and employment
21 eligibility of all individuals with a limited period
22 of work authorization employed by the person
23 or entity during the 3 business days before the
24 date on which the employee’s work authoriza-
25 tion expires as follows:

1 “(i) With respect to employers having
2 10,000 or more employees in the United
3 States on the date of the enactment of the
4 Immigration for a Competitive America
5 Act of 2016, beginning on the date that is
6 6 months after the date of the enactment
7 of such Act.

8 “(ii) With respect to employers having
9 500 or more employees in the United
10 States, but less than 10,000 employees in
11 the United States, on the date of the en-
12 actment of the Immigration for a Competi-
13 tive America Act of 2016, beginning on the
14 date that is 12 months after the date of
15 the enactment of such Act.

16 “(iii) With respect to employers hav-
17 ing 20 or more employees in the United
18 States, but less than 500 employees in the
19 United States, on the date of the enact-
20 ment of the Immigration for a Competitive
21 America Act of 2016, beginning on the
22 date that is 18 months after the date of
23 the enactment of such Act.

24 “(iv) With respect to employers hav-
25 ing 1 or more employees in the United

1 States, but less than 20 employees in the
2 United States, on the date of the enact-
3 ment of the Immigration for a Competitive
4 America Act of 2016, beginning on the
5 date that is 24 months after the date of
6 the enactment of such Act.

7 “(B) AGRICULTURAL LABOR OR SERV-
8 ICES.—With respect to an employee performing
9 agricultural labor or services, or an employee
10 recruited or referred by a farm labor contractor
11 (as defined in section 3 of the Migrant and Sea-
12 sonal Agricultural Worker Protection Act (29
13 U.S.C. 1801)), subparagraph (A) shall not
14 apply with respect to the reverification of the
15 employee until the date that is 24 months after
16 the date of the enactment of the Immigration
17 for a Competitive America Act of 2016. For
18 purposes of the preceding sentence, the term
19 ‘agricultural labor or services’ has the meaning
20 given such term by the Secretary of Agriculture
21 in regulations and includes agricultural labor as
22 defined in section 3121(g) of the Internal Rev-
23 enue Code of 1986, agriculture as defined in
24 section 3(f) of the Fair Labor Standards Act of
25 1938 (29 U.S.C. 203(f)), the handling, plant-

1 ing, drying, packing, packaging, processing,
2 freezing, or grading prior to delivery for storage
3 of any agricultural or horticultural commodity
4 in its unmanufactured state, all activities re-
5 quired for the preparation, processing, or man-
6 ufacturing of a product of agriculture (as such
7 term is defined in such section 3(f)) for further
8 distribution, and activities similar to all the
9 foregoing as they relate to fish or shellfish in
10 aquaculture facilities. An employee described in
11 this subparagraph shall not be counted for pur-
12 poses of subparagraph (A).

13 “(C) REVERIFICATION.—Paragraph
14 (1)(C)(ii) shall apply to reverifications pursuant
15 to this paragraph on the same basis as it ap-
16 plies to verifications pursuant to paragraph (1),
17 except that employers shall—

18 “(i) use a form designated or estab-
19 lished by the Secretary by regulation for
20 purposes of this paragraph; and

21 “(ii) retain a paper, microfiche, micro-
22 film, or electronic version of the form and
23 make it available for inspection by officers
24 of the Department of Homeland Security,
25 the Special Counsel for Immigration-Re-

1 lated Unfair Employment Practices, or the
2 Department of Labor during the period be-
3 ginning on the date the reverification com-
4 mences and ending on the date that is the
5 later of 3 years after the date of such
6 reverification or 1 year after the date the
7 individual’s employment is terminated.

8 “(3) PREVIOUSLY HIRED INDIVIDUALS.—

9 “(A) ON A MANDATORY BASIS FOR CER-
10 TAIN EMPLOYEES.—

11 “(i) IN GENERAL.—Not later than the
12 date that is 6 months after the date of the
13 enactment of the Immigration for a Com-
14 petitive America Act of 2016, an employer
15 shall make an inquiry, as provided in sub-
16 section (d), using the verification system to
17 seek verification of the identity and em-
18 ployment eligibility of any individual de-
19 scribed in clause (ii) employed by the em-
20 ployer whose employment eligibility has not
21 been verified under the E-Verify Program
22 described in section 403(a) of the Illegal
23 Immigration Reform and Immigrant Re-
24 sponsibility Act of 1996 (8 U.S.C. 1324a
25 note).

1 “(ii) INDIVIDUALS DESCRIBED.—An
2 individual described in this clause is any of
3 the following:

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

6 “(II) An employee who requires a
7 Federal security clearance working in
8 a Federal, State or local government
9 building, a military base, a nuclear
10 energy site, a weapons site, or an air-
11 port or other facility that requires
12 workers to carry a Transportation
13 Worker Identification Credential
14 (TWIC).

15 “(III) An employee assigned to
16 perform work in the United States
17 under a Federal contract, except that
18 this subclause—

19 “(aa) is not applicable to in-
20 dividuals who have a clearance
21 under Homeland Security Presi-
22 dential Directive 12 (HSPD 12
23 clearance), are administrative or
24 overhead personnel, or are work-
25 ing solely on contracts that pro-

1 vide Commercial Off The Shelf
2 goods or services as set forth by
3 the Federal Acquisition Regu-
4 latory Council, unless they are
5 subject to verification under sub-
6 clause (II); and

7 “(bb) only applies to con-
8 tracts over the simple acquisition
9 threshold as defined in section
10 2.101 of title 48, Code of Federal
11 Regulations.

