the Committee on Labor and Public Welfare, William Dodd Hathaway crafted numerous legislative measures that addressed health problems related to substance abuse and worked to ensure that the Federal and State governments responded effectively to those problems;

Whereas, in 1978, William Dodd Hathaway was recognized by Majority Leader Robert C. Byrd for his efforts to address health problems related to substance abuse; and

Whereas, following his service as a Senator, William Dodd Hathaway resumed the private practice of law in Washington, D.C., until President George H.W. Bush appointed him to the Federal Maritime Commission in 1990: Now, therefore, be it

Resolved, That—

(1) the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable William Dodd Hathaway, former member of the United States Senate;

(2) when the Senate adjourns today, it stands adjourned as a further mark of respect to the memory of the Honorable William Dodd Hathaway; and

(3) the Senate respectfully requests the Secretary of the Senate—

(A) to communicate this resolution to the House of Representatives; and

(B) to transmit an enrolled copy of this resolution to the family of the Honorable William Dodd Hathaway.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1721. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table.

SA 1722. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1723. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1724. Mr. JOHNSON of Wisconsin (for himself, Mr. COBURN, and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1725. Mr. JOHNSON of Wisconsin (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 744, supra; which was ordered to lie on the table.

SA 1726. Mr. PORTMAN (for himself and Mr. TESTER) submitted an amendment intended to be proposed to amendment SA 1320 proposed by Mr. CRUZ to the bill S. 744, supra; which was ordered to lie on the table.

SA 1727. Mr. PORTMAN (for himself and Mr. TESTER) submitted an amendment intended to be proposed to amendment SA 1224 proposed by Mr. REED to the bill S. 744, supra; which was ordered to lie on the table.

SA 1728. Mr. PORTMAN (for himself and Mr. TESTER) submitted an amendment intended to be proposed to amendment SA 1240 proposed by Mrs. BOXER (for herself and Ms. LANDRIEU) to the bill S. 744, supra; which was ordered to lie on the table.

SA 1729. Ms. COLLINS (for herself and Mr. KING) submitted an amendment intended to be proposed to amendment SA 1705 submitted by Ms. COLLINS (for herself and Mr. KING) and intended to be proposed to the bill S. 744, supra; which was ordered to lie on the table.

SA 1730. Mr. REID submitted an amendment intended to be proposed to amendment SA 1664 submitted by Mr. REID and intended to be proposed to the bill S. 744, supra; which was ordered to lie on the table.

SA 1731. Mr. REID submitted an amendment intended to be proposed to amendment SA 1664 submitted by Mr. REID and intended to be proposed to the bill S. 744, supra; which was ordered to lie on the table.

SA 1732. Mr. REID submitted an amendment intended to be proposed to amendment SA 1664 submitted by Mr. REID and intended to be proposed to the bill S. 744, supra; which was ordered to lie on the table.

SA 1733. Ms. LANDRIEU (for herself, Ms. HIRONO, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 1406 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 744, supra; which was ordered to lie on the table.

SA 1734. Ms. LANDRIEU (for herself and Mr. KIRK) submitted an amendment intended to be proposed to amendment SA 1406 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 744, supra; which was ordered to lie on the table.

SA 1735. Ms. LANDRIEU (for herself, Mrs. SHAHEEN, Mr. FRANKEN, and Mr. COATS) submitted an amendment intended to be proposed to amendment SA 1406 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 744, supra; which was ordered to lie on the table.

SA 1736. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 1406 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 744, supra; which was ordered to lie on the table.

SA 1737. Ms. LANDRIEU (for herself and Mr. COCHRAN) submitted an amendment intended to be proposed to amendment SA 1406 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 744, supra; which was ordered to lie on the table.

SA 1738. Ms. LANDRIEU (for herself, Mr. CARPER, Mr. BEGICH, and Ms. MURKOWSKI) submitted an amendment intended to be proposed to amendment SA 1406 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 744, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1721. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In the amendment, strike ''3 days'' and insert ''10 days''.

SA 1722. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In the amendment, strike ''3 days'' and insert ''11 days''.

SA 1723. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In the amendment, strike ''3 days'' and insert ''12 days''.

SA 1724. Mr. JOHNSON of Wisconsin (for himself, Mr. COBURN, and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DISALLOWANCE OF EARNED INCOME TAX CREDIT FOR REGISTERED PROVISIONAL IMMIGRANTS.

(a) IN GENERAL.—Subparagraph (D) of section 32(c)(1) of the Internal Revenue Code of 1986 is amended to read as follows:

''(D) LIMITATION ON ELIGIBILITY OF CERTAIN ALIENS.—

''(i) REGISTERED PROVISIONAL IMMIGRANT STATUS.—The term 'eligible individual' shall not include an individual who is in registered provisional immigrant status under section 245B of the Immigration and Nationality Act during any portion of the taxable year.

''(ii) NONRESIDENT ALIENS.—The term 'eligible individual' shall not include any individual who is a nonresident alien individual for any portion of the taxable year unless such individual is treated for such taxable year as a resident of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2013.

SA 1725. Mr. JOHNSON of Wisconsin (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. APPLICATION PERIOD FOR REGISTERED PROVISIONAL IMMIGRANT STATUS.

Notwithstanding paragraph (3) of section 245B(c) of the Immigration and Nationality Act, as added by section 2101(a), the Secretary may only accept applications for registered provisional immigrant status from aliens in the United States during the 1-year period beginning on the date on which the final rule is published in the Federal Register pursuant to paragraph (1) of such section 245B(c).

SA 1726. Mr. PORTMAN (for himself and Mr. TESTER) submitted an amendment intended to be proposed to amendment SA 1320 proposed by Mr. CRUZ to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. EMPLOYMENT VERIFICATION SYSTEM IMPROVEMENTS.

(a) TRIGGER.—In addition to the conditions set forth in section 3(c)(2)(A), the Secretary may not adjust the status of aliens who have been granted registered provisional immigrant status, except for aliens granted blue card status under section 2201 of this Act or described in section 245D(b) of the Immigration and Nationality Act, unless the Secretary, after consultation with the Comptroller General of the United States, and as part of the written certification submitted to the President and Congress pursuant to section 3(c)(2)(A), certifies that the Secretary has implemented the mandatory employment verification system, including the full incorporation of the photo tool and additional security measures, required by section

274A of the Immigration and Nationality Act (8 U.S.C. 1324a), as amended by section 3101, and has required the system's use by all employers to prevent unauthorized workers from obtaining employment in the United States.

(b) EMPLOYMENT VERIFICATION SYSTEM.—Section 274A (8 U.S.C. 1324a), as amended by section 3101, is further amended—

(1) in subsection (a)(5)(A)(ii), by inserting '', by clear and convincing evidence,'' after demonstrates; and

(2) by striking subsections (c) and (d) and inserting the following:

''(c) DOCUMENT VERIFICATION REQUIREMENTS.—Any employer hiring an individual for employment in the United States shall comply with the following requirements and the requirements under subsection (d) to verify that the individual has employment authorized status.

''(1) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.—

''(A) IN GENERAL.—

''(i) EXAMINATION BY EMPLOYER.—An employer shall attest, under penalty of perjury on a form prescribed by the Secretary, that the employer has verified the identity and employment authorization status of the individual—

''(I) by examining—

''(aa) a document specified in subparagraph (C); or

''(bb) a document specified in subparagraph (D) and a document specified in subparagraph (E); and

''(II) by utilizing an identity authentication mechanism described in clause (iii) or (iv) of subparagraph (F).

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

''(B) REQUIREMENTS.—

''(i) FORM.—The form referred to in subparagraph (A)(i)—

''(I) shall be prescribed by the Secretary not later than 6 months after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act;

''(II) shall be available as—

''(aa) a paper form;

''(bb) a form that may be completed by an employer via telephone or video conference;

''(cc) an electronic form; and

''(dd) a form that is integrated electronically with the requirements under subparagraph (F) and subsection (d).

''(ii) ATTESTATION.—Each such form shall require the employer to sign an attestation with a handwritten, electronic, or digital signature, according to standards prescribed by the Secretary.

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

''(I) the employer has, in good faith, followed applicable regulations and any written procedures or instructions provided by the Secretary; and

''(II) a reasonable person would conclude that the documentation is genuine and relates to the individual presenting such documentation.

''(C) DOCUMENTS ESTABLISHING IDENTITY AND EMPLOYMENT AUTHORIZED STATUS.—A document is specified in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

''(i) A United States passport or passport card issued to an individual pursuant to the Secretary of State's authority under the Act entitled An Act to regulate the issue and validity of passports, and for other purposes, approved July 3, 1926 (22 U.S.C. 211a).

''(ii) A document issued to an alien evidencing that the alien is lawfully admitted for permanent residence or another document issued to an individual evidencing the individual's employment authorized status, as designated by the Secretary, if the document—

''(I) contains a photograph of the individual, or such other personal identifying information relating to the individual as the Secretary determines, by regulation, to be sufficient for the purposes of this subparagraph;

''(II) is evidence of employment authorized status; and

''(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(iii) An enhanced driver's license or identification card issued to a national of the United States by a State, an outlying possession of the United States, or a federally recognized Indian tribe that—

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

''(II) the Secretary has certified by notice published in the Federal Register and through appropriate notice directly to employers registered in the System 3 months prior to publication that such enhanced license or card is suitable for use under this subparagraph based upon the accuracy and security of the issuance process, security features on the document, and such other factors as the Secretary may prescribe.

''(iv) A passport issued by the appropriate authority of a foreign country accompanied by a Form I–94 or Form I–94A (or similar successor record), or other documentation as designated by the Secretary that specifies the individual's status in the United States and the duration of such status if the proposed employment is not in conflict with any restriction or limitation specified on such form or documentation.

''(v) A passport issued by the Federated States of Micronesia or the Republic of the Marshall Islands with evidence of nonimmigrant admission to the United States under the Compact of Free Association between the United States and the Federated States of Micronesia or the Republic of the Marshall Islands.

''(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document is specified in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

''(i) A driver's license or identity card that is not described in subparagraph (C)(iii) and is issued to an individual by a State or an outlying possession of the United States, a federally recognized Indian tribe, or an agency (including military) of the Federal Government if the driver's license or identity card includes, at a minimum—

''(I) the individual's photograph, name, date of birth, gender, and driver's license or identification card number; and

''(II) security features to make the license or card resistant to tampering, counterfeiting, and fraudulent use.

''(ii) A voter registration card.

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

''(iv) For individuals under 18 years of age who are unable to present a document listed in clause (i) or (ii), documentation of personal identity of such other type as the Secretary determines will provide a reliable means of identification, which may include an attestation as to the individual's identity by a parent or legal guardian under penalty of perjury.

''(E) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—A document is specified in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

''(i) A social security account number card issued by the Commissioner, other than a card which specifies on its face that the card is not valid to evidence employment authorized status or has other similar words of limitation.

''(ii) Any other documentation evidencing employment authorized status that the Secretary determines and publishes in the Federal Register and through appropriate notice directly to employers registered within the System to be acceptable for purposes of this subparagraph if such documentation, including any electronic security measures linked to such documentation, contains security features to make such documentation resistant to tampering, counterfeiting, and fraudulent use.

''(F) IDENTITY AUTHENTICATION MECHANISM.—

''(i) DEFINITIONS.—In this subparagraph:

''(I) COVERED IDENTITY DOCUMENT.—The term 'covered identity document' means a valid—

''(aa) United States passport, passport card, or a document evidencing lawful permanent residence status or employment authorized status issued to an alien;

''(bb) enhanced driver's license or identity card issued by a participating State or an outlying possession of the United States; or

''(cc) photograph and appropriate identifying information provided by the Secretary of State pursuant to the granting of a visa.

''(II) PARTICIPATING STATE.—The term 'participating State' means a State that has an agreement with the Secretary to provide the Secretary, for purposes of identity verification in the System, with photographs and appropriate identifying information maintained by the State.

''(ii) REQUIREMENT FOR IDENTITY AUTHENTICATION.—In addition to verifying the documents specified in subparagraph (C), (D), or (E), the System shall require each employer to verify the identity of each new hire using the identity authentication mechanism described in clause (iii) or, for an individual whose identity is not able to be verified using that mechanism, to use the additional security measures provided in clause (iv) after such measures become available. A failure of the System to verify the identity of an individual due to the use of an identity authentication mechanism shall result in a further action notice under subsection (d)(4)(C)(iii).

''(iii) PHOTO TOOL.—

''(I) USE REQUIREMENT.—An employer that hires an individual who has a presented a covered identity document to establish his or her identity and employment authorization under subsection (c) shall verify the identity of such individual using the photo tool described in subclause (II).

''(II) DEVELOPMENT REQUIREMENT.—The Secretary shall develop and maintain a photo tool that enables employers to match the photo on a covered identity document provided to the employer to a photo maintained by a U.S. Citizenship and Immigration Services or other appropriate database.

''(III) INDIVIDUAL QUERIES.—The photo tool capability shall be incorporated into the System and made available to employers not later than 1 year after the date on which regulations are published implementing subsection (d).

''(IV) LIMITATIONS ON USE OF INFORMATION.—Information and images acquired from

State motor vehicle databases through the photo tool developed under subclause (II)—

''(aa) may only be used for matching photos to a covered identity document for the purposes of employment verification;

''(bb) shall not be collected or stored by the Federal Government; and

''(cc) may only be disseminated in response to an individual photo tool query.

''(iv) ADDITIONAL SECURITY MEASURES.—

''(I) USE REQUIREMENT.—An employer seeking to hire an individual whose identity is not able to be verified using the photo tool described in clause (iii), because the employee did not present a covered document for employment eligibility verification purposes, shall verify the identity of such individual using the additional security measures described in subclause (II).

''(II) DEVELOPMENT REQUIREMENT.—The Secretary shall develop, after publication in the Federal Register and an opportunity for public comment, specific and effective additional security measures to adequately verify the identity of an individual whose identity is not able to be verified using the photo tool described in clause (iii). Such additional security measures—

''(aa) shall be kept up-to-date with technological advances;

''(bb) shall provide a means of identity authentication in a manner that provides a high level of certainty as to the identity of such individual, using immigration and identifying information that may include review of identity documents or background screening verification techniques using publicly available information; and

''(cc) shall be incorporated into the System and made available to employers not later than 1 year after the date on which regulations are published implementing subsection (d).

''(III) COMPREHENSIVE USE.—An employer may employ the additional security measures set forth in this clause with respect to all individuals the employer hires if the employer notifies the Secretary of such election at the time the employer registers for use of the System under subsection (d)(4)(A)(i) or anytime thereafter. An election under this subclause may be withdrawn 90 days after the employer notifies the Secretary of the employer's intent to discontinue such election.

''(v) AUTOMATED VERIFICATION.—The Secretary—

''(I) may establish a program, in addition to the identity authentication mechanism described in subparagraph (F)(iii), in which the System automatically verifies information contained in a covered identity document issued by a participating State, which is presented under subparagraph (D)(i), including information needed to verify that the covered identity document matches the State's records;

''(II) may not maintain information provided by a participating State in a database maintained by U.S. Citizenship and Immigration Services; and

''(III) may not utilize or disclose such information, except as authorized under this section.

''(G) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary determines, after publication in the Federal Register and an opportunity for public comment, that any document or class of documents specified in subparagraph (B), (C), or (D) does not reliably establish identity or that employment authorized status is being used fraudulently to an unacceptable degree, the Secretary—

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

''(ii) shall directly notify all employers registered within the System of the prohibition through appropriate means.

''(H) AUTHORITY TO ALLOW USE OF CERTAIN DOCUMENTS.—If the Secretary has determined that another document or class of documents, such as a document issued by a federally recognized Indian tribe, may be used to reliably establish identity or employment authorized status, the Secretary—

''(i) may allow the use of that document or class of documents for purposes of this subsection after publication in the Federal Register and an opportunity for public comment;

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

''(iii) shall directly notify all employers registered within the System of the addition through appropriate means.

''(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—An individual, upon commencing employment with an employer, shall—

''(A) attest, under penalty of perjury, on the form prescribed by the Secretary, that the individual is—

''(i) a citizen of the United States;

''(ii) an alien lawfully admitted for permanent residence;

''(iii) an alien who has employment authorized status; or

''(iv) otherwise authorized by the Secretary to be hired for such employment;

''(B) provide such attestation by a handwritten, electronic, or digital signature; and

''(C) provide the individual's social security account number to the Secretary, unless the individual has not yet been issued such a number, on such form as the Secretary may require.

''(3) RETENTION OF VERIFICATION RECORD.—

''(A) IN GENERAL.—After completing a form for an individual in accordance with paragraphs (1) and (2), the employer shall retain a version of such completed form and make such form available for inspection by the Secretary or the Office of Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice during the period beginning on the hiring date of the individual and ending on the later of—

''(i) the date that is 3 years after such hiring date; or

''(ii) the date that is 1 year after the date on which the individual's employment with the employer is terminated.

''(B) REQUIREMENT FOR ELECTRONIC RETENTION.—The Secretary—

''(i) shall permit an employer to retain the form described in subparagraph (A) in electronic form; and

''(ii) shall permit an employer to retain such form in paper, microfiche, microfilm, portable document format, or other media.

''(4) COPYING OF DOCUMENTATION AND RECORDKEEPING.—The Secretary may promulgate regulations regarding—

''(A) copying documents and related information pertaining to employment verification presented by an individual under this subsection; and

''(B) retaining such information during a period not to exceed the required retention period set forth in paragraph (3).

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

''(6) PROTECTION OF CIVIL RIGHTS.—

''(A) IN GENERAL.—Nothing in this section may be construed to diminish any rights otherwise protected by Federal law.

''(B) PROHIBITION ON DISCRIMINATION.—An employer shall use the procedures for document verification set forth in this paragraph for all employees without regard to race, color, religion, sex, national origin, or, unless specifically permitted in this section, to citizenship status.

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

''(8) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to directly or indirectly authorize the issuance, use, or establishment of a national identification card.

''(d) EMPLOYMENT VERIFICATION SYSTEM.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT.—The Secretary, in consultation with the Commissioner, shall establish the Employment Verification System.

''(B) MONITORING.—The Secretary shall create the necessary processes to monitor—

''(i) the functioning of the System, including the volume of the workflow, the speed of processing of queries, the speed and accuracy of responses;

''(ii) the misuse of the System, including the prevention of fraud or identity theft;

''(iii) whether the use of the System results in wrongful adverse actions or discrimination based upon a prohibited factor against citizens or nationals of the United States or individuals who have employment authorized status; and

''(iv) the security, integrity, and privacy of the System.

''(C) PROCEDURES.—The Secretary—

''(i) shall create processes to provide an individual with direct access to the individual's case history in the System, including—

''(I) the identities of all persons or entities that have queried the individual through the System;

''(II) the date of each such query; and

''(III) the System response for each such query; and

''(ii) in consultation with the Commissioner, shall develop—

''(I) protocols to notify an individual, in a timely manner through the use of electronic correspondence or mail, that a query for the individual has been processed through the System; or

''(II) a process for the individual to submit additional queries to the System or notify the Secretary of potential identity fraud.

''(2) PARTICIPATION REQUIREMENTS.—

''(A) FEDERAL GOVERNMENT.—Except as provided in subparagraph (B), all agencies and departments in the executive, legislative, or judicial branches of the Federal Government shall participate in the System beginning on the earlier of—

''(i) the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, to the extent required under section 402(e)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a) and as already implemented by each agency or department; or

''(ii) the date that is 90 days after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act.

''(B) FEDERAL CONTRACTORS.—Federal contractors shall participate in the System as provided in the final rule relating to employment eligibility verification published in the Federal Register on November 14, 2008 (73 Fed. Reg. 67,651), or any similar subsequent regulation, for which purpose references to

E-Verify in the final rule shall be construed to apply to the System.

''(C) CRITICAL INFRASTRUCTURE.—

''(i) IN GENERAL.—Beginning on the date that is 1 year after the date on which regulations are published implementing this subsection, the Secretary may authorize or direct any employer, person, or entity responsible for granting access to, protecting, securing, operating, administering, or regulating part of the critical infrastructure (as defined in section 1016(e) of the Critical Infrastructure Protection Act of 2001 (42 U.S.C. 5195c(e))) to participate in the System to the extent the Secretary determines that such participation will assist in the protection of the critical infrastructure.

''(ii) NOTIFICATION TO EMPLOYERS.—The Secretary shall notify an employer required to participate in the System under this subparagraph not later than 90 days before the date on which the employer is required to participate.

''(D) EMPLOYERS WITH MORE THAN 10,000 EMPLOYEES.—Not later than 1 year after regulations are published implementing this subsection, all employers with more than 10,000 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(E) EMPLOYERS WITH MORE THAN 500 EMPLOYEES.—Not later than 2 years after regulations are published implementing this subsection, all employers with more than 500 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(F) EMPLOYERS WITH MORE THAN 20 EMPLOYEES.—Not later than 3 years after regulations are published implementing this subsection, all employers with more than 20 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(G) AGRICULTURAL EMPLOYMENT.—Not later than 4 years after regulations are published implementing this subsection, employers of employees performing agricultural employment (as defined in section 218A of this Act and section 2202 of the Border Security, Economic Opportunity, and Immigration Modernization Act) shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents. An agricultural employee shall not be counted for purposes of subparagraph (D), (E), or (F).

''(H) ALL EMPLOYERS.—Not later than 4 years after regulations are published implementing this subsection, all employers shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(I) TRIBAL GOVERNMENT EMPLOYERS.—

''(i) RULEMAKING.—In developing regulations to implement this subsection, the Secretary shall—

''(I) consider the effects of this section on federally recognized Indian tribes and tribal members; and

''(II) consult with the governments of federally recognized Indian tribes.

''(ii) REQUIRED PARTICIPATION.—Not later than 4 years after regulations are published implementing this subsection, all employers owned by, or entities of, the government of a federally recognized Indian tribe shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(J) IMMIGRATION LAW VIOLATORS.—

''(i) ORDERS FINDING VIOLATIONS.—An order finding any employer to have violated this section or section 274C may, in the Secretary's discretion, require the employer to participate in the System with respect to newly hired employees and employees with expiring temporary employment authorization documents, if such employer is not otherwise required to participate in the System under this section. The Secretary shall monitor such employer's compliance with System procedures.

''(ii) PATTERN OR PRACTICE OF VIOLATIONS.—The Secretary may require an employer that is required to participate in the System with respect to newly hired employees to participate in the System with respect to the employer's current employees if the employer is determined by the Secretary or other appropriate authority to have engaged in a pattern or practice of violations of the immigration laws of the United States.

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

''(3) CONSEQUENCE OF FAILURE TO PARTICIPATE.—

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

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

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

''(B) EXCEPTION.—

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

''(ii) USE AS EVIDENCE.—Nothing in this paragraph may be construed to limit the use in the prosecution of a Federal crime, in a manner otherwise consistent with Federal criminal law and procedure, of evidence relating to the employer's failure to comply with requirements of the System.

''(4) PROCEDURES FOR PARTICIPANTS IN THE SYSTEM.—

''(A) IN GENERAL.—An employer participating in the System shall register such participation with the Secretary and, when hiring any individual for employment in the United States, shall comply with the following:

''(i) REGISTRATION OF EMPLOYERS.—The Secretary, through notice in the Federal Register, shall prescribe procedures that employers shall be required to follow to register with the System.

''(ii) UPDATING INFORMATION.—The employer is responsible for providing notice of any change to the information required under subclauses (I), (II), and (III) of clause (v) before conducting any further inquiries within the System, or on such other schedule as the Secretary may prescribe.