12 “(B) ON A MANDATORY BASIS FOR MUL-
13 TIPLE USERS OF SAME SOCIAL SECURITY AC-
14 COUNT NUMBER.—In the case of an employer
15 who is required by this subsection to use the
16 verification system described in subsection (d),
17 or has elected voluntarily to use such system,
18 the employer shall make inquiries to the system
19 in accordance with the following:

20 “(i) The Commissioner of Social Secu-
21 rity shall notify annually employees (at the
22 employee address listed on the Wage and
23 Tax Statement) who submit a social secu-
24 rity account number to which more than
25 one employer reports income and for which

1 there is a pattern of unusual multiple use.
2 The notification letter shall identify the
3 number of employers to which income is
4 being reported as well as sufficient infor-
5 mation notifying the employee of the proc-
6 ess to contact the Social Security Adminis-
7 tration Fraud Hotline if the employee be-
8 lieves the employee’s identity may have
9 been stolen. The notice shall not share in-
10 formation protected as private, in order to
11 avoid any recipient of the notice from
12 being in the position to further commit or
13 begin committing identity theft.

14 “(ii) If the person to whom the social
15 security account number was issued by the
16 Social Security Administration has been
17 identified and confirmed by the Commis-
18 sioner, and indicates that the social secu-
19 rity account number was used without
20 their knowledge, the Secretary and the
21 Commissioner shall lock the social security
22 account number for employment eligibility
23 verification purposes and shall notify the
24 employers of the individuals who wrong-
25 fully submitted the social security account

1 number that the employee may not be
2 work eligible.

3 “(iii) Each employer receiving such
4 notification of an incorrect social security
5 account number under clause (ii) shall use
6 the verification system described in sub-
7 section (d) to check the work eligibility sta-
8 tus of the applicable employee within 10
9 business days of receipt of the notification.

10 “(C) ON A VOLUNTARY BASIS.—Subject to
11 paragraph (2), and subparagraphs (A) through
12 (C) of this paragraph, beginning on the date
13 that is 30 days after the date of the enactment
14 of the Immigration for a Competitive America
15 Act of 2016, an employer may make an inquiry,
16 as provided in subsection (d), using the
17 verification system to seek verification of the
18 identity and employment eligibility of any indi-
19 vidual employed by the employer. If an em-
20 ployer chooses voluntarily to seek verification of
21 any individual employed by the employer, the
22 employer shall seek verification of all individ-
23 uals so employed. An employer’s decision about
24 whether or not voluntarily to seek verification
25 of its current workforce under this subpara-

1 graph may not be considered by any govern-
2 ment agency in any proceeding, investigation,
3 or review provided for in this Act.

4 “(D) VERIFICATION.—Paragraph
5 (1)(C)(ii) shall apply to verifications pursuant
6 to this paragraph on the same basis as it ap-
7 plies to verifications pursuant to paragraph (1),
8 except that employers shall—

9 “(i) use a form designated or estab-
10 lished by the Secretary by regulation for
11 purposes of this paragraph; and

12 “(ii) retain a paper, microfiche, micro-
13 film, or electronic version of the form and
14 make it available for inspection by officers
15 of the Department of Homeland Security,
16 the Special Counsel for Immigration-Related
17 Unfair Employment Practices, or the
18 Department of Labor during the period be-
19 ginning on the date the verification com-
20 mences and ending on the date that is the
21 later of 3 years after the date of such
22 verification or 1 year after the date the in-
23 dividual’s employment is terminated.

24 “(4) EARLY COMPLIANCE.—

1 “(A) FORMER E-VERIFY REQUIRED USERS,
2 INCLUDING FEDERAL CONTRACTORS.—Notwith-
3 standing the deadlines in paragraphs (1) and
4 (2), beginning on the date of the enactment of
5 the Immigration for a Competitive America Act
6 of 2016, the Secretary is authorized to com-
7 mence requiring employers required to partici-
8 pate in the E-Verify Program described in sec-
9 tion 403(a) of the Illegal Immigration Reform
10 and Immigrant Responsibility Act of 1996 (8
11 U.S.C. 1324a note), including employers re-
12 quired to participate in such program by reason
13 of Federal acquisition laws (and regulations
14 promulgated under those laws, including the
15 Federal Acquisition Regulation), to commence
16 compliance with the requirements of this sub-
17 section (and any additional requirements of
18 such Federal acquisition laws and regulation) in
19 lieu of any requirement to participate in the E-
20 Verify Program.

21 “(B) FORMER E-VERIFY VOLUNTARY
22 USERS AND OTHERS DESIRING EARLY COMPLI-
23 ANCE.—Notwithstanding the deadlines in para-
24 graphs (1) and (2), beginning on the date of
25 the enactment of the Immigration for a Com-

1 petitive America Act of 2016, the Secretary
2 shall provide for the voluntary compliance with
3 the requirements of this subsection by employ-
4 ers voluntarily electing to participate in the E-
5 Verify Program described in section 403(a) of
6 the Illegal Immigration Reform and Immigrant
7 Responsibility Act of 1996 (8 U.S.C. 1324a
8 note) before such date, as well as by other em-
9 ployers seeking voluntary early compliance.

10 “(5) COPYING OF DOCUMENTATION PER-
11 MITTED.—Notwithstanding any other provision of
12 law, the person or entity may copy a document pre-
13 sented by an individual pursuant to this subsection
14 and may retain the copy, but only (except as other-
15 wise permitted under law) for the purpose of com-
16 plying with the requirements of this subsection.

17 “(6) LIMITATION ON USE OF FORMS.—A form
18 designated or established by the Secretary of Home-
19 land Security under this subsection and any infor-
20 mation contained in or appended to such form, may
21 not be used for purposes other than for enforcement
22 of this Act and any other provision of Federal crimi-
23 nal law.

24 “(7) GOOD FAITH COMPLIANCE.—

1 “(A) IN GENERAL.—Except as otherwise
2 provided in this subsection, a person or entity
3 is considered to have complied with a require-
4 ment of this subsection notwithstanding a tech-
5 nical or procedural failure to meet such require-
6 ment if there was a good faith attempt to com-
7 ply with the requirement.

8 “(B) EXCEPTION IF FAILURE TO CORRECT
9 AFTER NOTICE.—Subparagraph (A) shall not
10 apply if—

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

12 “(ii) the Secretary of Homeland Secu-
13 rity has explained to the person or entity
14 the basis for the failure and why it is not
15 de minimis;

16 “(iii) the person or entity has been
17 provided a period of not less than 30 cal-
18 endar days (beginning after the date of the
19 explanation) within which to correct the
20 failure; and

21 “(iv) the person or entity has not cor-
22 rected the failure voluntarily within such
23 period.

24 “(C) EXCEPTION FOR PATTERN OR PRAC-
25 TICE VIOLATORS.—Subparagraph (A) shall not

1 apply to a person or entity that has or is engag-
2 ing in a pattern or practice of violations of sub-
3 section (a)(1)(A) or (a)(2).

4 “(8) SINGLE EXTENSION OF DEADLINES UPON
5 CERTIFICATION.—In a case in which the Secretary
6 of Homeland Security has certified to the Congress
7 that the employment eligibility verification system
8 required under subsection (d) will not be fully oper-
9 ational by the date that is 6 months after the date
10 of the enactment of the Immigration for a Competi-
11 tive America Act of 2016, each deadline established
12 under this section for an employer to make an in-
13 quiry using such system shall be extended by 6
14 months. No other extension of such a deadline shall
15 be made.”.

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

19 “(4) DEFINITION OF DATE OF HIRE.—As used
20 in this section, the term ‘date of hire’ means the
21 date of actual commencement of employment for
22 wages or other remuneration, unless otherwise speci-
23 fied.”.

1 **SEC. 202. EMPLOYMENT ELIGIBILITY VERIFICATION SYS-**
2 **TEM.**

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

5 “(d) EMPLOYMENT ELIGIBILITY VERIFICATION SYS-
6 TEM.—

7 “(1) IN GENERAL.—Patterned on the employ-
8 ment eligibility confirmation system established
9 under section 404 of the Illegal Immigration Reform
10 and Immigrant Responsibility Act of 1996 (8 U.S.C.
11 1324a note), the Secretary of Homeland Security
12 shall establish and administer a verification system
13 through which the Secretary (or a designee of the
14 Secretary, which may be a nongovernmental enti-
15 ty)—

16 “(A) responds to inquiries made by per-
17 sons at any time through a toll-free telephone
18 line and other toll-free electronic media con-
19 cerning an individual’s identity and whether the
20 individual is authorized to be employed; and

21 “(B) maintains records of the inquiries
22 that were made, of verifications provided (or
23 not provided), and of the codes provided to in-
24 quirers as evidence of their compliance with
25 their obligations under this section.

1 “(2) INITIAL RESPONSE.—The verification sys-
2 tem shall provide confirmation or a tentative non-
3 confirmation of an individual’s identity and employ-
4 ment eligibility within 3 working days of the initial
5 inquiry. If providing confirmation or tentative non-
6 confirmation, the verification system shall provide an
7 appropriate code indicating such confirmation or
8 such nonconfirmation.

9 “(3) SECONDARY CONFIRMATION PROCESS IN
10 CASE OF TENTATIVE NONCONFIRMATION.—In cases
11 of tentative nonconfirmation, the Secretary shall
12 specify, in consultation with the Commissioner of
13 Social Security, an available secondary verification
14 process to confirm the validity of information pro-
15 vided and to provide a final confirmation or noncon-
16 firmation not later than 10 working days after the
17 date on which the notice of the tentative noncon-
18 firmation is received by the employee. The Secretary,
19 in consultation with the Commissioner, may extend
20 this deadline once on a case-by-case basis for a pe-
21 riod of 10 working days, and if the time is extended,
22 shall document such extension within the verification
23 system. The Secretary, in consultation with the
24 Commissioner, shall notify the employee and em-
25 ployer of such extension. The Secretary, in consulta-

1 tion with the Commissioner, shall create a standard
2 process of such extension and notification and shall
3 make a description of such process available to the
4 public. When final confirmation or nonconfirmation
5 is provided, the verification system shall provide an
6 appropriate code indicating such confirmation or
7 nonconfirmation.