''(iii) TRAINING.—The Secretary shall require employers to undergo such training as the Secretary determines to be necessary to ensure proper use, protection of civil rights and civil liberties, privacy, integrity, and security of the System. To the extent practicable, such training shall be made available electronically on the U.S. Citizenship and Immigration Services website.

''(iv) NOTIFICATION TO EMPLOYEES.—The employer shall inform individuals hired for employment that the System—

''(I) will be used by the employer;

''(II) may be used for immigration enforcement purposes; and

''(III) may not be used to discriminate or to take adverse action against a national of the United States or an alien who has employment authorized status.

''(v) PROVISION OF ADDITIONAL INFORMATION.—The employer shall obtain from the individual (and the individual shall provide) and shall record in such manner as the Secretary may specify—

''(I) the individual's social security account number;

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

''(III) such other information as the Secretary may require to determine the identity and employment authorization of an individual.

''(vi) PRESENTATION OF DOCUMENTATION.—The employer, and the individual whose identity and employment authorized status are being confirmed, shall fulfill the requirements under subsection (c).

''(B) SEEKING CONFIRMATION.—

''(i) IN GENERAL.—An employer shall use the System to confirm the identity and employment authorized status of any individual during—

''(I) the period beginning on the date on which the individual accepts an offer of employment and ending 3 business days after the date on which employment begins; or

''(II) such other reasonable period as the Secretary may prescribe.

''(ii) LIMITATION.—An employer may not make the starting date of an individual's employment or training or any other term and condition of employment dependent on the receipt of a confirmation of identity and employment authorized status by the System.

''(iii) REVERIFICATION.—If an individual has a limited period of employment authorized status, the individual's employer shall reverify such status through the System not later than 3 business days after the last day of such period.

''(iv) OTHER EMPLOYMENT.—For employers directed by the Secretary to participate in the System under paragraph (2)(C)(i) to protect critical infrastructure or otherwise specified circumstances in this section to verify their entire workforce, the System may be used for initial verification of an individual who was hired before the employer became subject to the System, and the employer shall initiate all required procedures on or before such date as the Secretary shall specify.

''(v) NOTIFICATION.—

''(I) IN GENERAL.—The Secretary shall provide, and the employer shall utilize, as part of the System, a method of notifying employers of a confirmation or nonconfirmation of an individual's identity and employment authorized status, or a notice that further action is required to verify such identity or employment eligibility (referred to in this subsection as a further action notice).

''(II) PROCEDURES.—The Secretary shall—

''(aa) directly notify the individual and the employer, by means of electronic correspondence, mail, text message, telephone, or other direct communication, of a nonconfirmation or further action notice;

''(bb) provide information about filing an administrative appeal under paragraph (6) and a filing for review before an administrative law judge under paragraph (7); and

''(cc) establish procedures to directly notify the individual and the employer of a confirmation.

''(III) IMPLEMENTATION.—The Secretary may provide for a phased-in implementation of the notification requirements under this clause, as appropriate. The notification system shall cover all inquiries not later than 1 year from the date of the enactment of the

Border Security, Economic Opportunity, and Immigration Modernization Act.

''(C) CONFIRMATION OR NONCONFIRMATION.—

''(i) INITIAL RESPONSE.—

''(I) IN GENERAL.—Except as provided in subclause (II), the System shall provide—

''(aa) a confirmation of an individual's identity and employment authorized status or a further action notice at the time of the inquiry; and

''(bb) an appropriate code indicating such confirmation or such further action notice.

''(II) ALTERNATIVE DEADLINE.—If the System is unable to provide immediate confirmation or further action notice for technological reasons or due to unforeseen circumstances, the System shall provide a confirmation or further action notice not later than 3 business days after the initial inquiry.

''(ii) CONFIRMATION UPON INITIAL INQUIRY.—If the employer receives an appropriate confirmation of an individual's identity and employment authorized status under the System, the employer shall record the confirmation in such manner as the Secretary may specify.

''(iii) FURTHER ACTION NOTICE AND LATER CONFIRMATION OR NONCONFIRMATION.—

''(I) NOTIFICATION AND ACKNOWLEDGMENT THAT FURTHER ACTION IS REQUIRED.—Not later than 3 business days after an employer receives a further action notice of an individual's identity or employment eligibility under the System, or during such other reasonable time as the Secretary may prescribe, the employer shall notify the individual for whom the confirmation is sought of the further action notice and any procedures specified by the Secretary for addressing such notice. The further action notice shall be given to the individual in writing and the employer shall acknowledge in the System under penalty of perjury that it provided the employee with the further action notice. The individual shall affirmatively acknowledge in writing, or in such other manner as the Secretary may specify, the receipt of the further action notice from the employer. If the individual refuses to acknowledge the receipt of the further action notice, or acknowledges in writing that the individual will not contest the further action notice under subclause (II), the employer shall notify the Secretary in such manner as the Secretary may specify.

''(II) CONTEST.—Not later than 10 business days after receiving notification of a further action notice under subclause (I), the individual shall contact the appropriate Federal agency and, if the Secretary so requires, appear in person for purposes of verifying the individual's identity and employment eligibility. The Secretary, in consultation with the Commissioner and other appropriate Federal agencies, shall specify an available secondary verification procedure to confirm the validity of information provided and to provide a confirmation or nonconfirmation. Any procedures for reexamination shall not limit in any way an employee's right to appeal a nonconfirmation.

''(III) NO CONTEST.—If the individual refuses to acknowledge receipt of the further action notice, acknowledges that the individual will not contest the further action notice as provided in subclause (I), or does not contact the appropriate Federal agency within the period specified in subclause (II), following expiration of the period specified in subclause (II), a nonconfirmation shall be issued. The employer shall record the nonconfirmation in such manner as the Secretary may specify and terminate the individual's employment. An individual's failure to contest a further action notice shall not be considered an admission of guilt with respect to any violation of this section or any provision of law.

''(IV) CONFIRMATION OR NONCONFIRMATION.—Unless the period is extended in accordance with this subclause, the System shall provide a confirmation or nonconfirmation not later than 10 business days after the date on which the individual contests the further action notice under subclause (II). If the Secretary determines that good cause exists, after taking into account adverse impacts to the employer, and including time to permit the individual to obtain and provide needed evidence of identity or employment eligibility, the Secretary shall extend the period for providing confirmation or nonconfirmation for stated periods beyond 10 business days. When confirmation or nonconfirmation is provided, the confirmation system shall provide an appropriate code indicating such confirmation or nonconfirmation.

''(V) REEXAMINATION.—Nothing in this section shall prevent the Secretary from establishing procedures to reexamine a case where a confirmation or nonconfirmation has been provided if subsequently received information indicates that the confirmation or nonconfirmation may not have been correct. Any procedures for reexamination shall not limit in any way an employee's right to appeal a nonconfirmation.

''(VI) EMPLOYEE PROTECTIONS.—An employer may not terminate employment or take any other adverse action against an individual solely because of a failure of the individual to have identity and employment eligibility confirmed under this subsection until—

''(aa) a nonconfirmation has been issued;

''(bb) if the further action notice was contested, the period to timely file an administrative appeal has expired without an appeal or the contestation to the further action notice is withdrawn; or

''(cc) if an appeal before an administrative law judge under paragraph (7) has been filed, the nonconfirmation has been upheld or the appeal has been withdrawn or dismissed.

''(iv) NOTICE OF NONCONFIRMATION.—Not later than 3 business days after an employer receives a nonconfirmation, or during such other reasonable time as the Secretary may provide, the employer shall notify the individual who is the subject of the nonconfirmation, and provide information about filing an administrative appeal pursuant to paragraph (6) and a request for a hearing before an administrative law judge pursuant to paragraph (7). The nonconfirmation notice shall be given to the individual in writing and the employer shall acknowledge in the System under penalty of perjury that it provided the notice (or adequately attempted to provide notice, but was unable to do so despite reasonable efforts). The individual shall affirmatively acknowledge in writing, or in such other manner as the Secretary may prescribe, the receipt of the nonconfirmation notice from the employer. If the individual refuses or fails to acknowledge the receipt of the nonconfirmation notice, the employer shall notify the Secretary in such manner as the Secretary may prescribe.

''(D) CONSEQUENCES OF NONCONFIRMATION.—

''(i) TERMINATION OF CONTINUED EMPLOYMENT.—Except as provided in clause (iii), an employer that has received a nonconfirmation regarding an individual and has made reasonable efforts to notify the individual in accordance with subparagraph (C)(iv) shall terminate the employment of the individual upon the expiration of the time period specified in paragraph (7).

''(ii) CONTINUED EMPLOYMENT AFTER NONCONFIRMATION.—If the employer continues to employ an individual after receiving nonconfirmation and exhaustion of all appeals or expiration of all rights to appeal if not appealed, in violation of clause (i), a rebuttable presumption is created that the employer has violated paragraphs (1)(A) and (2) of subsection (a). Such presumption shall not apply in any prosecution under subsection (k)(1).

''(iii) EFFECT OF ADMINISTRATIVE APPEAL OR REVIEW BY ADMINISTRATIVE LAW JUDGE.—If an individual files an administrative appeal of the nonconfirmation within the time period specified in paragraph (6)(A), or files for review with an administrative law judge specified in paragraph (7)(A), the employer shall not terminate the individual's employment under this subparagraph prior to the resolution of the administrative appeal unless the Secretary or Commissioner terminates the stay under paragraph (6)(B) or (7)(B).

''(iv) WEEKLY REPORT.—The Director of U.S. Citizenship and Immigration Services shall submit a weekly report to the Assistant Secretary for Immigration and Customs Enforcement that includes, for each individual who receives final nonconfirmation through the System—

''(I) the name of such individual;

''(II) his or her social security number or alien file number;

''(III) the name and contact information for his or her current employer; and

''(IV) any other critical information that the Assistant Secretary determines to be appropriate.

''(v) OTHER REFERRAL.—The Director of U.S. Citizenship and Immigration Services shall refer to the Assistant Secretary for Immigration and Customs Enforcement for appropriate action by the Assistant Secretary or for referral by the Assistant Secretary to another law enforcement agency, as appropriate—

''(I) any case in which the Director believes that a social security number has been falsely or fraudulently used; and

''(II) any case in which a false or fraudulent document is used by an employee who has received a further action notice to resolve such notice.

''(E) OBLIGATION TO RESPOND TO QUERIES AND ADDITIONAL INFORMATION.—

''(i) IN GENERAL.—Employers shall comply with requests for information from the Secretary and the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, including queries concerning current and former employees, within the time frame during which records are required to be maintained under this section regarding such former employees, if such information relates to the functioning of the System, the accuracy of the responses provided by the System, or any suspected misuse, discrimination, fraud, or identity theft in the use of the System. Failure to comply with a request under this clause constitutes a violation of subsection (a)(1)(B).

''(ii) ACTION BY INDIVIDUALS.—

''(I) IN GENERAL.—Individuals being verified through the System may be required to take further action to address questions identified by the Secretary or the Commissioner regarding the documents relied upon for purposes of subsection (c).

''(II) NOTIFICATION.—Not later than 3 business days after the receipt of such questions regarding an individual, or during such other reasonable time as the Secretary may prescribe, the employer shall—

''(aa) notify the individual of any such requirement for further actions; and

''(bb) record the date and manner of such notification.

''(III) ACKNOWLEDGMENT.—The individual shall acknowledge the notification received from the employer under subclause (II) in writing, or in such other manner as the Secretary may prescribe.

''(iii) RULEMAKING.—

''(I) IN GENERAL.—The Secretary, in consultation with the Commissioner and the Attorney General, is authorized to issue regulations implementing, clarifying, and supplementing the requirements under this subparagraph—

''(aa) to facilitate the functioning, accuracy, and fairness of the System;

''(bb) to prevent misuse, discrimination, fraud, or identity theft in the use of the System; or

''(cc) to protect and maintain the confidentiality of information that could be used to locate or otherwise place at risk of harm victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking, and of the applicant or beneficiary of any petition described in section 384(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367(a)(2)).

''(II) NOTICE.—The regulations issued under subclause (I) shall be—

''(aa) published in the Federal Register; and

''(bb) provided directly to all employers registered in the System.

''(F) DESIGNATED AGENTS.—The Secretary shall establish a process—

''(i) for certifying, on an annual basis or at such times as the Secretary may prescribe, designated agents and other System service providers seeking access to the System to perform verification queries on behalf of employers, based upon training, usage, privacy, and security standards prescribed by the Secretary;

''(ii) for ensuring that designated agents and other System service providers are subject to monitoring to the same extent as direct access users; and

''(iii) for establishing standards for certification of electronic I–9 programs.

''(G) REQUIREMENT TO PROVIDE INFORMATION.—

''(i) IN GENERAL.—No later than 3 months after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Secretary, in consultation with the Secretary of Labor, the Secretary of Agriculture, the Commissioner, the Attorney General, the Equal Employment Opportunity Commission, and the Administrator of the Small Business Administration, shall commence a campaign to disseminate information respecting the procedures, rights, and remedies prescribed under this section.

''(ii) CAMPAIGN REQUIREMENTS.—The campaign authorized under clause (i)—

''(I) shall be aimed at increasing the knowledge of employers, employees, and the general public concerning employer and employee rights, responsibilities, and remedies under this section; and

''(II) shall be coordinated with the public education campaign conducted by U.S. Citizenship and Immigration Services.

''(iii) ASSESSMENT.—The Secretary shall assess the success of the campaign in achieving the goals of the campaign.

''(iv) AUTHORITY TO CONTRACT.—In order to carry out and assess the campaign under this subparagraph, the Secretary may, to the extent deemed appropriate and subject to the availability of appropriations, contract with public and private organizations for outreach and assessment activities under the campaign.

''(v) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $40,000,000 for each of the fiscal years 2014 through 2016.

''(H) AUTHORITY TO MODIFY INFORMATION REQUIREMENTS.—Based on a regular review of the System and the document verification procedures to identify misuse or fraudulent use and to assess the security of the documents and processes used to establish identity or employment authorized status, the Secretary, in consultation with the Commissioner, after publication of notice in the Federal Register and an opportunity for public comment, may modify, if the Secretary determines that the modification is necessary to ensure that the System accurately and reliably determines the identity and employment authorized status of employees and maintain existing protections against misuse, discrimination, fraud, and identity theft—

''(i) the information that shall be presented to the employer by an individual;

''(ii) the information that shall be provided to the System by the employer; and

''(iii) the procedures that shall be followed by employers with respect to the process of verifying an individual through the System.

''(I) SELF-VERIFICATION.—Subject to appropriate safeguards to prevent misuse of the system, the Secretary, in consultation with the Commissioner, shall establish a secure self-verification procedure to permit an individual who seeks to verify the individual's own employment eligibility to contact the appropriate agency and, in a timely manner, correct or update the information contained in the System.

''(5) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE SYSTEM.—An employer shall not be liable to a job applicant, an employee, the Federal Government, or a State or local government, under Federal, State, or local criminal or civil law for any employment-related action taken with respect to a job applicant or employee in good faith reliance on information provided by the System.

''(6) ADMINISTRATIVE APPEAL.—

''(A) IN GENERAL.—An individual who is notified of a nonconfirmation may, not later than 10 business days after the date that such notice is received, file an administrative appeal of such nonconfirmation with the Commissioner if the notice is based on records maintained by the Commissioner, or in any other case, with the Secretary. An individual who did not timely contest a further action notice timely received by that individual for which the individual acknowledged receipt may not be granted a review under this paragraph.

''(B) ADMINISTRATIVE STAY OF NONCONFIRMATION.—The nonconfirmation shall be automatically stayed upon the timely filing of an administrative appeal, unless the nonconfirmation resulted after the individual acknowledged receipt of the further action notice but failed to contact the appropriate agency within the time provided. The stay shall remain in effect until the resolution of the appeal, unless the Secretary or the Commissioner terminates the stay based on a determination that the administrative appeal is frivolous or filed for purposes of delay.

''(C) REVIEW FOR ERROR.—The Secretary and the Commissioner shall develop procedures for resolving administrative appeals regarding nonconfirmations based upon the information that the individual has provided, including any additional evidence or argument that was not previously considered. Any such additional evidence or argument shall be filed within 10 business days of the date the appeal was originally filed. Appeals shall be resolved within 20 business days after the individual has submitted all evidence and arguments the individual wishes to submit, or has stated in writing that there is no additional evidence that the individual wishes to submit. The Secretary and the Commissioner may, on a case by case basis for good cause, extend the filing and submission period in order to ensure accurate resolution of an appeal before the Secretary or the Commissioner.

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

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

''(7) REVIEW BY ADMINISTRATIVE LAW JUDGE.—

''(A) IN GENERAL.—Not later than 30 days after the date an individual receives a final determination on an administrative appeal under paragraph (6), the individual may obtain review of such determination by filing a complaint with a Department of Justice administrative law judge in accordance with this paragraph.

''(B) STAY OF NONCONFIRMATION.—The nonconfirmation related to such final determination shall be automatically stayed upon the timely filing of a complaint under this paragraph, and the stay shall remain in effect until the resolution of the complaint, unless the administrative law judge determines that the action is frivolous or filed for purposes of delay.

''(C) SERVICE.—The respondent to complaint filed under this paragraph is either the Secretary or the Commissioner, but not both, depending upon who issued the administrative order under paragraph (6). In addition to serving the respondent, the plaintiff shall serve the Attorney General.

''(D) AUTHORITY OF ADMINISTRATIVE LAW JUDGE.—

''(i) RULES OF PRACTICE.—The Secretary shall promulgate regulations regarding the rules of practice in appeals brought pursuant to this subsection.

''(ii) AUTHORITY OF ADMINISTRATIVE LAW JUDGE.—The administrative law judge shall have power to—

''(I) terminate a stay of a nonconfirmation under subparagraph (B) if the administrative law judge determines that the action is frivolous or filed for purposes of delay;

''(II) adduce evidence at a hearing;

''(III) compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing;

''(IV) resolve claims of identity theft; and

''(V) enter, upon the pleadings and any evidence adduced at a hearing, a decision affirming or reversing the result of the agency, with or without remanding the cause for a rehearing.

''(iii) SUBPOENA.—In case of contumacy or refusal to obey a subpoena lawfully issued under this section and upon application of the administrative law judge, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt of such court.

''(iv) TRAINING.—An administrative law judge hearing cases shall have special training respecting employment authorized status verification.

''(E) ORDER BY ADMINISTRATIVE LAW JUDGE.—

''(i) IN GENERAL.—The administrative law judge shall issue and cause to be served to the parties in the proceeding an order which may be appealed as provided in subparagraph (G).

''(ii) CONTENTS OF ORDER.—Such an order shall uphold or reverse the final determination on the request for reconsideration and order lost wages and other appropriate remedies as provided in subparagraph (F).

''(F) COMPENSATION FOR ERROR.—

''(i) IN GENERAL.—In cases in which the administrative law judge reverses the final determination of the Secretary or the Commissioner made under paragraph (6), and the administrative law judge finds that—

''(I) the nonconfirmation was due to gross negligence or intentional misconduct of the employer, the administrative law judge may order the employer to pay the individual lost wages, and reasonable costs and attorneys' fees incurred during administrative and judicial review; or

''(II) such final determination was erroneous by reason of the negligence of the Secretary or the Commissioner, the administrative law judge may order the Secretary or the Commissioner to pay the individual lost wages, and reasonable costs and attorneys' fees incurred during the administrative appeal and the administrative law judge review.

''(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work schedule that prevailed prior to termination. The individual shall be compensated for wages lost beginning on the first scheduled work day after employment was terminated and ending 120 days after completion of the administrative law judge's review described in this paragraph or the day after the individual is reinstated or obtains employment elsewhere, whichever occurs first. If the individual obtains employment elsewhere at a lower wage rate, the individual shall be compensated for the difference in wages for the period ending 120 days after completion of the administrative law judge review process. No lost wages shall be awarded for any period of time during which the individual was not in employment authorized status.

''(iii) PAYMENT OF COMPENSATION.—Notwithstanding any other law, payment of compensation for lost wages, costs, and attorneys' fees under this paragraph, or compromise settlements of the same, shall be made as provided by section 1304 of title 31, United States Code. Appropriations made available to the Secretary or the Commissioner, accounts provided for under section 286, and funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund shall not be available to pay such compensation.

''(G) APPEAL.—No later than 45 days after the entry of such final order, any person adversely affected by such final order may seek review of such order in the United States Court of Appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

''(8) MANAGEMENT OF THE SYSTEM.—

''(A) IN GENERAL.—The Secretary is authorized to establish, manage, and modify the System, which shall—

''(i) respond to inquiries made by participating employers at any time through the internet, or such other means as the Secretary may designate, concerning an individual's identity and whether the individual is in employment authorized status;

''(ii) maintain records of the inquiries that were made, of confirmations provided (or not provided), and of the codes provided to employers as evidence of their compliance with their obligations under the System; and

''(iii) provide information to, and require action by, employers and individuals using the System.

''(B) DESIGN AND OPERATION OF SYSTEM.—The System shall be designed and operated—

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

''(ii) to maximize its ease of use by employees, including direct notification of its use, of results, and ability to challenge results;

''(iii) to respond accurately to all inquiries made by employers on whether individuals are authorized to be employed and to register any times when the system is unable to receive inquiries;

''(iv) to maintain appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, misuse by employers and employees, and discrimination;

''(v) to require regularly scheduled refresher training of all users of the System to ensure compliance with all procedures;

''(vi) to allow for auditing of the use of the System to detect misuse, discrimination, fraud, and identity theft, to protect privacy and assess System accuracy, and to preserve the integrity and security of the information in all of the System, including—

''(I) to develop and use tools and processes to detect or prevent fraud and identity theft, such as multiple uses of the same identifying information or documents to fraudulently gain employment;

''(II) to develop and use tools and processes to detect and prevent misuse of the system by employers and employees;

''(III) to develop tools and processes to detect anomalies in the use of the system that may indicate potential fraud or misuse of the system;

''(IV) to audit documents and information submitted by employees to employers, including authority to conduct interviews with employers and employees, and obtain information concerning employment from the employer;

''(vii) to confirm identity and employment authorization through verification and comparison of records as determined necessary by the Secretary;

''(viii) to confirm electronically the issuance of the employment authorization or identity document and—

''(I) if such photograph is available, to display the digital photograph that the issuer placed on the document so that the employer can compare the photograph displayed to the photograph on the document presented by the employee; or

''(II) if a photograph is not available from the issuer, to confirm the authenticity of the document using additional security measures set forth in subsection (c)(1)(F)(iv);

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

''(I) to use state-of-the-art technology to determine to a high degree of accuracy whether an individual presenting biographic information is the individual with that true identity;

''(II) to retain under the control of the Secretary the use of all determinations communicated by the System, regardless of the entity operating the system pursuant to a contract or other agreement with a nongovernmental entity or entities to the extent helpful in acquiring the best technology to implement the additional security measures;

''(III) to be integrated with the System so that employment authorizations will be determined for all individuals identified as presenting their true identities through the databases maintained by the Commissioner of Social Security and the Secretary;

''(IV) to use tools and processes to detect and prevent further action notices and final nonconfirmations that are not correlated to fraud or identity theft;

''(V) to make risk-based assessments regarding the reliability of a claim of identity made by an individual presenting biographic information and to tailor the identity determination in accordance with those assessments;

''(VI) to permit queries to be presented to individuals subject to identity verification at the time their identities are being verified in a manner that permits rapid communication through Internet, mobile phone, and landline telephone connections to facilitate identity proofing;

''(VII) to generate queries that conform to the context of the identity verification process and the circumstances of the individual whose identity is being verified;

''(VIII) to use publicly available databases and databases under the jurisdiction of the Commissioner of Social Security, the Secretary, and the Secretary of State to formulate queries to be presented to individuals whose identities are being verified, as appropriate;

''(IX) to not retain data collected by the System within any database separate from the database in which the operating system is located and to limit access to the existing databases to a reference process that shields the operator of the System from acquiring possession of the data beyond the formulation of queries and verification of responses;

''(X) to not permit individuals or entities using the System to access any data related to the individuals whose identities are being verified beyond confirmations, further action notices, and final nonconfirmations of identity;

''(XI) to include, if feasible, a capability for permitting document or other inputs that can be offered to individuals and entities using the System and that may be used at the option of employees to facilitate identity verification, but would not be required of either employers or employees; and

''(XII) to the greatest extent possible, in accordance with the time frames specified in this section; and

''(x) to provide appropriate notification directly to employers registered with the System of all changes made by the Secretary or the Commissioner related to allowed and prohibited documents, and use of the System.