8 “(4) DESIGN AND OPERATION OF SYSTEM.—

9 The verification system shall be designed and oper-
10 ated—

11 “(A) to maximize its reliability and ease of
12 use by persons and other entities consistent
13 with insulating and protecting the privacy and
14 security of the underlying information;

15 “(B) to respond to all inquiries made by
16 such persons and entities on whether individ-
17 uals are authorized to be employed and to reg-
18 ister all times when such inquiries are not re-
19 ceived;

20 “(C) with appropriate administrative, tech-
21 nical, and physical safeguards to prevent unau-
22 thorized disclosure of personal information;

23 “(D) to have reasonable safeguards against
24 the system’s resulting in unlawful discrimina-

1 tory practices based on national origin or citi-
2 zenship status, including—

3 “(i) the selective or unauthorized use
4 of the system to verify eligibility; or

5 “(ii) the exclusion of certain individ-
6 uals from consideration for employment as
7 a result of a perceived likelihood that addi-
8 tional verification will be required, beyond
9 what is required for most job applicants;

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

12 “(F) to limit the subjects of verification to
13 the following individuals:

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

17 “(ii) Employees and prospective em-
18 ployees, in accordance with paragraph (1),
19 (2), (3), or (4) of subsection (b).

20 “(iii) Individuals seeking to confirm
21 their own employment eligibility on a vol-
22 untary basis.

23 “(5) RESPONSIBILITIES OF COMMISSIONER OF
24 SOCIAL SECURITY.—As part of the verification sys-
25 tem, the Commissioner of Social Security, in con-

1 sultation with the Secretary of Homeland Security
2 (and any designee of the Secretary selected to estab-
3 lish and administer the verification system), shall es-
4 tablish a reliable, secure method, which, within the
5 time periods specified under paragraphs (2) and (3),
6 compares the name and social security account num-
7 ber provided in an inquiry against such information
8 maintained by the Commissioner in order to validate
9 (or not validate) the information provided regarding
10 an individual whose identity and employment eligi-
11 bility must be confirmed, the correspondence of the
12 name and number, and whether the individual has
13 presented a social security account number that is
14 not valid for employment. The Commissioner shall
15 not disclose or release social security information
16 (other than such confirmation or nonconfirmation)
17 under the verification system except as provided for
18 in this section or section 205(c)(2)(I) of the Social
19 Security Act.

20 “(6) RESPONSIBILITIES OF SECRETARY OF
21 HOMELAND SECURITY.—As part of the verification
22 system, the Secretary of Homeland Security (in con-
23 sultation with any designee of the Secretary selected
24 to establish and administer the verification system),
25 shall establish a reliable, secure method, which, with-

1 in the time periods specified under paragraphs (2)
2 and (3), compares the name and alien identification
3 or authorization number (or any other information
4 as determined relevant by the Secretary) which are
5 provided in an inquiry against such information
6 maintained or accessed by the Secretary in order to
7 validate (or not validate) the information provided,
8 the correspondence of the name and number, wheth-
9 er the alien is authorized to be employed in the
10 United States, or to the extent that the Secretary
11 determines to be feasible and appropriate, whether
12 the records available to the Secretary verify the
13 identity or status of a national of the United States.

14 “(7) UPDATING INFORMATION.—The Commis-
15 sioner of Social Security and the Secretary of Home-
16 land Security shall update their information in a
17 manner that promotes the maximum accuracy and
18 shall provide a process for the prompt correction of
19 erroneous information, including instances in which
20 it is brought to their attention in the secondary
21 verification process described in paragraph (3).

22 “(8) LIMITATION ON USE OF THE
23 VERIFICATION SYSTEM AND ANY RELATED SYS-
24 TEMS.—

1 “(A) NO NATIONAL IDENTIFICATION
2 CARD.—Nothing in this section shall be con-
3 strued to authorize, directly or indirectly, the
4 issuance or use of national identification cards
5 or the establishment of a national identification
6 card.

7 “(B) CRITICAL INFRASTRUCTURE.—The
8 Secretary may authorize or direct any person or
9 entity responsible for granting access to, pro-
10 tecting, securing, operating, administering, or
11 regulating part of the critical infrastructure (as
12 defined in section 1016(e) of the Critical Infra-
13 structure Protection Act of 2001 (42 U.S.C.
14 5195c(e))) to use the verification system to the
15 extent the Secretary determines that such use
16 will assist in the protection of the critical infra-
17 structure.

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

1 **SEC. 203. RECRUITMENT, REFERRAL, AND CONTINUATION**
2 **OF EMPLOYMENT.**

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

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

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

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

14 (3) in paragraph (2), by striking “after hiring
15 an alien for employment in accordance with para-
16 graph (1),” and inserting “after complying with
17 paragraph (1),”.