''(C) SAFEGUARDS TO THE SYSTEM.—

''(i) REQUIREMENT TO DEVELOP.—The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop policies and procedures to ensure protection of the privacy and security of personally identifiable information and identifiers contained in the records accessed or maintained by the System. The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop and deploy appropriate privacy and security training for the Federal and State employees accessing the records under the System.

''(ii) PRIVACY AUDITS.—The Secretary, acting through the Chief Privacy Officer of the Department, shall conduct regular privacy audits of the policies and procedures established under clause (i) and the Department's compliance with the limitations set forth in subsection (c)(1)(F)(iii)(IV), including any collection, use, dissemination, and maintenance of personally identifiable information and any associated information technology systems, as well as scope of requests for this information. The Chief Privacy Officer shall review the results of the audits and recommend to the Secretary any changes necessary to improve the privacy protections of the program.

''(iii) ACCURACY AUDITS.—

''(I) IN GENERAL.—Not later than November 30 of each year, the Inspector General of the Department of Homeland Security shall submit a report to the Secretary, with a copy to

the President of the Senate and the Speaker of the House of Representatives, that sets forth the error rate of the System for the previous fiscal year and the assessments required to be submitted by the Secretary under subparagraphs (A) and (B) of paragraph (10). The report shall describe in detail the methodology employed for purposes of the report, and shall make recommendations for how error rates may be reduced.

''(II) ERROR RATE DEFINED.—In this clause, the term error rate means the percentage determined by dividing—

''(aa) the number of employment authorized individuals who received further action notices, contested such notices, and were subsequently found to be employment authorized; by

''(bb) the number of System inquiries submitted for employment authorized individuals.

''(III) ERROR RATE DETERMINATION.—The audits required under this clause shall—

''(aa) determine the error rate for identity determinations pursuant to subsection (c)(1)(F) for individuals presenting their true identities in the same manner and applying the same standards as for employment authorization; and

''(bb) include recommendations, as provided in subclause (I), but no reduction in fines pursuant to subclause (IV).

''(IV) REDUCTION OF PENALTIES FOR RECORD-KEEPING OR VERIFICATION PRACTICES FOLLOWING PERSISTENT SYSTEM INACCURACIES.—Notwithstanding subsection (e)(4)(C)(i), in any calendar year following a report by the Inspector General under subclause (I) that the System had an error rate higher than 0.3 percent for the previous fiscal year, the civil penalty assessable by the Secretary or an administrative law judge under that subsection for each first-time violation by an employer who has not previously been penalized under this section may not exceed $1,000.

''(iv) RECORDS SECURITY PROGRAM.—Any person, including a private third party vendor, who retains document verification or System data pursuant to this section shall implement an effective records security program that—

''(I) ensures that only authorized personnel have access to document verification or System data; and

''(II) ensures that whenever such data is created, completed, updated, modified, altered, or corrected in electronic format, a secure record is created that establishes the date of access, the identity of the individual who accessed the electronic record, and the particular action taken.

''(v) RECORDS SECURITY PROGRAM.—In addition to the security measures described in clause (iv), a private third party vendor who retains document verification or System data pursuant to this section shall implement an effective records security program that—

''(I) provides for backup and recovery of any records maintained in electronic format to protect against information loss, such as power interruptions; and

''(II) ensures that employees are trained to minimize the risk of unauthorized or accidental alteration or erasure of such data in electronic format.

''(vi) AUTHORIZED PERSONNEL DEFINED.—In this subparagraph, the term authorized personnel means anyone registered as a System user, or anyone with partial or full responsibility for completion of employment authorization verification or retention of data in connection with employment authorization verification on behalf of an employer.

''(D) AVAILABLE FACILITIES AND ALTERNATIVE ACCOMMODATIONS.—The Secretary shall make appropriate arrangements and develop standards to allow employers or employees, including remote hires, who are otherwise unable to access the System to use electronic and telephonic formats (including video conferencing, scanning technology, and other available technologies), Federal Government facilities, public facilities, or other available locations in order to utilize the System.

''(E) RESPONSIBILITIES OF THE SECRETARY.—

''(i) IN GENERAL.—As part of the System, the Secretary shall maintain a reliable, secure method, which, operating through the System and within the time periods specified, compares the name, alien identification or authorization number, or other information as determined relevant by the Secretary, provided in an inquiry against such information maintained or accessed by the Secretary in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and number, whether the alien has employment authorized status (or, to the extent that the Secretary determines to be feasible and appropriate, whether the records available to the Secretary verify the identity or status of a national of the United States), and such other information as the Secretary may prescribe.

''(ii) PHOTOGRAPH DISPLAY.—As part of the System, the Secretary shall establish a reliable, secure method, which, operating through the System, displays the digital photograph described in subparagraph (B)(viii)(I).

''(iii) TIMING OF NOTICES.—The Secretary shall have authority to prescribe when a confirmation, nonconfirmation, or further action notice shall be issued.

''(iv) USE OF INFORMATION.—The Secretary shall perform regular audits under the System, as described in subparagraph (B)(vi) and shall utilize the information obtained from such audits, as well as any information obtained from the Commissioner pursuant to part E of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), for the purposes of this section and to administer and enforce the immigration laws.

''(v) IDENTITY FRAUD PROTECTION.—To prevent identity fraud, not later than 18 months after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Secretary shall—

''(I) in consultation with the Commissioner, establish a program to provide a reliable, secure method for an individual to temporarily suspend or limit the use of the individual's social security account number or other identifying information for verification by the System; and

''(II) for each individual being verified through the System—

''(aa) notify the individual that the individual has the option to limit the use of the individual's social security account number or other identifying information for verification by the System; and

''(bb) provide instructions to the individuals for exercising the option referred to in item (aa).

''(vi) ALLOWING PARENTS TO PREVENT THEFT OF THEIR CHILD'S IDENTITY.—The Secretary, in consultation with the Commissioner, shall establish a program that provides a reliable, secure method by which parents or legal guardians may suspend or limit the use of the social security account number or other identifying information of a minor under their care for the purposes of the System. The Secretary may implement the program on a limited pilot program basis before making it fully available to all individuals.

''(vii) PROTECTION FROM MULTIPLE USE.—The Secretary and the Commissioner shall establish a procedure for identifying and handling a situation in which a social security account number has been identified to be subject to unusual multiple use in the System or is otherwise suspected or determined to have been compromised by identity fraud. Such procedure shall include notifying the legitimate holder of the social security number at the appropriate time.

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

''(ix) CIVIL RIGHTS AND CIVIL LIBERTIES ASSESSMENTS.—

''(I) REQUIREMENT TO CONDUCT.—The Secretary shall conduct regular civil rights and civil liberties assessments of the System, including participation by employers, other private entities, and Federal, State, and local government entities.

''(II) REQUIREMENT TO RESPOND.—Employers, other private entities, and Federal, State, and local entities shall timely respond to any request in connection with such an assessment.

''(III) ASSESSMENT AND RECOMMENDATIONS.—The Officer for Civil Rights and Civil Liberties of the Department shall review the results of each such assessment and recommend to the Secretary any changes necessary to improve the civil rights and civil liberties protections of the System.

''(F) GRANTS TO STATES.—

''(i) IN GENERAL.—The Secretary shall create and administer a grant program to help provide funding for reimbursement of the actual costs to States that grant—

''(I) the Secretary access to driver's license information as needed to confirm that a driver's license presented under subsection (c)(1)(D)(i) confirms the identity of the subject of the System check, and that a driver's license matches the State's records; and

''(II) such assistance as the Secretary may request in order to resolve further action notices or nonconfirmations relating to such information.

''(ii) CONSTRUCTION WITH THE DRIVER'S PRIVACY PROTECTION ACT OF 1994.—The provision of a photograph to the Secretary as described in clause (i) may not be construed as a violation of section 2721 of title 18, United States Code, and is a permissible use under subsection (b)(1) of that section.

''(iii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary, from the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1), $500,000,000 to carry out this subparagraph.

''(G) RESPONSIBILITIES OF THE SECRETARY OF STATE.—As part of the System, the Secretary of State shall provide to the Secretary access to passport and visa information as needed to confirm that a passport, passport card, or visa presented under subsection (c)(1)(C) confirms the identity of the subject of the System check, and that a passport, passport card, or visa photograph matches the Secretary of State's records, and shall provide such assistance as the Secretary may request in order to resolve further action notices or nonconfirmations relating to such information.

''(H) UPDATING INFORMATION.—The Commissioner, the Secretary, and the Secretary of State shall update their information in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

''(9) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, no department, bureau, or other agency of the United States Government or any other entity shall utilize, share, or transmit any information, database, or other records assembled under this subsection for any purpose other than for employment verification

or to ensure secure, appropriate and nondiscriminatory use of the System.

''(10) ANNUAL REPORT AND CERTIFICATION.—Not later than 18 months after the promulgation of regulations to implement this subsection, and annually thereafter, the Secretary shall submit to Congress a report that includes the following:

''(A) An assessment, as submitted to the Secretary by the Inspector General of the Department of Homeland Security pursuant to paragraph (8)(C)(iii)(I), of the accuracy rates of further action notices and other System notices provided by employers to individuals who are authorized to be employed in the United States.

''(B) An assessment, as submitted to the Secretary by the Inspector General of the Department of Homeland Security pursuant to paragraph (8)(C)(iii)(I), of the accuracy rates of further action notices and other System notices provided directly (by the System) in a timely fashion to individuals who are not authorized to be employed in the United States.

''(C) An assessment of any challenges faced by small employers in utilizing the System.

''(D) An assessment of the rate of employer noncompliance (in addition to failure to provide required notices in a timely fashion) in each of the following categories:

''(i) Taking adverse action based on a further action notice.

''(ii) Use of the System for nonemployees or other individuals before they are offered employment.

''(iii) Use of the System to reverify employment authorized status of current employees except if authorized to do so.

''(iv) Use of the System selectively, except in cases in which such use is authorized.

''(v) Use of the System to deny employment or post-employment benefits or otherwise interfere with labor rights.

''(vi) Requiring employees or applicants to use any self-verification feature or to provide self-verification results.

''(vii) Discouraging individuals who receive a further action notice from challenging the further action notice or appealing a determination made by the System.

''(E) An assessment of the rate of employee noncompliance in each of the following categories:

''(i) Obtaining employment when unauthorized with an employer complying with the System in good faith.

''(ii) Failure to provide required documents in a timely manner.

''(iii) Attempting to use fraudulent documents or documents not related to the individual.

''(iv) Misuse of the administrative appeal and judicial review process.

''(F) An assessment of the amount of time taken for—

''(i) the System to provide the confirmation or further action notice;

''(ii) individuals to contest further action notices;

''(iii) the System to provide a confirmation or nonconfirmation of a contested further action notice;

''(iv) individuals to file an administrative appeal of a nonconfirmation; and

''(v) resolving administrative appeals regarding nonconfirmations.

''(11) ANNUAL GAO STUDY AND REPORT.—

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

''(B) REPORT.—Not later than 18 months after the promulgation of regulations to implement this subsection, and yearly thereafter, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under this paragraph. Each such report shall include, at a minimum, the following:

''(i) An assessment of System performance with respect to the rate at which individuals who are eligible for employment in the United States are correctly approved within the required periods, including a separate assessment of such rate for naturalized United States citizens, nationals of the United States, and aliens.

''(ii) An assessment of the privacy and confidentiality of the System and of the overall security of the System with respect to cybertheft and theft or misuse of private data.

''(iii) An assessment of whether the System is being implemented in a manner that is not discriminatory or used for retaliation against employees.

''(iv) An assessment of the most common causes for the erroneous issuance of nonconfirmations by the System and recommendations to correct such causes.

''(v) The recommendations of the Comptroller General regarding System improvements.

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

''(vii) An assessment of the direct and indirect costs incurred by employers in complying with the System, including costs associated with retaining potential employees through the administrative appeals process and receiving a nonconfirmation.

''(viii) An assessment of any backlogs or delays in the System providing the confirmation or further action notice and impacts to hiring by employers.

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

''(12) OUTREACH AND PARTNERSHIP.—

''(A) OUTREACH.—The Secretary is authorized to conduct outreach and establish programs to assist employers in verifying employment authorization and preventing identity fraud.

''(B) PARTNERSHIP INITIATIVE.—The Secretary may establish partnership initiatives between the Federal Government and private sector employers to foster cooperative relationships and to strengthen overall hiring practices.''.

(c) TAXPAYER ADDRESS INFORMATION.—Section 6103(m) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(8) TAXPAYER ADDRESS INFORMATION FURNISHED TO SECRETARY OF HOMELAND SECURITY.—Upon written request from the Secretary of Homeland Security, the Secretary shall disclose the mailing address of any taxpayer who is entitled to receive a notification from the Secretary of Homeland Security pursuant to paragraphs (1)(C) and (8)(E)(vii) of section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) for use only by employees of the Department of Homeland for the purpose of mailing such notification to such taxpayer.''.

(d) SOCIAL SECURITY ACCOUNT STATEMENTS.—Section 1143(a)(2) of the Social Security Act (8 U.S.C. 1320b–13(a)(2)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(F) to the extent resources are available, information in the Commissioner's records indicating that a query was submitted to the employment verification system established under section 274A (d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) under that individual's name or social security number; and

''(G) a toll-free telephone number operated by the Department of Homeland Security for employment verification system inquiries and a link to self-verification procedure established under section 274A(d)(4)(I) of such Act.''.

(e) GOOD FAITH COMPLIANCE.—Section 274B(a) (8 U.S.C. 1324b(a)), as amended by section 3105(a) of this Act, is further amended by adding at the end the following:

''(10) TREATMENT OF CERTAIN VIOLATIONS AFTER REASONABLE STEPS IN GOOD FAITH.—Notwithstanding paragraphs (4), (6), and (7), a person, other entity, or employment agency shall not be liable for civil penalties described in section 274B(g)(2)(B)(iv) that are related to a violation of any such paragraph if the person, entity, or employment agency has taken reasonable steps, in good faith, to comply with such paragraphs at issue, unless the person, other entity, or employment agency—

''(A) was, for similar conduct, subject to—

''(i) a reasonable cause determination by the Office of Special Counsel for Immigration Related Unfair Employment Practices; or

''(ii) a finding by an administrative law judge that a violation of this section has occurred; or

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

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

''(12) RULES OF CONSTRUCTION.—Nothing in this section may be construed—

''(A) to permit the Office of Special Counsel for Immigration-Related Unfair Employment Practices or an administrative law judge hearing a claim under this Section to enforce any workplace rights other than those guaranteed under this section; or

''(B) to prohibit any person, other entity, or employment agency from using an identity verification system, service, or method (in addition to the employment verification system described in section 274A(d)), until the date on which the employer is required to participate in the System under section 274A(d)(2) and the additional security measures mandated by section 274A(c)(F)(iv) have become available to verify the identity of a newly hired employee, if such system—

''(i) is used in a uniform manner for all newly hired employees;

''(ii) is not used for the purpose or with the intent of discriminating against any individual;

''(iii) provides for timely notice to employees run through the system of a mismatch or failure to confirm identity; and

''(iv) sets out procedures for employees run through the system to resolve a mismatch or other failure to confirm identity.

''(13) LIABILITY.—A person, entity, or employment agency that uses an identity verification system, service, or method in a way that conflicts with the requirements set forth in paragraph (10) shall be subject to liability under paragraph (4)(I).''.

(f) MAINTENANCE OF REASONABLE LEVELS OF SERVICE AND ENFORCEMENT.—Notwithstanding section 3301(b)(1), amounts appropriated pursuant to such section shall be used to maintain reasonable levels of service

and enforcement rather than a specific numeric increase in the number of Department personnel dedicated to administering the Employment Verification System.

SA 1727. Mr. PORTMAN (for himself and Mr. TESTER) submitted an amendment intended to be proposed to amendment SA 1224 proposed by Mr. REED to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. EMPLOYMENT VERIFICATION SYSTEM IMPROVEMENTS.

(a) TRIGGER.—In addition to the conditions set forth in section 3(c)(2)(A), the Secretary may not adjust the status of aliens who have been granted registered provisional immigrant status, except for aliens granted blue card status under section 2201 of this Act or described in section 245D(b) of the Immigration and Nationality Act, unless the Secretary, after consultation with the Comptroller General of the United States, and as part of the written certification submitted to the President and Congress pursuant to section 3(c)(2)(A), certifies that the Secretary has implemented the mandatory employment verification system, including the full incorporation of the photo tool and additional security measures, required by section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a), as amended by section 3101, and has required the system's use by all employers to prevent unauthorized workers from obtaining employment in the United States.

(b) EMPLOYMENT VERIFICATION SYSTEM.—Section 274A (8 U.S.C. 1324a), as amended by section 3101, is further amended—

(1) in subsection (a)(5)(A)(ii), by inserting '', by clear and convincing evidence,'' after demonstrates; and

(2) by striking subsections (c) and (d) and inserting the following:

''(c) DOCUMENT VERIFICATION REQUIREMENTS.—Any employer hiring an individual for employment in the United States shall comply with the following requirements and the requirements under subsection (d) to verify that the individual has employment authorized status.

''(1) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.—

''(A) IN GENERAL.—

''(i) EXAMINATION BY EMPLOYER.—An employer shall attest, under penalty of perjury on a form prescribed by the Secretary, that the employer has verified the identity and employment authorization status of the individual—

''(I) by examining—

''(aa) a document specified in subparagraph (C); or

''(bb) a document specified in subparagraph (D) and a document specified in subparagraph (E); and

''(II) by utilizing an identity authentication mechanism described in clause (iii) or (iv) of subparagraph (F).

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

''(B) REQUIREMENTS.—

''(i) FORM.—The form referred to in subparagraph (A)(i)—

''(I) shall be prescribed by the Secretary not later than 6 months after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act;

''(II) shall be available as—

''(aa) a paper form;

''(bb) a form that may be completed by an employer via telephone or video conference;

''(cc) an electronic form; and

''(dd) a form that is integrated electronically with the requirements under subparagraph (F) and subsection (d).

''(ii) ATTESTATION.—Each such form shall require the employer to sign an attestation with a handwritten, electronic, or digital signature, according to standards prescribed by the Secretary.

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

''(I) the employer has, in good faith, followed applicable regulations and any written procedures or instructions provided by the Secretary; and

''(II) a reasonable person would conclude that the documentation is genuine and relates to the individual presenting such documentation.

''(C) DOCUMENTS ESTABLISHING IDENTITY AND EMPLOYMENT AUTHORIZED STATUS.—A document is specified in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

''(i) A United States passport or passport card issued to an individual pursuant to the Secretary of State's authority under the Act entitled An Act to regulate the issue and validity of passports, and for other purposes, approved July 3, 1926 (22 U.S.C. 211a).

''(ii) A document issued to an alien evidencing that the alien is lawfully admitted for permanent residence or another document issued to an individual evidencing the individual's employment authorized status, as designated by the Secretary, if the document—

''(I) contains a photograph of the individual, or such other personal identifying information relating to the individual as the Secretary determines, by regulation, to be sufficient for the purposes of this subparagraph;

''(II) is evidence of employment authorized status; and

''(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(iii) An enhanced driver's license or identification card issued to a national of the United States by a State, an outlying possession of the United States, or a federally recognized Indian tribe that—

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

''(II) the Secretary has certified by notice published in the Federal Register and through appropriate notice directly to employers registered in the System 3 months prior to publication that such enhanced license or card is suitable for use under this subparagraph based upon the accuracy and security of the issuance process, security features on the document, and such other factors as the Secretary may prescribe.

''(iv) A passport issued by the appropriate authority of a foreign country accompanied by a Form I–94 or Form I–94A (or similar successor record), or other documentation as designated by the Secretary that specifies the individual's status in the United States and the duration of such status if the proposed employment is not in conflict with any restriction or limitation specified on such form or documentation.

''(v) A passport issued by the Federated States of Micronesia or the Republic of the Marshall Islands with evidence of nonimmigrant admission to the United States under the Compact of Free Association between the United States and the Federated States of Micronesia or the Republic of the Marshall Islands.

''(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document is specified in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

''(i) A driver's license or identity card that is not described in subparagraph (C)(iii) and is issued to an individual by a State or an outlying possession of the United States, a federally recognized Indian tribe, or an agency (including military) of the Federal Government if the driver's license or identity card includes, at a minimum—

''(I) the individual's photograph, name, date of birth, gender, and driver's license or identification card number; and

''(II) security features to make the license or card resistant to tampering, counterfeiting, and fraudulent use.

''(ii) A voter registration card.

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

''(iv) For individuals under 18 years of age who are unable to present a document listed in clause (i) or (ii), documentation of personal identity of such other type as the Secretary determines will provide a reliable means of identification, which may include an attestation as to the individual's identity by a parent or legal guardian under penalty of perjury.

''(E) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—A document is specified in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

''(i) A social security account number card issued by the Commissioner, other than a card which specifies on its face that the card is not valid to evidence employment authorized status or has other similar words of limitation.

''(ii) Any other documentation evidencing employment authorized status that the Secretary determines and publishes in the Federal Register and through appropriate notice directly to employers registered within the System to be acceptable for purposes of this subparagraph if such documentation, including any electronic security measures linked to such documentation, contains security features to make such documentation resistant to tampering, counterfeiting, and fraudulent use.

''(F) IDENTITY AUTHENTICATION MECHANISM.—

''(i) DEFINITIONS.—In this subparagraph:

''(I) COVERED IDENTITY DOCUMENT.—The term 'covered identity document' means a valid—

''(aa) United States passport, passport card, or a document evidencing lawful permanent residence status or employment authorized status issued to an alien;

''(bb) enhanced driver's license or identity card issued by a participating State or an outlying possession of the United States; or

''(cc) photograph and appropriate identifying information provided by the Secretary of State pursuant to the granting of a visa.

''(II) PARTICIPATING STATE.—The term 'participating State' means a State that has an agreement with the Secretary to provide the Secretary, for purposes of identity verification in the System, with photographs and appropriate identifying information maintained by the State.

''(ii) REQUIREMENT FOR IDENTITY AUTHENTICATION.—In addition to verifying the documents specified in subparagraph (C), (D), or (E), the System shall require each employer

to verify the identity of each new hire using the identity authentication mechanism described in clause (iii) or, for an individual whose identity is not able to be verified using that mechanism, to use the additional security measures provided in clause (iv) after such measures become available. A failure of the System to verify the identity of an individual due to the use of an identity authentication mechanism shall result in a further action notice under subsection (d)(4)(C)(iii).