18 (b) DEFINITION.—Section 274A(h) of the Immigra-
19 tion and Nationality Act (8 U.S.C. 1324a(h)), as amended
20 by section 201(b) of this Act, is further amended by add-
21 ing at the end the following:

22 “(5) DEFINITION OF RECRUIT OR REFER.—As
23 used in this section, the term ‘refer’ means the act
24 of sending or directing a person who is in the United
25 States or transmitting documentation or information
26 to another, directly or indirectly, with the intent of

1 obtaining employment in the United States for such
2 person. Only persons or entities referring for remun-
3 eration (whether on a retainer or contingency
4 basis) are included in the definition, except that
5 union hiring halls that refer union members or non-
6 union individuals who pay union membership dues
7 are included in the definition whether or not they re-
8 ceive remuneration, as are labor service entities or
9 labor service agencies, whether public, private, for-
10 profit, or nonprofit, that refer, dispatch, or other-
11 wise facilitate the hiring of laborers for any period
12 of time by a third party. As used in this section, the
13 term ‘recruit’ means the act of soliciting a person
14 who is in the United States, directly or indirectly,
15 and referring the person to another with the intent
16 of obtaining employment for that person. Only per-
17 sons or entities referring for remuneration (whether
18 on a retainer or contingency basis) are included in
19 the definition, except that union hiring halls that
20 refer union members or nonunion individuals who
21 pay union membership dues are included in this defi-
22 nition whether or not they receive remuneration, as
23 are labor service entities or labor service agencies,
24 whether public, private, for-profit, or nonprofit that

1 recruit, dispatch, or otherwise facilitate the hiring of
2 laborers for any period of time by a third party.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on the date that is 1 year
5 after the date of the enactment of this Act, except that
6 the amendments made by subsection (a) shall take effect
7 6 months after the date of the enactment of this Act inso-
8 far as such amendments relate to continuation of employ-
9 ment.

10 **SEC. 204. GOOD FAITH DEFENSE.**

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

14 “(3) GOOD FAITH DEFENSE.—

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

21 “(i) shall not be liable to a job appli-
22 cant, an employee, the Federal Govern-
23 ment, or a State or local government,
24 under Federal, State, or local criminal or
25 civil law for any employment-related action

1 taken with respect to a job applicant or
2 employee in good-faith reliance on informa-
3 tion provided through the system estab-
4 lished under subsection (d); and

5 “(ii) has established compliance with
6 its obligations under subparagraphs (A)
7 and (B) of paragraph (1) and subsection
8 (b) absent a showing by the Secretary of
9 Homeland Security, by clear and con-
10 vincing evidence, that the employer had
11 knowledge that an employee is an unau-
12 thorized alien.

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

21 “(i) FAILURE TO SEEK
22 VERIFICATION.—

23 “(I) IN GENERAL.—If the person
24 or entity has not made an inquiry,
25 under the mechanism established

1 under subsection (d) and in accord-
2 ance with the timeframes established
3 under subsection (b), seeking
4 verification of the identity and work
5 eligibility of the individual, the de-
6 fense under subparagraph (A) shall
7 not be considered to apply with re-
8 spect to any employment, except as
9 provided in subclause (II).

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

24 “(ii) FAILURE TO OBTAIN
25 VERIFICATION.—If the person or entity

1 has made the inquiry described in clause
2 (i)(I) but has not received an appropriate
3 verification of such identity and work eligi-
4 bility under such mechanism within the
5 time period specified under subsection
6 (d)(2) after the time the verification in-
7 quiry was received, the defense under sub-
8 paragraph (A) shall not be considered to
9 apply with respect to any employment after
10 the end of such time period.”.

11 **SEC. 205. PREEMPTION AND STATES’ RIGHTS.**

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

15 “(2) PREEMPTION.—

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

24 “(B) STATE ENFORCEMENT OF FEDERAL
25 LAW.—

1 “(i) BUSINESS LICENSING.—A State,
2 locality, municipality, or political subdivi-
3 sion may exercise its authority over busi-
4 ness licensing and similar laws as a pen-
5 alty for failure to use the verification sys-
6 tem described in subsection (d) to verify
7 employment eligibility when and as re-
8 quired under subsection (b).

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

1 enforcement action. The Secretary must
2 provide copies of all guidance, training,
3 and field instructions provided to Federal
4 officials implementing the provisions of
5 this section to each State.”.

6 **SEC. 206. REPEAL.**

7 (a) IN GENERAL.—Subtitle A of title IV of the Illegal
8 Immigration Reform and Immigrant Responsibility Act of
9 1996 (8 U.S.C. 1324a note) is repealed.

10 (b) REFERENCES.—Any reference in any Federal
11 law, Executive order, rule, regulation, or delegation of au-
12 thority, or any document of, or pertaining to, the Depart-
13 ment of Homeland Security, Department of Justice, or the
14 Social Security Administration, to the employment eligi-
15 bility confirmation system established under section 404
16 of the Illegal Immigration Reform and Immigrant Respon-
17 sibility Act of 1996 (8 U.S.C. 1324a note) is deemed to
18 refer to the employment eligibility confirmation system es-
19 tablished under section 274A(d) of the Immigration and
20 Nationality Act, as amended by section 202 of this Act.

21 (c) EFFECTIVE DATE.—This section shall take effect
22 on the date that is 36 months after the date of the enact-
23 ment of this Act.

1 **SEC. 207. PENALTIES.**

2 Section 274A of the Immigration and Nationality Act
3 (8 U.S.C. 1324a) is amended—

4 (1) in subsection (e)(1)—

5 (A) by striking “Attorney General” each
6 place such term appears and inserting “Sec-
7 retary of Homeland Security”; and

8 (B) in subparagraph (D), by striking
9 “Service” and inserting “Department of Home-
10 land Security”;

11 (2) in subsection (e)(4)—

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

15 (B) in subparagraph (A)(i), by striking
16 “not less than \$250 and not more than
17 \$2,000” and inserting “not less than \$2,500
18 and not more than \$5,000”;

19 (C) in subparagraph (A)(ii), by striking
20 “not less than \$2,000 and not more than
21 \$5,000” and inserting “not less than \$5,000
22 and not more than \$10,000”;

23 (D) in subparagraph (A)(iii), by striking
24 “not less than \$3,000 and not more than
25 \$10,000” and inserting “not less than \$10,000
26 and not more than \$25,000”; and

1 (E) by amending subparagraph (B) to read
2 as follows:

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

6 (3) in subsection (e)(5)—

7 (A) in the paragraph heading, by striking
8 “PAPERWORK”;

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

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

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

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

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

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

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

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

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

24 “(B) DOES NOT HAVE CONTRACT, GRANT,
25 AGREEMENT.—If the Secretary of Homeland

1 Security or the Attorney General wishes to have
2 a person or entity considered for debarment in
3 accordance with this paragraph, and such a
4 person or entity does not hold a Federal con-
5 tract, grant or cooperative agreement, the Sec-
6 retary or Attorney General shall refer the mat-
7 ter to the Administrator of General Services to
8 determine whether to list the person or entity
9 on the List of Parties Excluded from Federal
10 Procurement, and if so, for what duration and
11 under what scope.

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

1 General may refer the matter to any appro-
2 priate lead agency to determine whether to list
3 the person or entity on the List of Parties Ex-
4 cluded from Federal Procurement, and if so, for
5 what duration and under what scope.

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

10 “(12) OFFICE FOR STATE AND LOCAL GOVERN-
11 MENT COMPLAINTS.—The Secretary of Homeland
12 Security shall establish an office—

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

19 “(B) that is required to indicate to the
20 complaining State or local agency within 5 busi-
21 ness days of the filing of such a complaint by
22 identifying whether the Secretary will further
23 investigate the information provided;

24 “(C) that is required to investigate those
25 complaints filed by State or local government

1 agencies that, on their face, have a substantial
2 probability of validity;

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

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

12 (5) by amending paragraph (1) of subsection (f)
13 to read as follows:

14 “(1) CRIMINAL PENALTY.—Any person or enti-
15 ty which engages in a pattern or practice of viola-
16 tions of subsection (a) (1) or (2) shall be fined not
17 more than \$15,000 for each unauthorized alien with
18 respect to which such a violation occurs, imprisoned
19 for not less than one year and not more than 10
20 years, or both, notwithstanding the provisions of any
21 other Federal law relating to fine levels.”.

22 **SEC. 208. FRAUD AND MISUSE OF DOCUMENTS.**

23 Section 1546(b) of title 18, United States Code, is
24 amended—

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

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

12 **SEC. 209. PROTECTION OF SOCIAL SECURITY ADMINISTRA-**
13 **TION PROGRAMS.**

14 (a) **FUNDING UNDER AGREEMENT.**—Effective for
15 fiscal years beginning on or after October 1, 2015, the
16 Commissioner of Social Security and the Secretary of
17 Homeland Security shall enter into and maintain an
18 agreement which shall—

19 (1) provide funds to the Commissioner for the
20 full costs of the responsibilities of the Commissioner
21 under section 274A(d) of the Immigration and Na-
22 tionality Act (8 U.S.C. 1324a(d)), as amended by
23 section 202 of this Act, including (but not limited
24 to)—

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

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

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

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

23 (b) CONTINUATION OF EMPLOYMENT VERIFICATION
24 IN ABSENCE OF TIMELY AGREEMENT.—In any case in
25 which the agreement required under subsection (a) for any

1 fiscal year beginning on or after October 1, 2015, has not
2 been reached as of October 1 of such fiscal year, the latest
3 agreement between the Commissioner and the Secretary
4 of Homeland Security providing for funding to cover the
5 costs of the responsibilities of the Commissioner under
6 section 274A(d) of the Immigration and Nationality Act
7 (8 U.S.C. 1324a(d)) shall be deemed in effect on an in-
8 terim basis for such fiscal year until such time as an
9 agreement required under subsection (a) is subsequently
10 reached, except that the terms of such interim agreement
11 shall be modified by the Director of the Office of Manage-
12 ment and Budget to adjust for inflation and any increase
13 or decrease in the volume of requests under the employ-
14 ment eligibility verification system. In any case in which
15 an interim agreement applies for any fiscal year under this
16 subsection, the Commissioner and the Secretary shall, not
17 later than October 1 of such fiscal year, notify the Com-
18 mittee on Ways and Means, the Committee on the Judici-
19 ary, and the Committee on Appropriations of the House
20 of Representatives and the Committee on Finance, the
21 Committee on the Judiciary, and the Committee on Ap-
22 propriations of the Senate of the failure to reach the
23 agreement required under subsection (a) for such fiscal
24 year. Until such time as the agreement required under
25 subsection (a) has been reached for such fiscal year, the

1 Commissioner and the Secretary shall, not later than the
2 end of each 90-day period after October 1 of such fiscal
3 year, notify such Committees of the status of negotiations
4 between the Commissioner and the Secretary in order to
5 reach such an agreement.