''(iii) PHOTO TOOL.—

''(I) USE REQUIREMENT.—An employer that hires an individual who has a presented a covered identity document to establish his or her identity and employment authorization under subsection (c) shall verify the identity of such individual using the photo tool described in subclause (II).

''(II) DEVELOPMENT REQUIREMENT.—The Secretary shall develop and maintain a photo tool that enables employers to match the photo on a covered identity document provided to the employer to a photo maintained by a U.S. Citizenship and Immigration Services or other appropriate database.

''(III) INDIVIDUAL QUERIES.—The photo tool capability shall be incorporated into the System and made available to employers not later than 1 year after the date on which regulations are published implementing subsection (d).

''(IV) LIMITATIONS ON USE OF INFORMATION.—Information and images acquired from State motor vehicle databases through the photo tool developed under subclause (II)—

''(aa) may only be used for matching photos to a covered identity document for the purposes of employment verification;

''(bb) shall not be collected or stored by the Federal Government; and

''(cc) may only be disseminated in response to an individual photo tool query.

''(iv) ADDITIONAL SECURITY MEASURES.—

''(I) USE REQUIREMENT.—An employer seeking to hire an individual whose identity is not able to be verified using the photo tool described in clause (iii), because the employee did not present a covered document for employment eligibility verification purposes, shall verify the identity of such individual using the additional security measures described in subclause (II).

''(II) DEVELOPMENT REQUIREMENT.—The Secretary shall develop, after publication in the Federal Register and an opportunity for public comment, specific and effective additional security measures to adequately verify the identity of an individual whose identity is not able to be verified using the photo tool described in clause (iii). Such additional security measures—

''(aa) shall be kept up-to-date with technological advances;

''(bb) shall provide a means of identity authentication in a manner that provides a high level of certainty as to the identity of such individual, using immigration and identifying information that may include review of identity documents or background screening verification techniques using publicly available information; and

''(cc) shall be incorporated into the System and made available to employers not later than 1 year after the date on which regulations are published implementing subsection (d).

''(III) COMPREHENSIVE USE.—An employer may employ the additional security measures set forth in this clause with respect to all individuals the employer hires if the employer notifies the Secretary of such election at the time the employer registers for use of the System under subsection (d)(4)(A)(i) or anytime thereafter. An election under this subclause may be withdrawn 90 days after the employer notifies the Secretary of the employer's intent to discontinue such election.

''(v) AUTOMATED VERIFICATION.—The Secretary—

''(I) may establish a program, in addition to the identity authentication mechanism described in subparagraph (F)(iii), in which the System automatically verifies information contained in a covered identity document issued by a participating State, which is presented under subparagraph (D)(i), including information needed to verify that the covered identity document matches the State's records;

''(II) may not maintain information provided by a participating State in a database maintained by U.S. Citizenship and Immigration Services; and

''(III) may not utilize or disclose such information, except as authorized under this section.

''(G) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary determines, after publication in the Federal Register and an opportunity for public comment, that any document or class of documents specified in subparagraph (B), (C), or (D) does not reliably establish identity or that employment authorized status is being used fraudulently to an unacceptable degree, the Secretary—

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

''(ii) shall directly notify all employers registered within the System of the prohibition through appropriate means.

''(H) AUTHORITY TO ALLOW USE OF CERTAIN DOCUMENTS.—If the Secretary has determined that another document or class of documents, such as a document issued by a federally recognized Indian tribe, may be used to reliably establish identity or employment authorized status, the Secretary—

''(i) may allow the use of that document or class of documents for purposes of this subsection after publication in the Federal Register and an opportunity for public comment;

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

''(iii) shall directly notify all employers registered within the System of the addition through appropriate means.

''(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—An individual, upon commencing employment with an employer, shall—

''(A) attest, under penalty of perjury, on the form prescribed by the Secretary, that the individual is—

''(i) a citizen of the United States;

''(ii) an alien lawfully admitted for permanent residence;

''(iii) an alien who has employment authorized status; or

''(iv) otherwise authorized by the Secretary to be hired for such employment;

''(B) provide such attestation by a handwritten, electronic, or digital signature; and

''(C) provide the individual's social security account number to the Secretary, unless the individual has not yet been issued such a number, on such form as the Secretary may require.

''(3) RETENTION OF VERIFICATION RECORD.—

''(A) IN GENERAL.—After completing a form for an individual in accordance with paragraphs (1) and (2), the employer shall retain a version of such completed form and make such form available for inspection by the Secretary or the Office of Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice during the period beginning on the hiring date of the individual and ending on the later of—

''(i) the date that is 3 years after such hiring date; or

''(ii) the date that is 1 year after the date on which the individual's employment with the employer is terminated.

''(B) REQUIREMENT FOR ELECTRONIC RETENTION.—The Secretary—

''(i) shall permit an employer to retain the form described in subparagraph (A) in electronic form; and

''(ii) shall permit an employer to retain such form in paper, microfiche, microfilm, portable document format, or other media.

''(4) COPYING OF DOCUMENTATION AND RECORDKEEPING.—The Secretary may promulgate regulations regarding—

''(A) copying documents and related information pertaining to employment verification presented by an individual under this subsection; and

''(B) retaining such information during a period not to exceed the required retention period set forth in paragraph (3).

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

''(6) PROTECTION OF CIVIL RIGHTS.—

''(A) IN GENERAL.—Nothing in this section may be construed to diminish any rights otherwise protected by Federal law.

''(B) PROHIBITION ON DISCRIMINATION.—An employer shall use the procedures for document verification set forth in this paragraph for all employees without regard to race, color, religion, sex, national origin, or, unless specifically permitted in this section, to citizenship status.

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

''(8) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to directly or indirectly authorize the issuance, use, or establishment of a national identification card.

''(d) EMPLOYMENT VERIFICATION SYSTEM.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT.—The Secretary, in consultation with the Commissioner, shall establish the Employment Verification System.

''(B) MONITORING.—The Secretary shall create the necessary processes to monitor—

''(i) the functioning of the System, including the volume of the workflow, the speed of processing of queries, the speed and accuracy of responses;

''(ii) the misuse of the System, including the prevention of fraud or identity theft;

''(iii) whether the use of the System results in wrongful adverse actions or discrimination based upon a prohibited factor against citizens or nationals of the United States or individuals who have employment authorized status; and

''(iv) the security, integrity, and privacy of the System.

''(C) PROCEDURES.—The Secretary—

''(i) shall create processes to provide an individual with direct access to the individual's case history in the System, including—

''(I) the identities of all persons or entities that have queried the individual through the System;

''(II) the date of each such query; and

''(III) the System response for each such query; and

''(ii) in consultation with the Commissioner, shall develop—

''(I) protocols to notify an individual, in a timely manner through the use of electronic correspondence or mail, that a query for the individual has been processed through the System; or

''(II) a process for the individual to submit additional queries to the System or notify the Secretary of potential identity fraud.

''(2) PARTICIPATION REQUIREMENTS.—

''(A) FEDERAL GOVERNMENT.—Except as provided in subparagraph (B), all agencies and departments in the executive, legislative, or judicial branches of the Federal Government shall participate in the System beginning on the earlier of—

''(i) the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, to the extent required under section 402(e)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a) and as already implemented by each agency or department; or

''(ii) the date that is 90 days after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act.

''(B) FEDERAL CONTRACTORS.—Federal contractors shall participate in the System as provided in the final rule relating to employment eligibility verification published in the Federal Register on November 14, 2008 (73 Fed. Reg. 67,651), or any similar subsequent regulation, for which purpose references to E-Verify in the final rule shall be construed to apply to the System.

''(C) CRITICAL INFRASTRUCTURE.—

''(i) IN GENERAL.—Beginning on the date that is 1 year after the date on which regulations are published implementing this subsection, the Secretary may authorize or direct any employer, person, or entity responsible for granting access to, protecting, securing, operating, administering, or regulating part of the critical infrastructure (as defined in section 1016(e) of the Critical Infrastructure Protection Act of 2001 (42 U.S.C. 5195c(e))) to participate in the System to the extent the Secretary determines that such participation will assist in the protection of the critical infrastructure.

''(ii) NOTIFICATION TO EMPLOYERS.—The Secretary shall notify an employer required to participate in the System under this subparagraph not later than 90 days before the date on which the employer is required to participate.

''(D) EMPLOYERS WITH MORE THAN 10,000 EMPLOYEES.—Not later than 1 year after regulations are published implementing this subsection, all employers with more than 10,000 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(E) EMPLOYERS WITH MORE THAN 500 EMPLOYEES.—Not later than 2 years after regulations are published implementing this subsection, all employers with more than 500 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(F) EMPLOYERS WITH MORE THAN 20 EMPLOYEES.—Not later than 3 years after regulations are published implementing this subsection, all employers with more than 20 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(G) AGRICULTURAL EMPLOYMENT.—Not later than 4 years after regulations are published implementing this subsection, employers of employees performing agricultural employment (as defined in section 218A of this Act and section 2202 of the Border Security, Economic Opportunity, and Immigration Modernization Act) shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents. An agricultural employee shall not be counted for purposes of subparagraph (D), (E), or (F).

''(H) ALL EMPLOYERS.—Not later than 4 years after regulations are published implementing this subsection, all employers shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(I) TRIBAL GOVERNMENT EMPLOYERS.—

''(i) RULEMAKING.—In developing regulations to implement this subsection, the Secretary shall—

''(I) consider the effects of this section on federally recognized Indian tribes and tribal members; and

''(II) consult with the governments of federally recognized Indian tribes.

''(ii) REQUIRED PARTICIPATION.—Not later than 4 years after regulations are published implementing this subsection, all employers owned by, or entities of, the government of a federally recognized Indian tribe shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(J) IMMIGRATION LAW VIOLATORS.—

''(i) ORDERS FINDING VIOLATIONS.—An order finding any employer to have violated this section or section 274C may, in the Secretary's discretion, require the employer to participate in the System with respect to newly hired employees and employees with expiring temporary employment authorization documents, if such employer is not otherwise required to participate in the System under this section. The Secretary shall monitor such employer's compliance with System procedures.

''(ii) PATTERN OR PRACTICE OF VIOLATIONS.—The Secretary may require an employer that is required to participate in the System with respect to newly hired employees to participate in the System with respect to the employer's current employees if the employer is determined by the Secretary or other appropriate authority to have engaged in a pattern or practice of violations of the immigration laws of the United States.

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

''(3) CONSEQUENCE OF FAILURE TO PARTICIPATE.—

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

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

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

''(B) EXCEPTION.—

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

''(ii) USE AS EVIDENCE.—Nothing in this paragraph may be construed to limit the use in the prosecution of a Federal crime, in a manner otherwise consistent with Federal criminal law and procedure, of evidence relating to the employer's failure to comply with requirements of the System.

''(4) PROCEDURES FOR PARTICIPANTS IN THE SYSTEM.—

''(A) IN GENERAL.—An employer participating in the System shall register such participation with the Secretary and, when hiring any individual for employment in the United States, shall comply with the following:

''(i) REGISTRATION OF EMPLOYERS.—The Secretary, through notice in the Federal Register, shall prescribe procedures that employers shall be required to follow to register with the System.

''(ii) UPDATING INFORMATION.—The employer is responsible for providing notice of any change to the information required under subclauses (I), (II), and (III) of clause (v) before conducting any further inquiries within the System, or on such other schedule as the Secretary may prescribe.

''(iii) TRAINING.—The Secretary shall require employers to undergo such training as the Secretary determines to be necessary to ensure proper use, protection of civil rights and civil liberties, privacy, integrity, and security of the System. To the extent practicable, such training shall be made available electronically on the U.S. Citizenship and Immigration Services website.

''(iv) NOTIFICATION TO EMPLOYEES.—The employer shall inform individuals hired for employment that the System—

''(I) will be used by the employer;

''(II) may be used for immigration enforcement purposes; and

''(III) may not be used to discriminate or to take adverse action against a national of the United States or an alien who has employment authorized status.

''(v) PROVISION OF ADDITIONAL INFORMATION.—The employer shall obtain from the individual (and the individual shall provide) and shall record in such manner as the Secretary may specify—

''(I) the individual's social security account number;

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

''(III) such other information as the Secretary may require to determine the identity and employment authorization of an individual.

''(vi) PRESENTATION OF DOCUMENTATION.—The employer, and the individual whose identity and employment authorized status are being confirmed, shall fulfill the requirements under subsection (c).

''(B) SEEKING CONFIRMATION.—

''(i) IN GENERAL.—An employer shall use the System to confirm the identity and employment authorized status of any individual during—

''(I) the period beginning on the date on which the individual accepts an offer of employment and ending 3 business days after the date on which employment begins; or

''(II) such other reasonable period as the Secretary may prescribe.

''(ii) LIMITATION.—An employer may not make the starting date of an individual's employment or training or any other term and condition of employment dependent on the receipt of a confirmation of identity and employment authorized status by the System.

''(iii) REVERIFICATION.—If an individual has a limited period of employment authorized status, the individual's employer shall reverify such status through the System not later than 3 business days after the last day of such period.

''(iv) OTHER EMPLOYMENT.—For employers directed by the Secretary to participate in the System under paragraph (2)(C)(i) to protect critical infrastructure or otherwise specified circumstances in this section to verify their entire workforce, the System may be used for initial verification of an individual who was hired before the employer

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

''(v) NOTIFICATION.—

''(I) IN GENERAL.—The Secretary shall provide, and the employer shall utilize, as part of the System, a method of notifying employers of a confirmation or nonconfirmation of an individual's identity and employment authorized status, or a notice that further action is required to verify such identity or employment eligibility (referred to in this subsection as a further action notice).

''(II) PROCEDURES.—The Secretary shall—

''(aa) directly notify the individual and the employer, by means of electronic correspondence, mail, text message, telephone, or other direct communication, of a nonconfirmation or further action notice;

''(bb) provide information about filing an administrative appeal under paragraph (6) and a filing for review before an administrative law judge under paragraph (7); and

''(cc) establish procedures to directly notify the individual and the employer of a confirmation.

''(III) IMPLEMENTATION.—The Secretary may provide for a phased-in implementation of the notification requirements under this clause, as appropriate. The notification system shall cover all inquiries not later than 1 year from the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act.

''(C) CONFIRMATION OR NONCONFIRMATION.—

''(i) INITIAL RESPONSE.—

''(I) IN GENERAL.—Except as provided in subclause (II), the System shall provide—

''(aa) a confirmation of an individual's identity and employment authorized status or a further action notice at the time of the inquiry; and

''(bb) an appropriate code indicating such confirmation or such further action notice.

''(II) ALTERNATIVE DEADLINE.—If the System is unable to provide immediate confirmation or further action notice for technological reasons or due to unforeseen circumstances, the System shall provide a confirmation or further action notice not later than 3 business days after the initial inquiry.

''(ii) CONFIRMATION UPON INITIAL INQUIRY.—If the employer receives an appropriate confirmation of an individual's identity and employment authorized status under the System, the employer shall record the confirmation in such manner as the Secretary may specify.

''(iii) FURTHER ACTION NOTICE AND LATER CONFIRMATION OR NONCONFIRMATION.—

''(I) NOTIFICATION AND ACKNOWLEDGMENT THAT FURTHER ACTION IS REQUIRED.—Not later than 3 business days after an employer receives a further action notice of an individual's identity or employment eligibility under the System, or during such other reasonable time as the Secretary may prescribe, the employer shall notify the individual for whom the confirmation is sought of the further action notice and any procedures specified by the Secretary for addressing such notice. The further action notice shall be given to the individual in writing and the employer shall acknowledge in the System under penalty of perjury that it provided the employee with the further action notice. The individual shall affirmatively acknowledge in writing, or in such other manner as the Secretary may specify, the receipt of the further action notice from the employer. If the individual refuses to acknowledge the receipt of the further action notice, or acknowledges in writing that the individual will not contest the further action notice under subclause (II), the employer shall notify the Secretary in such manner as the Secretary may specify.

''(II) CONTEST.—Not later than 10 business days after receiving notification of a further action notice under subclause (I), the individual shall contact the appropriate Federal agency and, if the Secretary so requires, appear in person for purposes of verifying the individual's identity and employment eligibility. The Secretary, in consultation with the Commissioner and other appropriate Federal agencies, shall specify an available secondary verification procedure to confirm the validity of information provided and to provide a confirmation or nonconfirmation. Any procedures for reexamination shall not limit in any way an employee's right to appeal a nonconfirmation.

''(III) NO CONTEST.—If the individual refuses to acknowledge receipt of the further action notice, acknowledges that the individual will not contest the further action notice as provided in subclause (I), or does not contact the appropriate Federal agency within the period specified in subclause (II), following expiration of the period specified in subclause (II), a nonconfirmation shall be issued. The employer shall record the nonconfirmation in such manner as the Secretary may specify and terminate the individual's employment. An individual's failure to contest a further action notice shall not be considered an admission of guilt with respect to any violation of this section or any provision of law.

''(IV) CONFIRMATION OR NONCONFIRMATION.—Unless the period is extended in accordance with this subclause, the System shall provide a confirmation or nonconfirmation not later than 10 business days after the date on which the individual contests the further action notice under subclause (II). If the Secretary determines that good cause exists, after taking into account adverse impacts to the employer, and including time to permit the individual to obtain and provide needed evidence of identity or employment eligibility, the Secretary shall extend the period for providing confirmation or nonconfirmation for stated periods beyond 10 business days. When confirmation or nonconfirmation is provided, the confirmation system shall provide an appropriate code indicating such confirmation or nonconfirmation.

''(V) REEXAMINATION.—Nothing in this section shall prevent the Secretary from establishing procedures to reexamine a case where a confirmation or nonconfirmation has been provided if subsequently received information indicates that the confirmation or nonconfirmation may not have been correct. Any procedures for reexamination shall not limit in any way an employee's right to appeal a nonconfirmation.

''(VI) EMPLOYEE PROTECTIONS.—An employer may not terminate employment or take any other adverse action against an individual solely because of a failure of the individual to have identity and employment eligibility confirmed under this subsection until—

''(aa) a nonconfirmation has been issued;

''(bb) if the further action notice was contested, the period to timely file an administrative appeal has expired without an appeal or the contestation to the further action notice is withdrawn; or

''(cc) if an appeal before an administrative law judge under paragraph (7) has been filed, the nonconfirmation has been upheld or the appeal has been withdrawn or dismissed.

''(iv) NOTICE OF NONCONFIRMATION.—Not later than 3 business days after an employer receives a nonconfirmation, or during such other reasonable time as the Secretary may provide, the employer shall notify the individual who is the subject of the nonconfirmation, and provide information about filing an administrative appeal pursuant to paragraph (6) and a request for a hearing before an administrative law judge pursuant to paragraph (7). The nonconfirmation notice shall be given to the individual in writing and the employer shall acknowledge in the System under penalty of perjury that it provided the notice (or adequately attempted to provide notice, but was unable to do so despite reasonable efforts). The individual shall affirmatively acknowledge in writing, or in such other manner as the Secretary may prescribe, the receipt of the nonconfirmation notice from the employer. If the individual refuses or fails to acknowledge the receipt of the nonconfirmation notice, the employer shall notify the Secretary in such manner as the Secretary may prescribe.

''(D) CONSEQUENCES OF NONCONFIRMATION.—

''(i) TERMINATION OF CONTINUED EMPLOYMENT.—Except as provided in clause (iii), an employer that has received a nonconfirmation regarding an individual and has made reasonable efforts to notify the individual in accordance with subparagraph (C)(iv) shall terminate the employment of the individual upon the expiration of the time period specified in paragraph (7).

''(ii) CONTINUED EMPLOYMENT AFTER NONCONFIRMATION.—If the employer continues to employ an individual after receiving nonconfirmation and exhaustion of all appeals or expiration of all rights to appeal if not appealed, in violation of clause (i), a rebuttable presumption is created that the employer has violated paragraphs (1)(A) and (2) of subsection (a). Such presumption shall not apply in any prosecution under subsection (k)(1).

''(iii) EFFECT OF ADMINISTRATIVE APPEAL OR REVIEW BY ADMINISTRATIVE LAW JUDGE.—If an individual files an administrative appeal of the nonconfirmation within the time period specified in paragraph (6)(A), or files for review with an administrative law judge specified in paragraph (7)(A), the employer shall not terminate the individual's employment under this subparagraph prior to the resolution of the administrative appeal unless the Secretary or Commissioner terminates the stay under paragraph (6)(B) or (7)(B).

''(iv) WEEKLY REPORT.—The Director of U.S. Citizenship and Immigration Services shall submit a weekly report to the Assistant Secretary for Immigration and Customs Enforcement that includes, for each individual who receives final nonconfirmation through the System—

''(I) the name of such individual;

''(II) his or her social security number or alien file number;

''(III) the name and contact information for his or her current employer; and

''(IV) any other critical information that the Assistant Secretary determines to be appropriate.

''(v) OTHER REFERRAL.—The Director of U.S. Citizenship and Immigration Services shall refer to the Assistant Secretary for Immigration and Customs Enforcement for appropriate action by the Assistant Secretary or for referral by the Assistant Secretary to another law enforcement agency, as appropriate—

''(I) any case in which the Director believes that a social security number has been falsely or fraudulently used; and

''(II) any case in which a false or fraudulent document is used by an employee who has received a further action notice to resolve such notice.

''(E) OBLIGATION TO RESPOND TO QUERIES AND ADDITIONAL INFORMATION.—

''(i) IN GENERAL.—Employers shall comply with requests for information from the Secretary and the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, including queries concerning current and former employees, within the time frame during which

records are required to be maintained under this section regarding such former employees, if such information relates to the functioning of the System, the accuracy of the responses provided by the System, or any suspected misuse, discrimination, fraud, or identity theft in the use of the System. Failure to comply with a request under this clause constitutes a violation of subsection (a)(1)(B).

''(ii) ACTION BY INDIVIDUALS.—

''(I) IN GENERAL.—Individuals being verified through the System may be required to take further action to address questions identified by the Secretary or the Commissioner regarding the documents relied upon for purposes of subsection (c).

''(II) NOTIFICATION.—Not later than 3 business days after the receipt of such questions regarding an individual, or during such other reasonable time as the Secretary may prescribe, the employer shall—

''(aa) notify the individual of any such requirement for further actions; and

''(bb) record the date and manner of such notification.

''(III) ACKNOWLEDGMENT.—The individual shall acknowledge the notification received from the employer under subclause (II) in writing, or in such other manner as the Secretary may prescribe.

''(iii) RULEMAKING.—

''(I) IN GENERAL.—The Secretary, in consultation with the Commissioner and the Attorney General, is authorized to issue regulations implementing, clarifying, and supplementing the requirements under this subparagraph—

''(aa) to facilitate the functioning, accuracy, and fairness of the System;

''(bb) to prevent misuse, discrimination, fraud, or identity theft in the use of the System; or

''(cc) to protect and maintain the confidentiality of information that could be used to locate or otherwise place at risk of harm victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking, and of the applicant or beneficiary of any petition described in section 384(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367(a)(2)).

''(II) NOTICE.—The regulations issued under subclause (I) shall be—

''(aa) published in the Federal Register; and

''(bb) provided directly to all employers registered in the System.