6 **SEC. 210. FRAUD PREVENTION.**

7 (a) **BLOCKING MISUSED SOCIAL SECURITY ACCOUNT**
8 **NUMBERS.**—The Secretary of Homeland Security, in con-
9 sultation with the Commissioner of Social Security, shall
10 establish a program in which social security account num-
11 bers that have been identified to be subject to unusual
12 multiple use in the employment eligibility verification sys-
13 tem established under section 274A(d) of the Immigration
14 and Nationality Act (8 U.S.C. 1324a(d)), as amended by
15 section 202 of this Act, or that are otherwise suspected
16 or determined to have been compromised by identity fraud
17 or other misuse, shall be blocked from use for such system
18 purposes unless the individual using such number is able
19 to establish, through secure and fair additional security
20 procedures, that the individual is the legitimate holder of
21 the number.

22 (b) **ALLOWING SUSPENSION OF USE OF CERTAIN SO-**
23 **CIAL SECURITY ACCOUNT NUMBERS.**—The Secretary of
24 Homeland Security, in consultation with the Commis-
25 sioner of Social Security, shall establish a program which

1 shall provide a reliable, secure method by which victims
2 of identity fraud and other individuals may suspend or
3 limit the use of their social security account number or
4 other identifying information for purposes of the employ-
5 ment eligibility verification system established under sec-
6 tion 274A(d) of the Immigration and Nationality Act (8
7 U.S.C. 1324a(d)), as amended by section 202 of this Act.
8 The Secretary may implement the program on a limited
9 pilot program basis before making it fully available to all
10 individuals.

11 (c) ALLOWING PARENTS TO PREVENT THEFT OF
12 THEIR CHILD'S IDENTITY.—The Secretary of Homeland
13 Security, in consultation with the Commissioner of Social
14 Security, shall establish a program which shall provide a
15 reliable, secure method by which parents or legal guard-
16 ians may suspend or limit the use of the social security
17 account number or other identifying information of a
18 minor under their care for the purposes of the employment
19 eligibility verification system established under 274A(d) of
20 the Immigration and Nationality Act (8 U.S.C. 1324a(d)),
21 as amended by section 202 of this Act. The Secretary may
22 implement the program on a limited pilot program basis
23 before making it fully available to all individuals.

1 **SEC. 211. IDENTITY AUTHENTICATION EMPLOYMENT ELIGI-**
2 **BILITY VERIFICATION PILOT PROGRAM.**

3 Not later than 48 months after the date of the enact-
4 ment of this Act, the Secretary of Homeland Security,
5 after consultation with the Commissioner of Social Secu-
6 rity and the Director of the National Institute of Stand-
7 ards and Technology, shall establish by regulation an
8 Identity Authentication Employment Eligibility
9 Verification pilot program (the “Authentication Pilot”).
10 The purpose of the Authentication Pilot shall be to provide
11 for identity authentication and employment eligibility
12 verification with respect to enrolled new employees which
13 shall be available to subject employers who elect to partici-
14 pate in the Authentication Pilot. Any subject employer
15 may cancel the employer’s participation in the Authentica-
16 tion Pilot after one year after electing to participate with-
17 out prejudice to future participation.

18 **SEC. 212. INSPECTOR GENERAL AUDITS.**

19 (a) IN GENERAL.—Not later than 1 year after the
20 date of the enactment of this Act, the Inspector General
21 of the Social Security Administration shall complete audits
22 of the following categories in order to uncover evidence
23 of individuals who are not authorized to work in the
24 United States:

25 (1) Workers who dispute wages reported on
26 their social security account number when they be-

1 lieve someone else has used such number and name
2 to report wages.

3 (2) Children’s social security account numbers
4 used for work purposes.

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

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

19 **TITLE III—TAX PROVISIONS**

20 **SEC. 301. DENIAL OF EARNED INCOME TAX CREDIT FOR** 21 **ALIENS RECEIVING WORK AUTHORIZATION** 22 **PURSUANT TO CERTAIN DEFERRED ACTION** 23 **PROGRAMS.**

24 (a) IN GENERAL.—Section 32(m) of the Internal
25 Revenue Code of 1986 is amended—

1 (1) by striking “Solely for purposes of” and in-
2 serting the following:

3 “(1) IN GENERAL.—Solely for purposes of”,

4 (2) by inserting “and other than a social secu-
5 rity number issued to a deferred action beneficiary”
6 after “Social Security Act”, and

7 (3) by adding at the end the following new
8 paragraph:

9 “(2) DEFERRED ACTION BENEFICIARY.—The
10 term ‘deferred action beneficiary’ means any indi-
11 vidual who has been granted employment authoriza-
12 tion pursuant to a program not specifically author-
13 ized by law which provides aliens with deferred ac-
14 tion on removal. An individual shall cease to be
15 treated as a deferred action beneficiary if, and only
16 if, such individual becomes a United States citizen.”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to—

19 (1) any return of tax which is filed after the
20 date of the enactment of this Act, and

21 (2) any amendment or supplement (to any re-
22 turn of tax) which is filed after such date (without
23 regard to the date on which the return of tax is
24 filed).

1 **SEC. 302. REQUIRING SOCIAL SECURITY NUMBER FOR**
2 **CHILD TAX CREDIT AND DENYING SUCH**
3 **CREDIT FOR ALIENS RECEIVING WORK AU-**
4 **THORIZATION PURSUANT TO CERTAIN DE-**
5 **FERRED ACTION PROGRAMS.**

6 (a) IN GENERAL.—Section 24(e) of the Internal Rev-
7 enue Code of 1986 is amended—

8 (1) by inserting “, and the taxpayer identifica-
9 tion number of the taxpayer,” after “of such quali-
10 fying child”, and

11 (2) by adding at the end the following: “For
12 purposes of the preceding sentence, the term ‘tax-
13 payer identification number’ shall have the meaning
14 given such term under section 32(m).”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to taxable years beginning after
17 December 31, 2015.

18 **TITLE IV—SUSPENSION OF**
19 **FOREIGN ASSISTANCE**

20 **SEC. 401. SUSPENSION OF FOREIGN ASSISTANCE.**

21 (a) IN GENERAL.—Upon enactment of this Act, the
22 Secretary of State shall immediately suspend all United
23 States foreign assistance to the countries of Mexico, Hon-
24 duras, Guatemala, and El Salvador. Such assistance may
25 be reinstated only if Congress determines that Mexico,
26 Honduras, Guatemala, and El Salvador have taken suffi-

1 cient action to mitigate unlawful United States-Mexico
2 border crossings by their respective citizens.

3 (b) USE FOR BORDER SECURITY.—Any unobligated
4 balances available for foreign assistance activities sus-
5 pended under subsection (a) may be used by the Secretary
6 of Homeland Security for purposes of securing the border.

7 (c) REPORT.—The Secretary of State shall annually
8 submit to Congress a report documenting the measures
9 taken by Mexico, Honduras, Guatemala, and El Salvador
10 to mitigate unlawful entry into the United States by its
11 citizens.

12 (d) EXCEPTION.—Foreign assistance distributed
13 under the International Narcotic Control Law Enforce-
14 ment program shall not be considered under subsection
15 (a).

16 **TITLE V—NONIMMIGRANT LA-**
17 **BORER NUMERICAL LIMITA-**
18 **TIONS EXPANDED**

19 **SEC. 501. H-2B WORKERS.**

20 Section 214(g) of the Immigration and Nationality
21 Act (8 U.S.C. 1184(g)) is amended—

22 (1) in paragraph (1)(B), by striking “66,000”
23 and inserting “264,000”; and

24 (2) in paragraph (9)(A), to read as follows:

1 “(A)(i) Except as provided in clause (ii),
2 and subject to subparagraphs (B) and (C), an
3 alien who has already been counted toward the
4 numerical limitation of paragraph (1)(B) shall
5 not again be counted toward such limitation.
6 Such an alien shall be considered a returning
7 worker.

8 “(ii) An alien who has already been count-
9 ed toward the numerical limitation of para-
10 graph (1)(B) shall again be counted toward
11 such limitation if such alien departs the United
12 States for a period of time that is greater than
13 one year, and has not been counted toward such
14 limitation in any of the 3 years prior to such
15 departure.”.

16 **SEC. 502. H-2A WORKERS.**

17 Beginning on the date of enactment of this Act, the
18 rule of the Secretary of Labor entitled “Temporary Agri-
19 cultural Employment of H-2A Aliens in the United
20 States”, published in the Federal Register on February
21 12, 2010 (75 Fed. Reg. 6883–6995), shall cease to have
22 effect, and the rule of the Secretary entitled “Temporary
23 Agricultural Employment of H-2A Aliens in the United
24 States; Modernizing the Labor Certification Process and
25 Enforcement”, published in the Federal Register on De-

1 cember 18, 2008 (73 Fed. Reg. 77110–77262), shall be
2 deemed to resume effect and continue in effect thereafter.

3 **TITLE VI—LIMITATIONS ON**
4 **ISSUANCE OF VISAS**

5 **SEC. 601. SECURITY CERTIFICATION.**

6 Chapter 2 of title II of the Immigration and Nation-
7 ality Act (8 U.S.C. 1181 et seq.) is amended by adding
8 at the end the following:

9 **“SEC. 220. SECURITY CERTIFICATION.**

10 “Notwithstanding any other provision of this Act, no
11 visa may be issued under this Act unless the Secretary
12 of Homeland Security, in coordination with the Secretary
13 of State, submits to Congress a certification that the
14 issuance of such visa would not result in a threat to the
15 security of the United States.”.

16 **SEC. 602. INSPECTOR GENERAL REVIEW.**

17 Each year, the Inspector General of the Department
18 of Homeland Security shall—

19 (1) conduct a study of all admissions of aliens
20 to the United States during the preceding year, and
21 shall determine if any such admissions resulted in a
22 threat to the security of the United States; and

23 (2) submit to Congress a report detailing the
24 results of such study.

○