''(F) DESIGNATED AGENTS.—The Secretary shall establish a process—

''(i) for certifying, on an annual basis or at such times as the Secretary may prescribe, designated agents and other System service providers seeking access to the System to perform verification queries on behalf of employers, based upon training, usage, privacy, and security standards prescribed by the Secretary;

''(ii) for ensuring that designated agents and other System service providers are subject to monitoring to the same extent as direct access users; and

''(iii) for establishing standards for certification of electronic I–9 programs.

''(G) REQUIREMENT TO PROVIDE INFORMATION.—

''(i) IN GENERAL.—No later than 3 months after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Secretary, in consultation with the Secretary of Labor, the Secretary of Agriculture, the Commissioner, the Attorney General, the Equal Employment Opportunity Commission, and the Administrator of the Small Business Administration, shall commence a campaign to disseminate information respecting the procedures, rights, and remedies prescribed under this section.

''(ii) CAMPAIGN REQUIREMENTS.—The campaign authorized under clause (i)—

''(I) shall be aimed at increasing the knowledge of employers, employees, and the general public concerning employer and employee rights, responsibilities, and remedies under this section; and

''(II) shall be coordinated with the public education campaign conducted by U.S. Citizenship and Immigration Services.

''(iii) ASSESSMENT.—The Secretary shall assess the success of the campaign in achieving the goals of the campaign.

''(iv) AUTHORITY TO CONTRACT.—In order to carry out and assess the campaign under this subparagraph, the Secretary may, to the extent deemed appropriate and subject to the availability of appropriations, contract with public and private organizations for outreach and assessment activities under the campaign.

''(v) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $40,000,000 for each of the fiscal years 2014 through 2016.

''(H) AUTHORITY TO MODIFY INFORMATION REQUIREMENTS.—Based on a regular review of the System and the document verification procedures to identify misuse or fraudulent use and to assess the security of the documents and processes used to establish identity or employment authorized status, the Secretary, in consultation with the Commissioner, after publication of notice in the Federal Register and an opportunity for public comment, may modify, if the Secretary determines that the modification is necessary to ensure that the System accurately and reliably determines the identity and employment authorized status of employees and maintain existing protections against misuse, discrimination, fraud, and identity theft—

''(i) the information that shall be presented to the employer by an individual;

''(ii) the information that shall be provided to the System by the employer; and

''(iii) the procedures that shall be followed by employers with respect to the process of verifying an individual through the System.

''(I) SELF-VERIFICATION.—Subject to appropriate safeguards to prevent misuse of the system, the Secretary, in consultation with the Commissioner, shall establish a secure self-verification procedure to permit an individual who seeks to verify the individual's own employment eligibility to contact the appropriate agency and, in a timely manner, correct or update the information contained in the System.

''(5) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE SYSTEM.—An employer shall not be liable to a job applicant, an employee, the Federal Government, or a State or local government, under Federal, State, or local criminal or civil law for any employment-related action taken with respect to a job applicant or employee in good faith reliance on information provided by the System.

''(6) ADMINISTRATIVE APPEAL.—

''(A) IN GENERAL.—An individual who is notified of a nonconfirmation may, not later than 10 business days after the date that such notice is received, file an administrative appeal of such nonconfirmation with the Commissioner if the notice is based on records maintained by the Commissioner, or in any other case, with the Secretary. An individual who did not timely contest a further action notice timely received by that individual for which the individual acknowledged receipt may not be granted a review under this paragraph.

''(B) ADMINISTRATIVE STAY OF NONCONFIRMATION.—The nonconfirmation shall be automatically stayed upon the timely filing of an administrative appeal, unless the nonconfirmation resulted after the individual acknowledged receipt of the further action notice but failed to contact the appropriate agency within the time provided. The stay shall remain in effect until the resolution of the appeal, unless the Secretary or the Commissioner terminates the stay based on a determination that the administrative appeal is frivolous or filed for purposes of delay.

''(C) REVIEW FOR ERROR.—The Secretary and the Commissioner shall develop procedures for resolving administrative appeals regarding nonconfirmations based upon the information that the individual has provided, including any additional evidence or argument that was not previously considered. Any such additional evidence or argument shall be filed within 10 business days of the date the appeal was originally filed. Appeals shall be resolved within 20 business days after the individual has submitted all evidence and arguments the individual wishes to submit, or has stated in writing that there is no additional evidence that the individual wishes to submit. The Secretary and the Commissioner may, on a case by case basis for good cause, extend the filing and submission period in order to ensure accurate resolution of an appeal before the Secretary or the Commissioner.

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

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

''(7) REVIEW BY ADMINISTRATIVE LAW JUDGE.—

''(A) IN GENERAL.—Not later than 30 days after the date an individual receives a final determination on an administrative appeal under paragraph (6), the individual may obtain review of such determination by filing a complaint with a Department of Justice administrative law judge in accordance with this paragraph.

''(B) STAY OF NONCONFIRMATION.—The nonconfirmation related to such final determination shall be automatically stayed upon the timely filing of a complaint under this paragraph, and the stay shall remain in effect until the resolution of the complaint, unless the administrative law judge determines that the action is frivolous or filed for purposes of delay.

''(C) SERVICE.—The respondent to complaint filed under this paragraph is either the Secretary or the Commissioner, but not both, depending upon who issued the administrative order under paragraph (6). In addition to serving the respondent, the plaintiff shall serve the Attorney General.

''(D) AUTHORITY OF ADMINISTRATIVE LAW JUDGE.—

''(i) RULES OF PRACTICE.—The Secretary shall promulgate regulations regarding the rules of practice in appeals brought pursuant to this subsection.

''(ii) AUTHORITY OF ADMINISTRATIVE LAW JUDGE.—The administrative law judge shall have power to—

''(I) terminate a stay of a nonconfirmation under subparagraph (B) if the administrative law judge determines that the action is frivolous or filed for purposes of delay;

''(II) adduce evidence at a hearing;

''(III) compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing;

''(IV) resolve claims of identity theft; and

''(V) enter, upon the pleadings and any evidence adduced at a hearing, a decision affirming or reversing the result of the agency,

with or without remanding the cause for a rehearing.

''(iii) SUBPOENA.—In case of contumacy or refusal to obey a subpoena lawfully issued under this section and upon application of the administrative law judge, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt of such court.

''(iv) TRAINING.—An administrative law judge hearing cases shall have special training respecting employment authorized status verification.

''(E) ORDER BY ADMINISTRATIVE LAW JUDGE.—

''(i) IN GENERAL.—The administrative law judge shall issue and cause to be served to the parties in the proceeding an order which may be appealed as provided in subparagraph (G).

''(ii) CONTENTS OF ORDER.—Such an order shall uphold or reverse the final determination on the request for reconsideration and order lost wages and other appropriate remedies as provided in subparagraph (F).

''(F) COMPENSATION FOR ERROR.—

''(i) IN GENERAL.—In cases in which the administrative law judge reverses the final determination of the Secretary or the Commissioner made under paragraph (6), and the administrative law judge finds that—

''(I) the nonconfirmation was due to gross negligence or intentional misconduct of the employer, the administrative law judge may order the employer to pay the individual lost wages, and reasonable costs and attorneys' fees incurred during administrative and judicial review; or

''(II) such final determination was erroneous by reason of the negligence of the Secretary or the Commissioner, the administrative law judge may order the Secretary or the Commissioner to pay the individual lost wages, and reasonable costs and attorneys' fees incurred during the administrative appeal and the administrative law judge review.

''(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work schedule that prevailed prior to termination. The individual shall be compensated for wages lost beginning on the first scheduled work day after employment was terminated and ending 120 days after completion of the administrative law judge's review described in this paragraph or the day after the individual is reinstated or obtains employment elsewhere, whichever occurs first. If the individual obtains employment elsewhere at a lower wage rate, the individual shall be compensated for the difference in wages for the period ending 120 days after completion of the administrative law judge review process. No lost wages shall be awarded for any period of time during which the individual was not in employment authorized status.

''(iii) PAYMENT OF COMPENSATION.—Notwithstanding any other law, payment of compensation for lost wages, costs, and attorneys' fees under this paragraph, or compromise settlements of the same, shall be made as provided by section 1304 of title 31, United States Code. Appropriations made available to the Secretary or the Commissioner, accounts provided for under section 286, and funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund shall not be available to pay such compensation.

''(G) APPEAL.—No later than 45 days after the entry of such final order, any person adversely affected by such final order may seek review of such order in the United States Court of Appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

''(8) MANAGEMENT OF THE SYSTEM.—

''(A) IN GENERAL.—The Secretary is authorized to establish, manage, and modify the System, which shall—

''(i) respond to inquiries made by participating employers at any time through the internet, or such other means as the Secretary may designate, concerning an individual's identity and whether the individual is in employment authorized status;

''(ii) maintain records of the inquiries that were made, of confirmations provided (or not provided), and of the codes provided to employers as evidence of their compliance with their obligations under the System; and

''(iii) provide information to, and require action by, employers and individuals using the System.

''(B) DESIGN AND OPERATION OF SYSTEM.—The System shall be designed and operated—

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

''(ii) to maximize its ease of use by employees, including direct notification of its use, of results, and ability to challenge results;

''(iii) to respond accurately to all inquiries made by employers on whether individuals are authorized to be employed and to register any times when the system is unable to receive inquiries;

''(iv) to maintain appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, misuse by employers and employees, and discrimination;

''(v) to require regularly scheduled refresher training of all users of the System to ensure compliance with all procedures;

''(vi) to allow for auditing of the use of the System to detect misuse, discrimination, fraud, and identity theft, to protect privacy and assess System accuracy, and to preserve the integrity and security of the information in all of the System, including—

''(I) to develop and use tools and processes to detect or prevent fraud and identity theft, such as multiple uses of the same identifying information or documents to fraudulently gain employment;

''(II) to develop and use tools and processes to detect and prevent misuse of the system by employers and employees;

''(III) to develop tools and processes to detect anomalies in the use of the system that may indicate potential fraud or misuse of the system;

''(IV) to audit documents and information submitted by employees to employers, including authority to conduct interviews with employers and employees, and obtain information concerning employment from the employer;

''(vii) to confirm identity and employment authorization through verification and comparison of records as determined necessary by the Secretary;

''(viii) to confirm electronically the issuance of the employment authorization or identity document and—

''(I) if such photograph is available, to display the digital photograph that the issuer placed on the document so that the employer can compare the photograph displayed to the photograph on the document presented by the employee; or

''(II) if a photograph is not available from the issuer, to confirm the authenticity of the document using additional security measures set forth in subsection (c)(1)(F)(iv);

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

''(I) to use state-of-the-art technology to determine to a high degree of accuracy whether an individual presenting biographic information is the individual with that true identity;

''(II) to retain under the control of the Secretary the use of all determinations communicated by the System, regardless of the entity operating the system pursuant to a contract or other agreement with a nongovernmental entity or entities to the extent helpful in acquiring the best technology to implement the additional security measures;

''(III) to be integrated with the System so that employment authorizations will be determined for all individuals identified as presenting their true identities through the databases maintained by the Commissioner of Social Security and the Secretary;

''(IV) to use tools and processes to detect and prevent further action notices and final nonconfirmations that are not correlated to fraud or identity theft;

''(V) to make risk-based assessments regarding the reliability of a claim of identity made by an individual presenting biographic information and to tailor the identity determination in accordance with those assessments;

''(VI) to permit queries to be presented to individuals subject to identity verification at the time their identities are being verified in a manner that permits rapid communication through Internet, mobile phone, and landline telephone connections to facilitate identity proofing;

''(VII) to generate queries that conform to the context of the identity verification process and the circumstances of the individual whose identity is being verified;

''(VIII) to use publicly available databases and databases under the jurisdiction of the Commissioner of Social Security, the Secretary, and the Secretary of State to formulate queries to be presented to individuals whose identities are being verified, as appropriate;

''(IX) to not retain data collected by the System within any database separate from the database in which the operating system is located and to limit access to the existing databases to a reference process that shields the operator of the System from acquiring possession of the data beyond the formulation of queries and verification of responses;

''(X) to not permit individuals or entities using the System to access any data related to the individuals whose identities are being verified beyond confirmations, further action notices, and final nonconfirmations of identity;

''(XI) to include, if feasible, a capability for permitting document or other inputs that can be offered to individuals and entities using the System and that may be used at the option of employees to facilitate identity verification, but would not be required of either employers or employees; and

''(XII) to the greatest extent possible, in accordance with the time frames specified in this section; and

''(x) to provide appropriate notification directly to employers registered with the System of all changes made by the Secretary or the Commissioner related to allowed and prohibited documents, and use of the System.

''(C) SAFEGUARDS TO THE SYSTEM.—

''(i) REQUIREMENT TO DEVELOP.—The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop policies and procedures to ensure protection of the privacy and security of personally identifiable information and identifiers contained in the

records accessed or maintained by the System. The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop and deploy appropriate privacy and security training for the Federal and State employees accessing the records under the System.

''(ii) PRIVACY AUDITS.—The Secretary, acting through the Chief Privacy Officer of the Department, shall conduct regular privacy audits of the policies and procedures established under clause (i) and the Department's compliance with the limitations set forth in subsection (c)(1)(F)(iii)(IV), including any collection, use, dissemination, and maintenance of personally identifiable information and any associated information technology systems, as well as scope of requests for this information. The Chief Privacy Officer shall review the results of the audits and recommend to the Secretary any changes necessary to improve the privacy protections of the program.

''(iii) ACCURACY AUDITS.—

''(I) IN GENERAL.—Not later than November 30 of each year, the Inspector General of the Department of Homeland Security shall submit a report to the Secretary, with a copy to the President of the Senate and the Speaker of the House of Representatives, that sets forth the error rate of the System for the previous fiscal year and the assessments required to be submitted by the Secretary under subparagraphs (A) and (B) of paragraph (10). The report shall describe in detail the methodology employed for purposes of the report, and shall make recommendations for how error rates may be reduced.

''(II) ERROR RATE DEFINED.—In this clause, the term error rate means the percentage determined by dividing—

''(aa) the number of employment authorized individuals who received further action notices, contested such notices, and were subsequently found to be employment authorized; by

''(bb) the number of System inquiries submitted for employment authorized individuals.

''(III) ERROR RATE DETERMINATION.—The audits required under this clause shall—

''(aa) determine the error rate for identity determinations pursuant to subsection (c)(1)(F) for individuals presenting their true identities in the same manner and applying the same standards as for employment authorization; and

''(bb) include recommendations, as provided in subclause (I), but no reduction in fines pursuant to subclause (IV).

''(IV) REDUCTION OF PENALTIES FOR RECORDKEEPING OR VERIFICATION PRACTICES FOLLOWING PERSISTENT SYSTEM INACCURACIES.—Notwithstanding subsection (e)(4)(C)(i), in any calendar year following a report by the Inspector General under subclause (I) that the System had an error rate higher than 0.3 percent for the previous fiscal year, the civil penalty assessable by the Secretary or an administrative law judge under that subsection for each first-time violation by an employer who has not previously been penalized under this section may not exceed $1,000.

''(iv) RECORDS SECURITY PROGRAM.—Any person, including a private third party vendor, who retains document verification or System data pursuant to this section shall implement an effective records security program that—

''(I) ensures that only authorized personnel have access to document verification or System data; and

''(II) ensures that whenever such data is created, completed, updated, modified, altered, or corrected in electronic format, a secure record is created that establishes the date of access, the identity of the individual who accessed the electronic record, and the particular action taken.

''(v) RECORDS SECURITY PROGRAM.—In addition to the security measures described in clause (iv), a private third party vendor who retains document verification or System data pursuant to this section shall implement an effective records security program that—

''(I) provides for backup and recovery of any records maintained in electronic format to protect against information loss, such as power interruptions; and

''(II) ensures that employees are trained to minimize the risk of unauthorized or accidental alteration or erasure of such data in electronic format.

''(vi) AUTHORIZED PERSONNEL DEFINED.—In this subparagraph, the term authorized personnel means anyone registered as a System user, or anyone with partial or full responsibility for completion of employment authorization verification or retention of data in connection with employment authorization verification on behalf of an employer.

''(D) AVAILABLE FACILITIES AND ALTERNATIVE ACCOMMODATIONS.—The Secretary shall make appropriate arrangements and develop standards to allow employers or employees, including remote hires, who are otherwise unable to access the System to use electronic and telephonic formats (including video conferencing, scanning technology, and other available technologies), Federal Government facilities, public facilities, or other available locations in order to utilize the System.

''(E) RESPONSIBILITIES OF THE SECRETARY.—

''(i) IN GENERAL.—As part of the System, the Secretary shall maintain a reliable, secure method, which, operating through the System and within the time periods specified, compares the name, alien identification or authorization number, or other information as determined relevant by the Secretary, provided in an inquiry against such information maintained or accessed by the Secretary in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and number, whether the alien has employment authorized status (or, to the extent that the Secretary determines to be feasible and appropriate, whether the records available to the Secretary verify the identity or status of a national of the United States), and such other information as the Secretary may prescribe.

''(ii) PHOTOGRAPH DISPLAY.—As part of the System, the Secretary shall establish a reliable, secure method, which, operating through the System, displays the digital photograph described in subparagraph (B)(viii)(I).

''(iii) TIMING OF NOTICES.—The Secretary shall have authority to prescribe when a confirmation, nonconfirmation, or further action notice shall be issued.

''(iv) USE OF INFORMATION.—The Secretary shall perform regular audits under the System, as described in subparagraph (B)(vi) and shall utilize the information obtained from such audits, as well as any information obtained from the Commissioner pursuant to part E of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), for the purposes of this section and to administer and enforce the immigration laws.

''(v) IDENTITY FRAUD PROTECTION.—To prevent identity fraud, not later than 18 months after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Secretary shall—

''(I) in consultation with the Commissioner, establish a program to provide a reliable, secure method for an individual to temporarily suspend or limit the use of the individual's social security account number or other identifying information for verification by the System; and

''(II) for each individual being verified through the System—

''(aa) notify the individual that the individual has the option to limit the use of the individual's social security account number or other identifying information for verification by the System; and

''(bb) provide instructions to the individuals for exercising the option referred to in item (aa).

''(vi) ALLOWING PARENTS TO PREVENT THEFT OF THEIR CHILD'S IDENTITY.—The Secretary, in consultation with the Commissioner, shall establish a program that provides a reliable, secure method by which parents or legal guardians may suspend or limit the use of the social security account number or other identifying information of a minor under their care for the purposes of the System. The Secretary may implement the program on a limited pilot program basis before making it fully available to all individuals.

''(vii) PROTECTION FROM MULTIPLE USE.—The Secretary and the Commissioner shall establish a procedure for identifying and handling a situation in which a social security account number has been identified to be subject to unusual multiple use in the System or is otherwise suspected or determined to have been compromised by identity fraud. Such procedure shall include notifying the legitimate holder of the social security number at the appropriate time.

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

''(ix) CIVIL RIGHTS AND CIVIL LIBERTIES ASSESSMENTS.—

''(I) REQUIREMENT TO CONDUCT.—The Secretary shall conduct regular civil rights and civil liberties assessments of the System, including participation by employers, other private entities, and Federal, State, and local government entities.

''(II) REQUIREMENT TO RESPOND.—Employers, other private entities, and Federal, State, and local entities shall timely respond to any request in connection with such an assessment.

''(III) ASSESSMENT AND RECOMMENDATIONS.—The Officer for Civil Rights and Civil Liberties of the Department shall review the results of each such assessment and recommend to the Secretary any changes necessary to improve the civil rights and civil liberties protections of the System.

''(F) GRANTS TO STATES.—

''(i) IN GENERAL.—The Secretary shall create and administer a grant program to help provide funding for reimbursement of the actual costs to States that grant—

''(I) the Secretary access to driver's license information as needed to confirm that a driver's license presented under subsection (c)(1)(D)(i) confirms the identity of the subject of the System check, and that a driver's license matches the State's records; and

''(II) such assistance as the Secretary may request in order to resolve further action notices or nonconfirmations relating to such information.

''(ii) CONSTRUCTION WITH THE DRIVER'S PRIVACY PROTECTION ACT OF 1994.—The provision of a photograph to the Secretary as described in clause (i) may not be construed as a violation of section 2721 of title 18, United States Code, and is a permissible use under subsection (b)(1) of that section.

''(iii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary, from the Comprehensive Immigration Reform Trust Fund established

under section 6(a)(1), $500,000,000 to carry out this subparagraph.

''(G) RESPONSIBILITIES OF THE SECRETARY OF STATE.—As part of the System, the Secretary of State shall provide to the Secretary access to passport and visa information as needed to confirm that a passport, passport card, or visa presented under subsection (c)(1)(C) confirms the identity of the subject of the System check, and that a passport, passport card, or visa photograph matches the Secretary of State's records, and shall provide such assistance as the Secretary may request in order to resolve further action notices or nonconfirmations relating to such information.

''(H) UPDATING INFORMATION.—The Commissioner, the Secretary, and the Secretary of State shall update their information in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

''(9) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, no department, bureau, or other agency of the United States Government or any other entity shall utilize, share, or transmit any information, database, or other records assembled under this subsection for any purpose other than for employment verification or to ensure secure, appropriate and nondiscriminatory use of the System.

''(10) ANNUAL REPORT AND CERTIFICATION.—Not later than 18 months after the promulgation of regulations to implement this subsection, and annually thereafter, the Secretary shall submit to Congress a report that includes the following:

''(A) An assessment, as submitted to the Secretary by the Inspector General of the Department of Homeland Security pursuant to paragraph (8)(C)(iii)(I), of the accuracy rates of further action notices and other System notices provided by employers to individuals who are authorized to be employed in the United States.

''(B) An assessment, as submitted to the Secretary by the Inspector General of the Department of Homeland Security pursuant to paragraph (8)(C)(iii)(I), of the accuracy rates of further action notices and other System notices provided directly (by the System) in a timely fashion to individuals who are not authorized to be employed in the United States.

''(C) An assessment of any challenges faced by small employers in utilizing the System.

''(D) An assessment of the rate of employer noncompliance (in addition to failure to provide required notices in a timely fashion) in each of the following categories:

''(i) Taking adverse action based on a further action notice.

''(ii) Use of the System for nonemployees or other individuals before they are offered employment.

''(iii) Use of the System to reverify employment authorized status of current employees except if authorized to do so.

''(iv) Use of the System selectively, except in cases in which such use is authorized.

''(v) Use of the System to deny employment or post-employment benefits or otherwise interfere with labor rights.

''(vi) Requiring employees or applicants to use any self-verification feature or to provide self-verification results.

''(vii) Discouraging individuals who receive a further action notice from challenging the further action notice or appealing a determination made by the System.

''(E) An assessment of the rate of employee noncompliance in each of the following categories:

''(i) Obtaining employment when unauthorized with an employer complying with the System in good faith.

''(ii) Failure to provide required documents in a timely manner.

''(iii) Attempting to use fraudulent documents or documents not related to the individual.

''(iv) Misuse of the administrative appeal and judicial review process.

''(F) An assessment of the amount of time taken for—

''(i) the System to provide the confirmation or further action notice;

''(ii) individuals to contest further action notices;

''(iii) the System to provide a confirmation or nonconfirmation of a contested further action notice;

''(iv) individuals to file an administrative appeal of a nonconfirmation; and

''(v) resolving administrative appeals regarding nonconfirmations.

''(11) ANNUAL GAO STUDY AND REPORT.—

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

''(B) REPORT.—Not later than 18 months after the promulgation of regulations to implement this subsection, and yearly thereafter, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under this paragraph. Each such report shall include, at a minimum, the following:

''(i) An assessment of System performance with respect to the rate at which individuals who are eligible for employment in the United States are correctly approved within the required periods, including a separate assessment of such rate for naturalized United States citizens, nationals of the United States, and aliens.

''(ii) An assessment of the privacy and confidentiality of the System and of the overall security of the System with respect to cybertheft and theft or misuse of private data.

''(iii) An assessment of whether the System is being implemented in a manner that is not discriminatory or used for retaliation against employees.

''(iv) An assessment of the most common causes for the erroneous issuance of nonconfirmations by the System and recommendations to correct such causes.

''(v) The recommendations of the Comptroller General regarding System improvements.

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

''(vii) An assessment of the direct and indirect costs incurred by employers in complying with the System, including costs associated with retaining potential employees through the administrative appeals process and receiving a nonconfirmation.

''(viii) An assessment of any backlogs or delays in the System providing the confirmation or further action notice and impacts to hiring by employers.

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

''(12) OUTREACH AND PARTNERSHIP.—

''(A) OUTREACH.—The Secretary is authorized to conduct outreach and establish programs to assist employers in verifying employment authorization and preventing identity fraud.

''(B) PARTNERSHIP INITIATIVE.—The Secretary may establish partnership initiatives between the Federal Government and private sector employers to foster cooperative relationships and to strengthen overall hiring practices.''.

(c) TAXPAYER ADDRESS INFORMATION.—Section 6103(m) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(8) TAXPAYER ADDRESS INFORMATION FURNISHED TO SECRETARY OF HOMELAND SECURITY.—Upon written request from the Secretary of Homeland Security, the Secretary shall disclose the mailing address of any taxpayer who is entitled to receive a notification from the Secretary of Homeland Security pursuant to paragraphs (1)(C) and (8)(E)(vii) of section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) for use only by employees of the Department of Homeland for the purpose of mailing such notification to such taxpayer.''.

(d) SOCIAL SECURITY ACCOUNT STATEMENTS.—Section 1143(a)(2) of the Social Security Act (8 U.S.C. 1320b–13(a)(2)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(F) to the extent resources are available, information in the Commissioner's records indicating that a query was submitted to the employment verification system established under section 274A (d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) under that individual's name or social security number; and

''(G) a toll-free telephone number operated by the Department of Homeland Security for employment verification system inquiries and a link to self-verification procedure established under section 274A(d)(4)(I) of such Act.''.

(e) GOOD FAITH COMPLIANCE.—Section 274B(a) (8 U.S.C. 1324b(a)), as amended by section 3105(a) of this Act, is further amended by adding at the end the following:

''(10) TREATMENT OF CERTAIN VIOLATIONS AFTER REASONABLE STEPS IN GOOD FAITH.—Notwithstanding paragraphs (4), (6), and (7), a person, other entity, or employment agency shall not be liable for civil penalties described in section 274B(g)(2)(B)(iv) that are related to a violation of any such paragraph if the person, entity, or employment agency has taken reasonable steps, in good faith, to comply with such paragraphs at issue, unless the person, other entity, or employment agency—

''(A) was, for similar conduct, subject to—

''(i) a reasonable cause determination by the Office of Special Counsel for Immigration Related Unfair Employment Practices; or

''(ii) a finding by an administrative law judge that a violation of this section has occurred; or

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

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

''(12) RULES OF CONSTRUCTION.—Nothing in this section may be construed—

''(A) to permit the Office of Special Counsel for Immigration-Related Unfair Employment Practices or an administrative law judge hearing a claim under this Section to enforce any workplace rights other than those guaranteed under this section; or

''(B) to prohibit any person, other entity, or employment agency from using an identity verification system, service, or method (in addition to the employment verification system described in section 274A(d)), until the date on which the employer is required to participate in the System under section 274A(d)(2) and the additional security measures mandated by section 274A(c)(F)(iv) have become available to verify the identity of a newly hired employee, if such system—

''(i) is used in a uniform manner for all newly hired employees;

''(ii) is not used for the purpose or with the intent of discriminating against any individual;

''(iii) provides for timely notice to employees run through the system of a mismatch or failure to confirm identity; and

''(iv) sets out procedures for employees run through the system to resolve a mismatch or other failure to confirm identity.

''(13) LIABILITY.—A person, entity, or employment agency that uses an identity verification system, service, or method in a way that conflicts with the requirements set forth in paragraph (10) shall be subject to liability under paragraph (4)(I).''.

(f) MAINTENANCE OF REASONABLE LEVELS OF SERVICE AND ENFORCEMENT.—Notwithstanding section 3301(b)(1), amounts appropriated pursuant to such section shall be used to maintain reasonable levels of service and enforcement rather than a specific numeric increase in the number of Department personnel dedicated to administering the Employment Verification System.

SA 1728. Mr. PORTMAN (for himself and Mr. TESTER) submitted an amendment intended to be proposed to amendment SA 1240 proposed by Mrs. BOXER (for herself and Ms. LANDRIEU) to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. EMPLOYMENT VERIFICATION SYSTEM IMPROVEMENTS.

(a) TRIGGER.—In addition to the conditions set forth in section 3(c)(2)(A), the Secretary may not adjust the status of aliens who have been granted registered provisional immigrant status, except for aliens granted blue card status under section 2201 of this Act or described in section 245D(b) of the Immigration and Nationality Act, unless the Secretary, after consultation with the Comptroller General of the United States, and as part of the written certification submitted to the President and Congress pursuant to section 3(c)(2)(A), certifies that the Secretary has implemented the mandatory employment verification system, including the full incorporation of the photo tool and additional security measures, required by section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a), as amended by section 3101, and has required the system's use by all employers to prevent unauthorized workers from obtaining employment in the United States.

(b) EMPLOYMENT VERIFICATION SYSTEM.—Section 274A (8 U.S.C. 1324a), as amended by section 3101, is further amended—

(1) in subsection (a)(5)(A)(ii), by inserting '', by clear and convincing evidence,'' after demonstrates; and

(2) by striking subsections (c) and (d) and inserting the following:

''(c) DOCUMENT VERIFICATION REQUIREMENTS.—Any employer hiring an individual for employment in the United States shall comply with the following requirements and the requirements under subsection (d) to verify that the individual has employment authorized status.

''(1) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.—

''(A) IN GENERAL.—

''(i) EXAMINATION BY EMPLOYER.—An employer shall attest, under penalty of perjury on a form prescribed by the Secretary, that the employer has verified the identity and employment authorization status of the individual—

''(I) by examining—

''(aa) a document specified in subparagraph (C); or

''(bb) a document specified in subparagraph (D) and a document specified in subparagraph (E); and

''(II) by utilizing an identity authentication mechanism described in clause (iii) or (iv) of subparagraph (F).

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

''(B) REQUIREMENTS.—

''(i) FORM.—The form referred to in subparagraph (A)(i)—

''(I) shall be prescribed by the Secretary not later than 6 months after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act;

''(II) shall be available as—

''(aa) a paper form;

''(bb) a form that may be completed by an employer via telephone or video conference;

''(cc) an electronic form; and

''(dd) a form that is integrated electronically with the requirements under subparagraph (F) and subsection (d).

''(ii) ATTESTATION.—Each such form shall require the employer to sign an attestation with a handwritten, electronic, or digital signature, according to standards prescribed by the Secretary.

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

''(I) the employer has, in good faith, followed applicable regulations and any written procedures or instructions provided by the Secretary; and

''(II) a reasonable person would conclude that the documentation is genuine and relates to the individual presenting such documentation.

''(C) DOCUMENTS ESTABLISHING IDENTITY AND EMPLOYMENT AUTHORIZED STATUS.—A document is specified in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

''(i) A United States passport or passport card issued to an individual pursuant to the Secretary of State's authority under the Act entitled An Act to regulate the issue and validity of passports, and for other purposes, approved July 3, 1926 (22 U.S.C. 211a).

''(ii) A document issued to an alien evidencing that the alien is lawfully admitted for permanent residence or another document issued to an individual evidencing the individual's employment authorized status, as designated by the Secretary, if the document—

''(I) contains a photograph of the individual, or such other personal identifying information relating to the individual as the Secretary determines, by regulation, to be sufficient for the purposes of this subparagraph;

''(II) is evidence of employment authorized status; and

''(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(iii) An enhanced driver's license or identification card issued to a national of the United States by a State, an outlying possession of the United States, or a federally recognized Indian tribe that—

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

''(II) the Secretary has certified by notice published in the Federal Register and through appropriate notice directly to employers registered in the System 3 months prior to publication that such enhanced license or card is suitable for use under this subparagraph based upon the accuracy and security of the issuance process, security features on the document, and such other factors as the Secretary may prescribe.

''(iv) A passport issued by the appropriate authority of a foreign country accompanied by a Form I–94 or Form I–94A (or similar successor record), or other documentation as designated by the Secretary that specifies the individual's status in the United States and the duration of such status if the proposed employment is not in conflict with any restriction or limitation specified on such form or documentation.

''(v) A passport issued by the Federated States of Micronesia or the Republic of the Marshall Islands with evidence of nonimmigrant admission to the United States under the Compact of Free Association between the United States and the Federated States of Micronesia or the Republic of the Marshall Islands.

''(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document is specified in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

''(i) A driver's license or identity card that is not described in subparagraph (C)(iii) and is issued to an individual by a State or an outlying possession of the United States, a federally recognized Indian tribe, or an agency (including military) of the Federal Government if the driver's license or identity card includes, at a minimum—

''(I) the individual's photograph, name, date of birth, gender, and driver's license or identification card number; and

''(II) security features to make the license or card resistant to tampering, counterfeiting, and fraudulent use.

''(ii) A voter registration card.

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

''(iv) For individuals under 18 years of age who are unable to present a document listed in clause (i) or (ii), documentation of personal identity of such other type as the Secretary determines will provide a reliable means of identification, which may include an attestation as to the individual's identity by a parent or legal guardian under penalty of perjury.

''(E) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—A document is specified in this subparagraph if the document is unexpired (unless the validity of the document is extended by law) and is 1 of the following:

''(i) A social security account number card issued by the Commissioner, other than a card which specifies on its face that the card is not valid to evidence employment authorized status or has other similar words of limitation.

''(ii) Any other documentation evidencing employment authorized status that the Secretary determines and publishes in the Federal Register and through appropriate notice

directly to employers registered within the System to be acceptable for purposes of this subparagraph if such documentation, including any electronic security measures linked to such documentation, contains security features to make such documentation resistant to tampering, counterfeiting, and fraudulent use.

''(F) IDENTITY AUTHENTICATION MECHANISM.—

''(i) DEFINITIONS.—In this subparagraph:

''(I) COVERED IDENTITY DOCUMENT.—The term 'covered identity document' means a valid—

''(aa) United States passport, passport card, or a document evidencing lawful permanent residence status or employment authorized status issued to an alien;

''(bb) enhanced driver's license or identity card issued by a participating State or an outlying possession of the United States; or

''(cc) photograph and appropriate identifying information provided by the Secretary of State pursuant to the granting of a visa.

''(II) PARTICIPATING STATE.—The term 'participating State' means a State that has an agreement with the Secretary to provide the Secretary, for purposes of identity verification in the System, with photographs and appropriate identifying information maintained by the State.

''(ii) REQUIREMENT FOR IDENTITY AUTHENTICATION.—In addition to verifying the documents specified in subparagraph (C), (D), or (E), the System shall require each employer to verify the identity of each new hire using the identity authentication mechanism described in clause (iii) or, for an individual whose identity is not able to be verified using that mechanism, to use the additional security measures provided in clause (iv) after such measures become available. A failure of the System to verify the identity of an individual due to the use of an identity authentication mechanism shall result in a further action notice under subsection (d)(4)(C)(iii).

''(iii) PHOTO TOOL.—

''(I) USE REQUIREMENT.—An employer that hires an individual who has a presented a covered identity document to establish his or her identity and employment authorization under subsection (c) shall verify the identity of such individual using the photo tool described in subclause (II).

''(II) DEVELOPMENT REQUIREMENT.—The Secretary shall develop and maintain a photo tool that enables employers to match the photo on a covered identity document provided to the employer to a photo maintained by a U.S. Citizenship and Immigration Services or other appropriate database.

''(III) INDIVIDUAL QUERIES.—The photo tool capability shall be incorporated into the System and made available to employers not later than 1 year after the date on which regulations are published implementing subsection (d).

''(IV) LIMITATIONS ON USE OF INFORMATION.—Information and images acquired from State motor vehicle databases through the photo tool developed under subclause (II)—

''(aa) may only be used for matching photos to a covered identity document for the purposes of employment verification;

''(bb) shall not be collected or stored by the Federal Government; and

''(cc) may only be disseminated in response to an individual photo tool query.

''(iv) ADDITIONAL SECURITY MEASURES.—

''(I) USE REQUIREMENT.—An employer seeking to hire an individual whose identity is not able to be verified using the photo tool described in clause (iii), because the employee did not present a covered document for employment eligibility verification purposes, shall verify the identity of such individual using the additional security measures described in subclause (II).

''(II) DEVELOPMENT REQUIREMENT.—The Secretary shall develop, after publication in the Federal Register and an opportunity for public comment, specific and effective additional security measures to adequately verify the identity of an individual whose identity is not able to be verified using the photo tool described in clause (iii). Such additional security measures—

''(aa) shall be kept up-to-date with technological advances;

''(bb) shall provide a means of identity authentication in a manner that provides a high level of certainty as to the identity of such individual, using immigration and identifying information that may include review of identity documents or background screening verification techniques using publicly available information; and

''(cc) shall be incorporated into the System and made available to employers not later than 1 year after the date on which regulations are published implementing subsection (d).

''(III) COMPREHENSIVE USE.—An employer may employ the additional security measures set forth in this clause with respect to all individuals the employer hires if the employer notifies the Secretary of such election at the time the employer registers for use of the System under subsection (d)(4)(A)(i) or anytime thereafter. An election under this subclause may be withdrawn 90 days after the employer notifies the Secretary of the employer's intent to discontinue such election.

''(v) AUTOMATED VERIFICATION.—The Secretary—

''(I) may establish a program, in addition to the identity authentication mechanism described in subparagraph (F)(iii), in which the System automatically verifies information contained in a covered identity document issued by a participating State, which is presented under subparagraph (D)(i), including information needed to verify that the covered identity document matches the State's records;

''(II) may not maintain information provided by a participating State in a database maintained by U.S. Citizenship and Immigration Services; and

''(III) may not utilize or disclose such information, except as authorized under this section.

''(G) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary determines, after publication in the Federal Register and an opportunity for public comment, that any document or class of documents specified in subparagraph (B), (C), or (D) does not reliably establish identity or that employment authorized status is being used fraudulently to an unacceptable degree, the Secretary—

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

''(ii) shall directly notify all employers registered within the System of the prohibition through appropriate means.

''(H) AUTHORITY TO ALLOW USE OF CERTAIN DOCUMENTS.—If the Secretary has determined that another document or class of documents, such as a document issued by a federally recognized Indian tribe, may be used to reliably establish identity or employment authorized status, the Secretary—

''(i) may allow the use of that document or class of documents for purposes of this subsection after publication in the Federal Register and an opportunity for public comment;

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

''(iii) shall directly notify all employers registered within the System of the addition through appropriate means.

''(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—An individual, upon commencing employment with an employer, shall—

''(A) attest, under penalty of perjury, on the form prescribed by the Secretary, that the individual is—

''(i) a citizen of the United States;

''(ii) an alien lawfully admitted for permanent residence;

''(iii) an alien who has employment authorized status; or

''(iv) otherwise authorized by the Secretary to be hired for such employment;

''(B) provide such attestation by a handwritten, electronic, or digital signature; and

''(C) provide the individual's social security account number to the Secretary, unless the individual has not yet been issued such a number, on such form as the Secretary may require.

''(3) RETENTION OF VERIFICATION RECORD.—

''(A) IN GENERAL.—After completing a form for an individual in accordance with paragraphs (1) and (2), the employer shall retain a version of such completed form and make such form available for inspection by the Secretary or the Office of Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice during the period beginning on the hiring date of the individual and ending on the later of—

''(i) the date that is 3 years after such hiring date; or

''(ii) the date that is 1 year after the date on which the individual's employment with the employer is terminated.

''(B) REQUIREMENT FOR ELECTRONIC RETENTION.—The Secretary—

''(i) shall permit an employer to retain the form described in subparagraph (A) in electronic form; and

''(ii) shall permit an employer to retain such form in paper, microfiche, microfilm, portable document format, or other media.

''(4) COPYING OF DOCUMENTATION AND RECORDKEEPING.—The Secretary may promulgate regulations regarding—

''(A) copying documents and related information pertaining to employment verification presented by an individual under this subsection; and

''(B) retaining such information during a period not to exceed the required retention period set forth in paragraph (3).

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

''(6) PROTECTION OF CIVIL RIGHTS.—

''(A) IN GENERAL.—Nothing in this section may be construed to diminish any rights otherwise protected by Federal law.

''(B) PROHIBITION ON DISCRIMINATION.—An employer shall use the procedures for document verification set forth in this paragraph for all employees without regard to race, color, religion, sex, national origin, or, unless specifically permitted in this section, to citizenship status.

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

''(8) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to directly or indirectly authorize the issuance, use, or establishment of a national identification card.

''(d) EMPLOYMENT VERIFICATION SYSTEM.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT.—The Secretary, in consultation with the Commissioner, shall establish the Employment Verification System.

''(B) MONITORING.—The Secretary shall create the necessary processes to monitor—

''(i) the functioning of the System, including the volume of the workflow, the speed of processing of queries, the speed and accuracy of responses;

''(ii) the misuse of the System, including the prevention of fraud or identity theft;

''(iii) whether the use of the System results in wrongful adverse actions or discrimination based upon a prohibited factor against citizens or nationals of the United States or individuals who have employment authorized status; and

''(iv) the security, integrity, and privacy of the System.

''(C) PROCEDURES.—The Secretary—

''(i) shall create processes to provide an individual with direct access to the individual's case history in the System, including—

''(I) the identities of all persons or entities that have queried the individual through the System;

''(II) the date of each such query; and

''(III) the System response for each such query; and

''(ii) in consultation with the Commissioner, shall develop—

''(I) protocols to notify an individual, in a timely manner through the use of electronic correspondence or mail, that a query for the individual has been processed through the System; or

''(II) a process for the individual to submit additional queries to the System or notify the Secretary of potential identity fraud.

''(2) PARTICIPATION REQUIREMENTS.—

''(A) FEDERAL GOVERNMENT.—Except as provided in subparagraph (B), all agencies and departments in the executive, legislative, or judicial branches of the Federal Government shall participate in the System beginning on the earlier of—

''(i) the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, to the extent required under section 402(e)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a) and as already implemented by each agency or department; or

''(ii) the date that is 90 days after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act.

''(B) FEDERAL CONTRACTORS.—Federal contractors shall participate in the System as provided in the final rule relating to employment eligibility verification published in the Federal Register on November 14, 2008 (73 Fed. Reg. 67,651), or any similar subsequent regulation, for which purpose references to E-Verify in the final rule shall be construed to apply to the System.

''(C) CRITICAL INFRASTRUCTURE.—

''(i) IN GENERAL.—Beginning on the date that is 1 year after the date on which regulations are published implementing this subsection, the Secretary may authorize or direct any employer, person, or entity responsible for granting access to, protecting, securing, operating, administering, or regulating part of the critical infrastructure (as defined in section 1016(e) of the Critical Infrastructure Protection Act of 2001 (42 U.S.C. 5195c(e))) to participate in the System to the extent the Secretary determines that such participation will assist in the protection of the critical infrastructure.

''(ii) NOTIFICATION TO EMPLOYERS.—The Secretary shall notify an employer required to participate in the System under this subparagraph not later than 90 days before the date on which the employer is required to participate.

''(D) EMPLOYERS WITH MORE THAN 10,000 EMPLOYEES.—Not later than 1 year after regulations are published implementing this subsection, all employers with more than 10,000 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(E) EMPLOYERS WITH MORE THAN 500 EMPLOYEES.—Not later than 2 years after regulations are published implementing this subsection, all employers with more than 500 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(F) EMPLOYERS WITH MORE THAN 20 EMPLOYEES.—Not later than 3 years after regulations are published implementing this subsection, all employers with more than 20 employees shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(G) AGRICULTURAL EMPLOYMENT.—Not later than 4 years after regulations are published implementing this subsection, employers of employees performing agricultural employment (as defined in section 218A of this Act and section 2202 of the Border Security, Economic Opportunity, and Immigration Modernization Act) shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents. An agricultural employee shall not be counted for purposes of subparagraph (D), (E), or (F).

''(H) ALL EMPLOYERS.—Not later than 4 years after regulations are published implementing this subsection, all employers shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(I) TRIBAL GOVERNMENT EMPLOYERS.—

''(i) RULEMAKING.—In developing regulations to implement this subsection, the Secretary shall—

''(I) consider the effects of this section on federally recognized Indian tribes and tribal members; and

''(II) consult with the governments of federally recognized Indian tribes.

''(ii) REQUIRED PARTICIPATION.—Not later than 4 years after regulations are published implementing this subsection, all employers owned by, or entities of, the government of a federally recognized Indian tribe shall participate in the System with respect to all newly hired employees and employees with expiring temporary employment authorization documents.

''(J) IMMIGRATION LAW VIOLATORS.—

''(i) ORDERS FINDING VIOLATIONS.—An order finding any employer to have violated this section or section 274C may, in the Secretary's discretion, require the employer to participate in the System with respect to newly hired employees and employees with expiring temporary employment authorization documents, if such employer is not otherwise required to participate in the System under this section. The Secretary shall monitor such employer's compliance with System procedures.

''(ii) PATTERN OR PRACTICE OF VIOLATIONS.—The Secretary may require an employer that is required to participate in the System with respect to newly hired employees to participate in the System with respect to the employer's current employees if the employer is determined by the Secretary or other appropriate authority to have engaged in a pattern or practice of violations of the immigration laws of the United States.

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

''(3) CONSEQUENCE OF FAILURE TO PARTICIPATE.—

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

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

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

''(B) EXCEPTION.—

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

''(ii) USE AS EVIDENCE.—Nothing in this paragraph may be construed to limit the use in the prosecution of a Federal crime, in a manner otherwise consistent with Federal criminal law and procedure, of evidence relating to the employer's failure to comply with requirements of the System.

''(4) PROCEDURES FOR PARTICIPANTS IN THE SYSTEM.—

''(A) IN GENERAL.—An employer participating in the System shall register such participation with the Secretary and, when hiring any individual for employment in the United States, shall comply with the following:

''(i) REGISTRATION OF EMPLOYERS.—The Secretary, through notice in the Federal Register, shall prescribe procedures that employers shall be required to follow to register with the System.

''(ii) UPDATING INFORMATION.—The employer is responsible for providing notice of any change to the information required under subclauses (I), (II), and (III) of clause (v) before conducting any further inquiries within the System, or on such other schedule as the Secretary may prescribe.

''(iii) TRAINING.—The Secretary shall require employers to undergo such training as the Secretary determines to be necessary to ensure proper use, protection of civil rights and civil liberties, privacy, integrity, and security of the System. To the extent practicable, such training shall be made available electronically on the U.S. Citizenship and Immigration Services website.

''(iv) NOTIFICATION TO EMPLOYEES.—The employer shall inform individuals hired for employment that the System—

''(I) will be used by the employer;

''(II) may be used for immigration enforcement purposes; and

''(III) may not be used to discriminate or to take adverse action against a national of the United States or an alien who has employment authorized status.

''(v) PROVISION OF ADDITIONAL INFORMATION.—The employer shall obtain from the individual (and the individual shall provide) and shall record in such manner as the Secretary may specify—

''(I) the individual's social security account number;

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

''(III) such other information as the Secretary may require to determine the identity and employment authorization of an individual.

''(vi) PRESENTATION OF DOCUMENTATION.—The employer, and the individual whose

identity and employment authorized status are being confirmed, shall fulfill the requirements under subsection (c).

''(B) SEEKING CONFIRMATION.—

''(i) IN GENERAL.—An employer shall use the System to confirm the identity and employment authorized status of any individual during—

''(I) the period beginning on the date on which the individual accepts an offer of employment and ending 3 business days after the date on which employment begins; or

''(II) such other reasonable period as the Secretary may prescribe.

''(ii) LIMITATION.—An employer may not make the starting date of an individual's employment or training or any other term and condition of employment dependent on the receipt of a confirmation of identity and employment authorized status by the System.

''(iii) REVERIFICATION.—If an individual has a limited period of employment authorized status, the individual's employer shall reverify such status through the System not later than 3 business days after the last day of such period.

''(iv) OTHER EMPLOYMENT.—For employers directed by the Secretary to participate in the System under paragraph (2)(C)(i) to protect critical infrastructure or otherwise specified circumstances in this section to verify their entire workforce, the System may be used for initial verification of an individual who was hired before the employer became subject to the System, and the employer shall initiate all required procedures on or before such date as the Secretary shall specify.

''(v) NOTIFICATION.—

''(I) IN GENERAL.—The Secretary shall provide, and the employer shall utilize, as part of the System, a method of notifying employers of a confirmation or nonconfirmation of an individual's identity and employment authorized status, or a notice that further action is required to verify such identity or employment eligibility (referred to in this subsection as a further action notice).

''(II) PROCEDURES.—The Secretary shall—

''(aa) directly notify the individual and the employer, by means of electronic correspondence, mail, text message, telephone, or other direct communication, of a nonconfirmation or further action notice;

''(bb) provide information about filing an administrative appeal under paragraph (6) and a filing for review before an administrative law judge under paragraph (7); and

''(cc) establish procedures to directly notify the individual and the employer of a confirmation.

''(III) IMPLEMENTATION.—The Secretary may provide for a phased-in implementation of the notification requirements under this clause, as appropriate. The notification system shall cover all inquiries not later than 1 year from the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act.

''(C) CONFIRMATION OR NONCONFIRMATION.—

''(i) INITIAL RESPONSE.—

''(I) IN GENERAL.—Except as provided in subclause (II), the System shall provide—

''(aa) a confirmation of an individual's identity and employment authorized status or a further action notice at the time of the inquiry; and

''(bb) an appropriate code indicating such confirmation or such further action notice.

''(II) ALTERNATIVE DEADLINE.—If the System is unable to provide immediate confirmation or further action notice for technological reasons or due to unforeseen circumstances, the System shall provide a confirmation or further action notice not later than 3 business days after the initial inquiry.

''(ii) CONFIRMATION UPON INITIAL INQUIRY.—If the employer receives an appropriate confirmation of an individual's identity and employment authorized status under the System, the employer shall record the confirmation in such manner as the Secretary may specify.

''(iii) FURTHER ACTION NOTICE AND LATER CONFIRMATION OR NONCONFIRMATION.—

''(I) NOTIFICATION AND ACKNOWLEDGMENT THAT FURTHER ACTION IS REQUIRED.—Not later than 3 business days after an employer receives a further action notice of an individual's identity or employment eligibility under the System, or during such other reasonable time as the Secretary may prescribe, the employer shall notify the individual for whom the confirmation is sought of the further action notice and any procedures specified by the Secretary for addressing such notice. The further action notice shall be given to the individual in writing and the employer shall acknowledge in the System under penalty of perjury that it provided the employee with the further action notice. The individual shall affirmatively acknowledge in writing, or in such other manner as the Secretary may specify, the receipt of the further action notice from the employer. If the individual refuses to acknowledge the receipt of the further action notice, or acknowledges in writing that the individual will not contest the further action notice under subclause (II), the employer shall notify the Secretary in such manner as the Secretary may specify.

''(II) CONTEST.—Not later than 10 business days after receiving notification of a further action notice under subclause (I), the individual shall contact the appropriate Federal agency and, if the Secretary so requires, appear in person for purposes of verifying the individual's identity and employment eligibility. The Secretary, in consultation with the Commissioner and other appropriate Federal agencies, shall specify an available secondary verification procedure to confirm the validity of information provided and to provide a confirmation or nonconfirmation. Any procedures for reexamination shall not limit in any way an employee's right to appeal a nonconfirmation.

''(III) NO CONTEST.—If the individual refuses to acknowledge receipt of the further action notice, acknowledges that the individual will not contest the further action notice as provided in subclause (I), or does not contact the appropriate Federal agency within the period specified in subclause (II), following expiration of the period specified in subclause (II), a nonconfirmation shall be issued. The employer shall record the nonconfirmation in such manner as the Secretary may specify and terminate the individual's employment. An individual's failure to contest a further action notice shall not be considered an admission of guilt with respect to any violation of this section or any provision of law.

''(IV) CONFIRMATION OR NONCONFIRMATION.—Unless the period is extended in accordance with this subclause, the System shall provide a confirmation or nonconfirmation not later than 10 business days after the date on which the individual contests the further action notice under subclause (II). If the Secretary determines that good cause exists, after taking into account adverse impacts to the employer, and including time to permit the individual to obtain and provide needed evidence of identity or employment eligibility, the Secretary shall extend the period for providing confirmation or nonconfirmation for stated periods beyond 10 business days. When confirmation or nonconfirmation is provided, the confirmation system shall provide an appropriate code indicating such confirmation or nonconfirmation.

''(V) REEXAMINATION.—Nothing in this section shall prevent the Secretary from establishing procedures to reexamine a case where a confirmation or nonconfirmation has been provided if subsequently received information indicates that the confirmation or nonconfirmation may not have been correct. Any procedures for reexamination shall not limit in any way an employee's right to appeal a nonconfirmation.

''(VI) EMPLOYEE PROTECTIONS.—An employer may not terminate employment or take any other adverse action against an individual solely because of a failure of the individual to have identity and employment eligibility confirmed under this subsection until—

''(aa) a nonconfirmation has been issued;

''(bb) if the further action notice was contested, the period to timely file an administrative appeal has expired without an appeal or the contestation to the further action notice is withdrawn; or

''(cc) if an appeal before an administrative law judge under paragraph (7) has been filed, the nonconfirmation has been upheld or the appeal has been withdrawn or dismissed.

''(iv) NOTICE OF NONCONFIRMATION.—Not later than 3 business days after an employer receives a nonconfirmation, or during such other reasonable time as the Secretary may provide, the employer shall notify the individual who is the subject of the nonconfirmation, and provide information about filing an administrative appeal pursuant to paragraph (6) and a request for a hearing before an administrative law judge pursuant to paragraph (7). The nonconfirmation notice shall be given to the individual in writing and the employer shall acknowledge in the System under penalty of perjury that it provided the notice (or adequately attempted to provide notice, but was unable to do so despite reasonable efforts). The individual shall affirmatively acknowledge in writing, or in such other manner as the Secretary may prescribe, the receipt of the nonconfirmation notice from the employer. If the individual refuses or fails to acknowledge the receipt of the nonconfirmation notice, the employer shall notify the Secretary in such manner as the Secretary may prescribe.

''(D) CONSEQUENCES OF NONCONFIRMATION.—

''(i) TERMINATION OF CONTINUED EMPLOYMENT.—Except as provided in clause (iii), an employer that has received a nonconfirmation regarding an individual and has made reasonable efforts to notify the individual in accordance with subparagraph (C)(iv) shall terminate the employment of the individual upon the expiration of the time period specified in paragraph (7).

''(ii) CONTINUED EMPLOYMENT AFTER NONCONFIRMATION.—If the employer continues to employ an individual after receiving nonconfirmation and exhaustion of all appeals or expiration of all rights to appeal if not appealed, in violation of clause (i), a rebuttable presumption is created that the employer has violated paragraphs (1)(A) and (2) of subsection (a). Such presumption shall not apply in any prosecution under subsection (k)(1).

''(iii) EFFECT OF ADMINISTRATIVE APPEAL OR REVIEW BY ADMINISTRATIVE LAW JUDGE.—If an individual files an administrative appeal of the nonconfirmation within the time period specified in paragraph (6)(A), or files for review with an administrative law judge specified in paragraph (7)(A), the employer shall not terminate the individual's employment under this subparagraph prior to the resolution of the administrative appeal unless the Secretary or Commissioner terminates the stay under paragraph (6)(B) or (7)(B).

''(iv) WEEKLY REPORT.—The Director of U.S. Citizenship and Immigration Services shall submit a weekly report to the Assistant Secretary for Immigration and Customs

Enforcement that includes, for each individual who receives final nonconfirmation through the System—

''(I) the name of such individual;

''(II) his or her social security number or alien file number;

''(III) the name and contact information for his or her current employer; and

''(IV) any other critical information that the Assistant Secretary determines to be appropriate.

''(v) OTHER REFERRAL.—The Director of U.S. Citizenship and Immigration Services shall refer to the Assistant Secretary for Immigration and Customs Enforcement for appropriate action by the Assistant Secretary or for referral by the Assistant Secretary to another law enforcement agency, as appropriate—

''(I) any case in which the Director believes that a social security number has been falsely or fraudulently used; and

''(II) any case in which a false or fraudulent document is used by an employee who has received a further action notice to resolve such notice.

''(E) OBLIGATION TO RESPOND TO QUERIES AND ADDITIONAL INFORMATION.—

''(i) IN GENERAL.—Employers shall comply with requests for information from the Secretary and the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, including queries concerning current and former employees, within the time frame during which records are required to be maintained under this section regarding such former employees, if such information relates to the functioning of the System, the accuracy of the responses provided by the System, or any suspected misuse, discrimination, fraud, or identity theft in the use of the System. Failure to comply with a request under this clause constitutes a violation of subsection (a)(1)(B).

''(ii) ACTION BY INDIVIDUALS.—

''(I) IN GENERAL.—Individuals being verified through the System may be required to take further action to address questions identified by the Secretary or the Commissioner regarding the documents relied upon for purposes of subsection (c).

''(II) NOTIFICATION.—Not later than 3 business days after the receipt of such questions regarding an individual, or during such other reasonable time as the Secretary may prescribe, the employer shall—

''(aa) notify the individual of any such requirement for further actions; and

''(bb) record the date and manner of such notification.

''(III) ACKNOWLEDGMENT.—The individual shall acknowledge the notification received from the employer under subclause (II) in writing, or in such other manner as the Secretary may prescribe.

''(iii) RULEMAKING.—

''(I) IN GENERAL.—The Secretary, in consultation with the Commissioner and the Attorney General, is authorized to issue regulations implementing, clarifying, and supplementing the requirements under this subparagraph—

''(aa) to facilitate the functioning, accuracy, and fairness of the System;

''(bb) to prevent misuse, discrimination, fraud, or identity theft in the use of the System; or

''(cc) to protect and maintain the confidentiality of information that could be used to locate or otherwise place at risk of harm victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking, and of the applicant or beneficiary of any petition described in section 384(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367(a)(2)).

''(II) NOTICE.—The regulations issued under subclause (I) shall be—

''(aa) published in the Federal Register; and

''(bb) provided directly to all employers registered in the System.

''(F) DESIGNATED AGENTS.—The Secretary shall establish a process—

''(i) for certifying, on an annual basis or at such times as the Secretary may prescribe, designated agents and other System service providers seeking access to the System to perform verification queries on behalf of employers, based upon training, usage, privacy, and security standards prescribed by the Secretary;

''(ii) for ensuring that designated agents and other System service providers are subject to monitoring to the same extent as direct access users; and

''(iii) for establishing standards for certification of electronic I–9 programs.

''(G) REQUIREMENT TO PROVIDE INFORMATION.—

''(i) IN GENERAL.—No later than 3 months after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Secretary, in consultation with the Secretary of Labor, the Secretary of Agriculture, the Commissioner, the Attorney General, the Equal Employment Opportunity Commission, and the Administrator of the Small Business Administration, shall commence a campaign to disseminate information respecting the procedures, rights, and remedies prescribed under this section.

''(ii) CAMPAIGN REQUIREMENTS.—The campaign authorized under clause (i)—

''(I) shall be aimed at increasing the knowledge of employers, employees, and the general public concerning employer and employee rights, responsibilities, and remedies under this section; and

''(II) shall be coordinated with the public education campaign conducted by U.S. Citizenship and Immigration Services.

''(iii) ASSESSMENT.—The Secretary shall assess the success of the campaign in achieving the goals of the campaign.

''(iv) AUTHORITY TO CONTRACT.—In order to carry out and assess the campaign under this subparagraph, the Secretary may, to the extent deemed appropriate and subject to the availability of appropriations, contract with public and private organizations for outreach and assessment activities under the campaign.

''(v) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $40,000,000 for each of the fiscal years 2014 through 2016.

''(H) AUTHORITY TO MODIFY INFORMATION REQUIREMENTS.—Based on a regular review of the System and the document verification procedures to identify misuse or fraudulent use and to assess the security of the documents and processes used to establish identity or employment authorized status, the Secretary, in consultation with the Commissioner, after publication of notice in the Federal Register and an opportunity for public comment, may modify, if the Secretary determines that the modification is necessary to ensure that the System accurately and reliably determines the identity and employment authorized status of employees and maintain existing protections against misuse, discrimination, fraud, and identity theft—

''(i) the information that shall be presented to the employer by an individual;

''(ii) the information that shall be provided to the System by the employer; and

''(iii) the procedures that shall be followed by employers with respect to the process of verifying an individual through the System.

''(I) SELF-VERIFICATION.—Subject to appropriate safeguards to prevent misuse of the system, the Secretary, in consultation with the Commissioner, shall establish a secure self-verification procedure to permit an individual who seeks to verify the individual's own employment eligibility to contact the appropriate agency and, in a timely manner, correct or update the information contained in the System.

''(5) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE SYSTEM.—An employer shall not be liable to a job applicant, an employee, the Federal Government, or a State or local government, under Federal, State, or local criminal or civil law for any employment-related action taken with respect to a job applicant or employee in good faith reliance on information provided by the System.

''(6) ADMINISTRATIVE APPEAL.—

''(A) IN GENERAL.—An individual who is notified of a nonconfirmation may, not later than 10 business days after the date that such notice is received, file an administrative appeal of such nonconfirmation with the Commissioner if the notice is based on records maintained by the Commissioner, or in any other case, with the Secretary. An individual who did not timely contest a further action notice timely received by that individual for which the individual acknowledged receipt may not be granted a review under this paragraph.

''(B) ADMINISTRATIVE STAY OF NONCONFIRMATION.—The nonconfirmation shall be automatically stayed upon the timely filing of an administrative appeal, unless the nonconfirmation resulted after the individual acknowledged receipt of the further action notice but failed to contact the appropriate agency within the time provided. The stay shall remain in effect until the resolution of the appeal, unless the Secretary or the Commissioner terminates the stay based on a determination that the administrative appeal is frivolous or filed for purposes of delay.

''(C) REVIEW FOR ERROR.—The Secretary and the Commissioner shall develop procedures for resolving administrative appeals regarding nonconfirmations based upon the information that the individual has provided, including any additional evidence or argument that was not previously considered. Any such additional evidence or argument shall be filed within 10 business days of the date the appeal was originally filed. Appeals shall be resolved within 20 business days after the individual has submitted all evidence and arguments the individual wishes to submit, or has stated in writing that there is no additional evidence that the individual wishes to submit. The Secretary and the Commissioner may, on a case by case basis for good cause, extend the filing and submission period in order to ensure accurate resolution of an appeal before the Secretary or the Commissioner.

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

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

''(7) REVIEW BY ADMINISTRATIVE LAW JUDGE.—

''(A) IN GENERAL.—Not later than 30 days after the date an individual receives a final determination on an administrative appeal under paragraph (6), the individual may obtain review of such determination by filing a complaint with a Department of Justice administrative law judge in accordance with this paragraph.

''(B) STAY OF NONCONFIRMATION.—The nonconfirmation related to such final determination shall be automatically stayed upon the timely filing of a complaint under this paragraph, and the stay shall remain in effect until the resolution of the complaint, unless the administrative law judge determines that the action is frivolous or filed for purposes of delay.

''(C) SERVICE.—The respondent to complaint filed under this paragraph is either the Secretary or the Commissioner, but not both, depending upon who issued the administrative order under paragraph (6). In addition to serving the respondent, the plaintiff shall serve the Attorney General.

''(D) AUTHORITY OF ADMINISTRATIVE LAW JUDGE.—

''(i) RULES OF PRACTICE.—The Secretary shall promulgate regulations regarding the rules of practice in appeals brought pursuant to this subsection.

''(ii) AUTHORITY OF ADMINISTRATIVE LAW JUDGE.—The administrative law judge shall have power to—

''(I) terminate a stay of a nonconfirmation under subparagraph (B) if the administrative law judge determines that the action is frivolous or filed for purposes of delay;

''(II) adduce evidence at a hearing;

''(III) compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing;

''(IV) resolve claims of identity theft; and

''(V) enter, upon the pleadings and any evidence adduced at a hearing, a decision affirming or reversing the result of the agency, with or without remanding the cause for a rehearing.

''(iii) SUBPOENA.—In case of contumacy or refusal to obey a subpoena lawfully issued under this section and upon application of the administrative law judge, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt of such court.

''(iv) TRAINING.—An administrative law judge hearing cases shall have special training respecting employment authorized status verification.

''(E) ORDER BY ADMINISTRATIVE LAW JUDGE.—

''(i) IN GENERAL.—The administrative law judge shall issue and cause to be served to the parties in the proceeding an order which may be appealed as provided in subparagraph (G).

''(ii) CONTENTS OF ORDER.—Such an order shall uphold or reverse the final determination on the request for reconsideration and order lost wages and other appropriate remedies as provided in subparagraph (F).

''(F) COMPENSATION FOR ERROR.—

''(i) IN GENERAL.—In cases in which the administrative law judge reverses the final determination of the Secretary or the Commissioner made under paragraph (6), and the administrative law judge finds that—

''(I) the nonconfirmation was due to gross negligence or intentional misconduct of the employer, the administrative law judge may order the employer to pay the individual lost wages, and reasonable costs and attorneys' fees incurred during administrative and judicial review; or

''(II) such final determination was erroneous by reason of the negligence of the Secretary or the Commissioner, the administrative law judge may order the Secretary or the Commissioner to pay the individual lost wages, and reasonable costs and attorneys' fees incurred during the administrative appeal and the administrative law judge review.

''(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work schedule that prevailed prior to termination. The individual shall be compensated for wages lost beginning on the first scheduled work day after employment was terminated and ending 120 days after completion of the administrative law judge's review described in this paragraph or the day after the individual is reinstated or obtains employment elsewhere, whichever occurs first. If the individual obtains employment elsewhere at a lower wage rate, the individual shall be compensated for the difference in wages for the period ending 120 days after completion of the administrative law judge review process. No lost wages shall be awarded for any period of time during which the individual was not in employment authorized status.

''(iii) PAYMENT OF COMPENSATION.—Notwithstanding any other law, payment of compensation for lost wages, costs, and attorneys' fees under this paragraph, or compromise settlements of the same, shall be made as provided by section 1304 of title 31, United States Code. Appropriations made available to the Secretary or the Commissioner, accounts provided for under section 286, and funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund shall not be available to pay such compensation.

''(G) APPEAL.—No later than 45 days after the entry of such final order, any person adversely affected by such final order may seek review of such order in the United States Court of Appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

''(8) MANAGEMENT OF THE SYSTEM.—

''(A) IN GENERAL.—The Secretary is authorized to establish, manage, and modify the System, which shall—

''(i) respond to inquiries made by participating employers at any time through the internet, or such other means as the Secretary may designate, concerning an individual's identity and whether the individual is in employment authorized status;

''(ii) maintain records of the inquiries that were made, of confirmations provided (or not provided), and of the codes provided to employers as evidence of their compliance with their obligations under the System; and

''(iii) provide information to, and require action by, employers and individuals using the System.

''(B) DESIGN AND OPERATION OF SYSTEM.—The System shall be designed and operated—

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

''(ii) to maximize its ease of use by employees, including direct notification of its use, of results, and ability to challenge results;

''(iii) to respond accurately to all inquiries made by employers on whether individuals are authorized to be employed and to register any times when the system is unable to receive inquiries;

''(iv) to maintain appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, misuse by employers and employees, and discrimination;

''(v) to require regularly scheduled refresher training of all users of the System to ensure compliance with all procedures;

''(vi) to allow for auditing of the use of the System to detect misuse, discrimination, fraud, and identity theft, to protect privacy and assess System accuracy, and to preserve the integrity and security of the information in all of the System, including—

''(I) to develop and use tools and processes to detect or prevent fraud and identity theft, such as multiple uses of the same identifying information or documents to fraudulently gain employment;

''(II) to develop and use tools and processes to detect and prevent misuse of the system by employers and employees;

''(III) to develop tools and processes to detect anomalies in the use of the system that may indicate potential fraud or misuse of the system;

''(IV) to audit documents and information submitted by employees to employers, including authority to conduct interviews with employers and employees, and obtain information concerning employment from the employer;

''(vii) to confirm identity and employment authorization through verification and comparison of records as determined necessary by the Secretary;

''(viii) to confirm electronically the issuance of the employment authorization or identity document and—

''(I) if such photograph is available, to display the digital photograph that the issuer placed on the document so that the employer can compare the photograph displayed to the photograph on the document presented by the employee; or

''(II) if a photograph is not available from the issuer, to confirm the authenticity of the document using additional security measures set forth in subsection (c)(1)(F)(iv);

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

''(I) to use state-of-the-art technology to determine to a high degree of accuracy whether an individual presenting biographic information is the individual with that true identity;

''(II) to retain under the control of the Secretary the use of all determinations communicated by the System, regardless of the entity operating the system pursuant to a contract or other agreement with a nongovernmental entity or entities to the extent helpful in acquiring the best technology to implement the additional security measures;

''(III) to be integrated with the System so that employment authorizations will be determined for all individuals identified as presenting their true identities through the databases maintained by the Commissioner of Social Security and the Secretary;

''(IV) to use tools and processes to detect and prevent further action notices and final nonconfirmations that are not correlated to fraud or identity theft;

''(V) to make risk-based assessments regarding the reliability of a claim of identity made by an individual presenting biographic information and to tailor the identity determination in accordance with those assessments;

''(VI) to permit queries to be presented to individuals subject to identity verification at the time their identities are being verified in a manner that permits rapid communication through Internet, mobile phone, and landline telephone connections to facilitate identity proofing;

''(VII) to generate queries that conform to the context of the identity verification process and the circumstances of the individual whose identity is being verified;

''(VIII) to use publicly available databases and databases under the jurisdiction of the Commissioner of Social Security, the Secretary, and the Secretary of State to formulate queries to be presented to individuals whose identities are being verified, as appropriate;

''(IX) to not retain data collected by the System within any database separate from the database in which the operating system is located and to limit access to the existing databases to a reference process that shields the operator of the System from acquiring possession of the data beyond the formulation of queries and verification of responses;

''(X) to not permit individuals or entities using the System to access any data related to the individuals whose identities are being verified beyond confirmations, further action notices, and final nonconfirmations of identity;

''(XI) to include, if feasible, a capability for permitting document or other inputs that can be offered to individuals and entities using the System and that may be used at the option of employees to facilitate identity verification, but would not be required of either employers or employees; and

''(XII) to the greatest extent possible, in accordance with the time frames specified in this section; and

''(x) to provide appropriate notification directly to employers registered with the System of all changes made by the Secretary or the Commissioner related to allowed and prohibited documents, and use of the System.

''(C) SAFEGUARDS TO THE SYSTEM.—

''(i) REQUIREMENT TO DEVELOP.—The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop policies and procedures to ensure protection of the privacy and security of personally identifiable information and identifiers contained in the records accessed or maintained by the System. The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop and deploy appropriate privacy and security training for the Federal and State employees accessing the records under the System.

''(ii) PRIVACY AUDITS.—The Secretary, acting through the Chief Privacy Officer of the Department, shall conduct regular privacy audits of the policies and procedures established under clause (i) and the Department's compliance with the limitations set forth in subsection (c)(1)(F)(iii)(IV), including any collection, use, dissemination, and maintenance of personally identifiable information and any associated information technology systems, as well as scope of requests for this information. The Chief Privacy Officer shall review the results of the audits and recommend to the Secretary any changes necessary to improve the privacy protections of the program.

''(iii) ACCURACY AUDITS.—

''(I) IN GENERAL.—Not later than November 30 of each year, the Inspector General of the Department of Homeland Security shall submit a report to the Secretary, with a copy to the President of the Senate and the Speaker of the House of Representatives, that sets forth the error rate of the System for the previous fiscal year and the assessments required to be submitted by the Secretary under subparagraphs (A) and (B) of paragraph (10). The report shall describe in detail the methodology employed for purposes of the report, and shall make recommendations for how error rates may be reduced.

''(II) ERROR RATE DEFINED.—In this clause, the term error rate means the percentage determined by dividing—

''(aa) the number of employment authorized individuals who received further action notices, contested such notices, and were subsequently found to be employment authorized; by

''(bb) the number of System inquiries submitted for employment authorized individuals.

''(III) ERROR RATE DETERMINATION.—The audits required under this clause shall—

''(aa) determine the error rate for identity determinations pursuant to subsection (c)(1)(F) for individuals presenting their true identities in the same manner and applying the same standards as for employment authorization; and

''(bb) include recommendations, as provided in subclause (I), but no reduction in fines pursuant to subclause (IV).

''(IV) REDUCTION OF PENALTIES FOR RECORDKEEPING OR VERIFICATION PRACTICES FOLLOWING PERSISTENT SYSTEM INACCURACIES.—Notwithstanding subsection (e)(4)(C)(i), in any calendar year following a report by the Inspector General under subclause (I) that the System had an error rate higher than 0.3 percent for the previous fiscal year, the civil penalty assessable by the Secretary or an administrative law judge under that subsection for each first-time violation by an employer who has not previously been penalized under this section may not exceed $1,000.

''(iv) RECORDS SECURITY PROGRAM.—Any person, including a private third party vendor, who retains document verification or System data pursuant to this section shall implement an effective records security program that—

''(I) ensures that only authorized personnel have access to document verification or System data; and

''(II) ensures that whenever such data is created, completed, updated, modified, altered, or corrected in electronic format, a secure record is created that establishes the date of access, the identity of the individual who accessed the electronic record, and the particular action taken.

''(v) RECORDS SECURITY PROGRAM.—In addition to the security measures described in clause (iv), a private third party vendor who retains document verification or System data pursuant to this section shall implement an effective records security program that—

''(I) provides for backup and recovery of any records maintained in electronic format to protect against information loss, such as power interruptions; and

''(II) ensures that employees are trained to minimize the risk of unauthorized or accidental alteration or erasure of such data in electronic format.

''(vi) AUTHORIZED PERSONNEL DEFINED.—In this subparagraph, the term authorized personnel means anyone registered as a System user, or anyone with partial or full responsibility for completion of employment authorization verification or retention of data in connection with employment authorization verification on behalf of an employer.

''(D) AVAILABLE FACILITIES AND ALTERNATIVE ACCOMMODATIONS.—The Secretary shall make appropriate arrangements and develop standards to allow employers or employees, including remote hires, who are otherwise unable to access the System to use electronic and telephonic formats (including video conferencing, scanning technology, and other available technologies), Federal Government facilities, public facilities, or other available locations in order to utilize the System.

''(E) RESPONSIBILITIES OF THE SECRETARY.—

''(i) IN GENERAL.—As part of the System, the Secretary shall maintain a reliable, secure method, which, operating through the System and within the time periods specified, compares the name, alien identification or authorization number, or other information as determined relevant by the Secretary, provided in an inquiry against such information maintained or accessed by the Secretary in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and number, whether the alien has employment authorized status (or, to the extent that the Secretary determines to be feasible and appropriate, whether the records available to the Secretary verify the identity or status of a national of the United States), and such other information as the Secretary may prescribe.

''(ii) PHOTOGRAPH DISPLAY.—As part of the System, the Secretary shall establish a reliable, secure method, which, operating through the System, displays the digital photograph described in subparagraph (B)(viii)(I).

''(iii) TIMING OF NOTICES.—The Secretary shall have authority to prescribe when a confirmation, nonconfirmation, or further action notice shall be issued.

''(iv) USE OF INFORMATION.—The Secretary shall perform regular audits under the System, as described in subparagraph (B)(vi) and shall utilize the information obtained from such audits, as well as any information obtained from the Commissioner pursuant to part E of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), for the purposes of this section and to administer and enforce the immigration laws.

''(v) IDENTITY FRAUD PROTECTION.—To prevent identity fraud, not later than 18 months after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, the Secretary shall—

''(I) in consultation with the Commissioner, establish a program to provide a reliable, secure method for an individual to temporarily suspend or limit the use of the individual's social security account number or other identifying information for verification by the System; and

''(II) for each individual being verified through the System—

''(aa) notify the individual that the individual has the option to limit the use of the individual's social security account number or other identifying information for verification by the System; and

''(bb) provide instructions to the individuals for exercising the option referred to in item (aa).

''(vi) ALLOWING PARENTS TO PREVENT THEFT OF THEIR CHILD'S IDENTITY.—The Secretary, in consultation with the Commissioner, shall establish a program that provides a reliable, secure method by which parents or legal guardians may suspend or limit the use of the social security account number or other identifying information of a minor under their care for the purposes of the System. The Secretary may implement the program on a limited pilot program basis before making it fully available to all individuals.

''(vii) PROTECTION FROM MULTIPLE USE.—The Secretary and the Commissioner shall establish a procedure for identifying and handling a situation in which a social security account number has been identified to be subject to unusual multiple use in the System or is otherwise suspected or determined to have been compromised by identity fraud. Such procedure shall include notifying the legitimate holder of the social security number at the appropriate time.

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

''(ix) CIVIL RIGHTS AND CIVIL LIBERTIES ASSESSMENTS.—

''(I) REQUIREMENT TO CONDUCT.—The Secretary shall conduct regular civil rights and civil liberties assessments of the System, including participation by employers, other private entities, and Federal, State, and local government entities.

''(II) REQUIREMENT TO RESPOND.—Employers, other private entities, and Federal, State, and local entities shall timely respond to any request in connection with such an assessment.

''(III) ASSESSMENT AND RECOMMENDATIONS.—The Officer for Civil Rights and Civil Liberties of the Department shall review the results of each such assessment and recommend to the Secretary any changes necessary to improve the civil rights and civil liberties protections of the System.

''(F) GRANTS TO STATES.—

''(i) IN GENERAL.—The Secretary shall create and administer a grant program to help provide funding for reimbursement of the actual costs to States that grant—

''(I) the Secretary access to driver's license information as needed to confirm that a driver's license presented under subsection (c)(1)(D)(i) confirms the identity of the subject of the System check, and that a driver's license matches the State's records; and

''(II) such assistance as the Secretary may request in order to resolve further action notices or nonconfirmations relating to such information.

''(ii) CONSTRUCTION WITH THE DRIVER'S PRIVACY PROTECTION ACT OF 1994.—The provision of a photograph to the Secretary as described in clause (i) may not be construed as a violation of section 2721 of title 18, United States Code, and is a permissible use under subsection (b)(1) of that section.

''(iii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary, from the Comprehensive Immigration Reform Trust Fund established under section 6(a)(1), $500,000,000 to carry out this subparagraph.

''(G) RESPONSIBILITIES OF THE SECRETARY OF STATE.—As part of the System, the Secretary of State shall provide to the Secretary access to passport and visa information as needed to confirm that a passport, passport card, or visa presented under subsection (c)(1)(C) confirms the identity of the subject of the System check, and that a passport, passport card, or visa photograph matches the Secretary of State's records, and shall provide such assistance as the Secretary may request in order to resolve further action notices or nonconfirmations relating to such information.

''(H) UPDATING INFORMATION.—The Commissioner, the Secretary, and the Secretary of State shall update their information in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

''(9) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, no department, bureau, or other agency of the United States Government or any other entity shall utilize, share, or transmit any information, database, or other records assembled under this subsection for any purpose other than for employment verification or to ensure secure, appropriate and nondiscriminatory use of the System.

''(10) ANNUAL REPORT AND CERTIFICATION.—Not later than 18 months after the promulgation of regulations to implement this subsection, and annually thereafter, the Secretary shall submit to Congress a report that includes the following:

''(A) An assessment, as submitted to the Secretary by the Inspector General of the Department of Homeland Security pursuant to paragraph (8)(C)(iii)(I), of the accuracy rates of further action notices and other System notices provided by employers to individuals who are authorized to be employed in the United States.

''(B) An assessment, as submitted to the Secretary by the Inspector General of the Department of Homeland Security pursuant to paragraph (8)(C)(iii)(I), of the accuracy rates of further action notices and other System notices provided directly (by the System) in a timely fashion to individuals who are not authorized to be employed in the United States.

''(C) An assessment of any challenges faced by small employers in utilizing the System.

''(D) An assessment of the rate of employer noncompliance (in addition to failure to provide required notices in a timely fashion) in each of the following categories:

''(i) Taking adverse action based on a further action notice.

''(ii) Use of the System for nonemployees or other individuals before they are offered employment.

''(iii) Use of the System to reverify employment authorized status of current employees except if authorized to do so.

''(iv) Use of the System selectively, except in cases in which such use is authorized.

''(v) Use of the System to deny employment or post-employment benefits or otherwise interfere with labor rights.

''(vi) Requiring employees or applicants to use any self-verification feature or to provide self-verification results.

''(vii) Discouraging individuals who receive a further action notice from challenging the further action notice or appealing a determination made by the System.

''(E) An assessment of the rate of employee noncompliance in each of the following categories:

''(i) Obtaining employment when unauthorized with an employer complying with the System in good faith.

''(ii) Failure to provide required documents in a timely manner.

''(iii) Attempting to use fraudulent documents or documents not related to the individual.

''(iv) Misuse of the administrative appeal and judicial review process.

''(F) An assessment of the amount of time taken for—

''(i) the System to provide the confirmation or further action notice;

''(ii) individuals to contest further action notices;

''(iii) the System to provide a confirmation or nonconfirmation of a contested further action notice;

''(iv) individuals to file an administrative appeal of a nonconfirmation; and

''(v) resolving administrative appeals regarding nonconfirmations.

''(11) ANNUAL GAO STUDY AND REPORT.—

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

''(B) REPORT.—Not later than 18 months after the promulgation of regulations to implement this subsection, and yearly thereafter, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under this paragraph. Each such report shall include, at a minimum, the following:

''(i) An assessment of System performance with respect to the rate at which individuals who are eligible for employment in the United States are correctly approved within the required periods, including a separate assessment of such rate for naturalized United States citizens, nationals of the United States, and aliens.

''(ii) An assessment of the privacy and confidentiality of the System and of the overall security of the System with respect to cybertheft and theft or misuse of private data.

''(iii) An assessment of whether the System is being implemented in a manner that is not discriminatory or used for retaliation against employees.

''(iv) An assessment of the most common causes for the erroneous issuance of nonconfirmations by the System and recommendations to correct such causes.

''(v) The recommendations of the Comptroller General regarding System improvements.

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

''(vii) An assessment of the direct and indirect costs incurred by employers in complying with the System, including costs associated with retaining potential employees through the administrative appeals process and receiving a nonconfirmation.

''(viii) An assessment of any backlogs or delays in the System providing the confirmation or further action notice and impacts to hiring by employers.

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

''(12) OUTREACH AND PARTNERSHIP.—

''(A) OUTREACH.—The Secretary is authorized to conduct outreach and establish programs to assist employers in verifying employment authorization and preventing identity fraud.

''(B) PARTNERSHIP INITIATIVE.—The Secretary may establish partnership initiatives between the Federal Government and private sector employers to foster cooperative relationships and to strengthen overall hiring practices.''.

(c) TAXPAYER ADDRESS INFORMATION.—Section 6103(m) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(8) TAXPAYER ADDRESS INFORMATION FURNISHED TO SECRETARY OF HOMELAND SECURITY.—Upon written request from the Secretary of Homeland Security, the Secretary shall disclose the mailing address of any taxpayer who is entitled to receive a notification from the Secretary of Homeland Security pursuant to paragraphs (1)(C) and (8)(E)(vii) of section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) for use only by employees of the Department of Homeland for the purpose of mailing such notification to such taxpayer.''.

(d) SOCIAL SECURITY ACCOUNT STATEMENTS.—Section 1143(a)(2) of the Social Security Act (8 U.S.C. 1320b–13(a)(2)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(F) to the extent resources are available, information in the Commissioner's records indicating that a query was submitted to the employment verification system established under section 274A (d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) under that individual's name or social security number; and

''(G) a toll-free telephone number operated by the Department of Homeland Security for employment verification system inquiries and a link to self-verification procedure established under section 274A(d)(4)(I) of such Act.''.

(e) GOOD FAITH COMPLIANCE.—Section 274B(a) (8 U.S.C. 1324b(a)), as amended by section 3105(a) of this Act, is further amended by adding at the end the following:

''(10) TREATMENT OF CERTAIN VIOLATIONS AFTER REASONABLE STEPS IN GOOD FAITH.—Notwithstanding paragraphs (4), (6), and (7), a person, other entity, or employment agency shall not be liable for civil penalties described in section 274B(g)(2)(B)(iv) that are

related to a violation of any such paragraph if the person, entity, or employment agency has taken reasonable steps, in good faith, to comply with such paragraphs at issue, unless the person, other entity, or employment agency—

''(A) was, for similar conduct, subject to—

''(i) a reasonable cause determination by the Office of Special Counsel for Immigration Related Unfair Employment Practices; or

''(ii) a finding by an administrative law judge that a violation of this section has occurred; or

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

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

''(12) RULES OF CONSTRUCTION.—Nothing in this section may be construed—

''(A) to permit the Office of Special Counsel for Immigration-Related Unfair Employment Practices or an administrative law judge hearing a claim under this Section to enforce any workplace rights other than those guaranteed under this section; or

''(B) to prohibit any person, other entity, or employment agency from using an identity verification system, service, or method (in addition to the employment verification system described in section 274A(d)), until the date on which the employer is required to participate in the System under section 274A(d)(2) and the additional security measures mandated by section 274A(c)(F)(iv) have become available to verify the identity of a newly hired employee, if such system—

''(i) is used in a uniform manner for all newly hired employees;

''(ii) is not used for the purpose or with the intent of discriminating against any individual;

''(iii) provides for timely notice to employees run through the system of a mismatch or failure to confirm identity; and

''(iv) sets out procedures for employees run through the system to resolve a mismatch or other failure to confirm identity.

''(13) LIABILITY.—A person, entity, or employment agency that uses an identity verification system, service, or method in a way that conflicts with the requirements set forth in paragraph (10) shall be subject to liability under paragraph (4)(I).''.

(f) MAINTENANCE OF REASONABLE LEVELS OF SERVICE AND ENFORCEMENT.—Notwithstanding section 3301(b)(1), amounts appropriated pursuant to such section shall be used to maintain reasonable levels of service and enforcement rather than a specific numeric increase in the number of Department personnel dedicated to administering the Employment Verification System.

SA 1729. Ms. COLLINS (for herself and Mr. KING) submitted an amendment intended to be proposed to amendment SA 1705 submitted by Ms. COLLINS (for herself and Mr. KING) and intended to be proposed to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike lines 2 through 8 and insert the following:

SEC. ___. LOGGING EMPLOYMENT.

(a) DEFINITION OF AGRICULTURAL EMPLOYMENT.—The definition of ''agricultural employment'' in section 218A(a)(1) of the Immigration and Nationality Act, as added by section 2232, shall be implemented to includes logging employment, as described in section 655.103(c)(4)of title 20, Code of Federal Regulations, as in effect on the date of the enactment of this Act.

(b) JOB CATEGORIES.—Section 218A(f)(2)(A) of the Immigration and Nationality Act, as added by section 2232, shall be implemented as if it included at the end the following:

''(vii) Logging Workers (45-4020).''.

(c) DETERMINATION OF WAGE RATE.—Section 218A(f)(3)(C) of the Immigration and Nationality Act, as added by section 2232, shall be administered as to require the Secretary, in consultation with the Secretary of Labor, to establish the required wage for the next calendar year for Logging Workers (45-4020).

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SA 1730. Mr. REID submitted an amendment intended to be proposed to amendment SA 1664 submitted by Mr. REID and intended to be proposed to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike ''8 days'' and insert ''13 days''

SA 1731. Mr. REID submitted an amendment intended to be proposed to amendment SA 1664 submitted by Mr. REID and intended to be proposed to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike ''8 days'' and insert ''15 days''

SA 1732. Mr. REID submitted an amendment intended to be proposed to amendment SA 1664 submitted by Mr. REID and intended to be proposed to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike ''8 days'' and insert ''14 days''

SA 1733. Ms. LANDRIEU (for herself, Ms. HIRONO, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 1406 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. BEST INTEREST OF THE CHILD.

(a) IN GENERAL.—In all procedures and decisions concerning unaccompanied alien children that are made by a Federal agency or a Federal court pursuant to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) or regulations implementing the Act, the best interests of the child shall be a primary consideration.

(b) DETERMINATIONS RELATED TO SECTION 101(A)(27)(J) OF THE IMMIGRATION AND NATIONALITY ACT.—Best interests determinations made in administrative or judicial proceedings described in section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) shall be conclusive in assessing the best interests of the child under this section.

(c) FACTORS.—In assessing the best interests of the child, the entities referred to in subsection (a) shall consider, in the context of the child's age and maturity, the following factors:

(1) The views of the child.

(2) The safety and security considerations of the child.

(3) The mental and physical health of the child.

(4) The parent-child relationship and family unity, and the potential effect of separating the child from the child's parent or legal guardian, siblings, and other members of the child's extended biological family.

(5) The child's sense of security, familiarity, and attachments.

(6) The child's well-being, including the need of the child for education and support related to child development.

(7) The child's ethnic, religious, and cultural and linguistic background.

SA 1734. Ms. LANDRIEU (for herself and Mr. KIRK) submitted an amendment intended to be proposed to amendment SA 1406 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 4225. SMALL BUSINESS EXPRESS LANE.

Section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)), as amended by section 4231, is amended by adding at the end the following:

''(8)(A) The Secretary shall establish a small business express lane for the H-1B visa application process, under which the Secretary—

''(i) may waive the fee for premium processing under section 286(u) for a business that—

''(I) is considered a small business with not more than 25 employees;

''(II) is not considered an H-1B dependent employer; and

''(III) reports a business income on the tax filings for the previous year of not more than $250,000; and

''(ii) shall, to the extent practicable, create or modify an online interface capable of providing real time feedback and error mitigation technology that can be used by small businesses and other employers with the purpose of increasing employer access in streamlining the H-1B visa application process.

''(B) The total amount of fees waived during a fiscal year by the Secretary under subparagraph (A)(i) shall be added to the projected cost for the service in the following fiscal year and a revised fee shall be established based on the projected cost.

''(C) The Secretary shall, to the extent practicable, create an online interface and mobile application that can be used by small businesses and other employers with the purpose of increasing employer access in streamlining the H-1B visa application process.

''(D)(i) The Secretary, in coordination with the Administrator of the Small Business Administration, shall set a goal of not less than 30 percent of H-1B visas being awarded to small businesses.

''(ii) Of the goal amount described in clause (i)—

''(I) ⅓ of the goal shall be reserved for businesses with not more than 25 employees; and

''(II) ⅔ of the goal may be used by businesses with not more than 500 employees.

''(iii) The goal described in clause (i) may be modified by the Secretary, in consultation with the Administrator of the Small Business Administration, based on any feedback provided by the Office of Advocacy of the Small Business Administration.

''(E) The Bureau of Immigration and Labor Market Research shall submit a report, on an annual basis, to the Committee on the Judiciary of the Senate, the Small Business and Entrepreneurship Committee of the Senate, the Committee on the Judiciary of the House of Representatives, and the Small Business and Entrepreneurship Committee of the House of Representatives that contains—

''(i) the total number of H-1B visa applications broken down by business size category and expressed as a percentage of the total—

''(I) 0–25 employees;

''(II) 26–50 employees;

''(III) 50–100 employees;

''(IV) 100–500 employees; or

''(V) more than 500 employees;

''(ii) the total number of H-1B visa applications broken down by North American Industry Classification System (NAICS) Code and expressed as a percentage of the total; and

''(iii) the percentage and number of—

''(I) small businesses to apply for H-1B visas;

''(II) small businesses awarded H-1B visas;

''(III) small businesses that used the premium processing service;

''(IV) all businesses that used the premium processing service and were awarded H-1B visas; and

''(V) all businesses that did not use the premium processing service and were awarded H-1B visas; and

''(iv) a longitudinal and graphical view of the small business percentages described in subparagraph (D) and this subparagraph.

''(F) Beginning 4 years after the date of enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act, and every 4 years thereafter, as part of the report submitted under subparagraph (E), the Bureau of Immigration and Labor Market Research shall include description of the impact of the application process on the on small business, which shall take into consideration—

''(i) the cost to apply for the visas;

''(ii) the impact of the fee waiver under subparagraph (A)(i) on small businesses; and

''(iii) recommendations for streamlining the application process, including recommended modifications and updates to the online user interface and mobile application.''.

SA 1735. Ms. LANDRIEU (for herself, Mrs. SHAHEEN, Mr. FRANKEN, and Mr. COATS) submitted an amendment intended to be proposed to amendment SA 1406 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

(c) REPORT ON IMPACT OF THE SYSTEM ON EMPLOYERS.—Not later than 18 months after the date of the enactment of this Act, the Secretary, in consultation with the Chief Counsel of the Office of Advocacy of the Small Business Administration, shall submit to Congress a report that assesses—

(1) the implementation of the Employment Verification System established under section 274A(d) of the Immigration and Nationality Act, as amended by subsection (a), by employers;

(2) any adverse impact on the revenues, business processes, or profitability of employers required to use such System; and

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

(d) GOVERNMENT ACCOUNTABILITY OFFICE STUDY OF THE EFFECTS OF DOCUMENT REQUIREMENTS ON EMPLOYMENT AUTHORIZED PERSONS AND EMPLOYERS.—

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

(A) the effects of the documentary requirements of section 274A of the Immigration and Nationality Act, as amended by subsection (a), on employers, naturalized United States citizens, nationals of the United States, and individuals with employment authorized status; and

(B) the challenges such employers, citizens, nationals, or individuals may face in obtaining the documentation required under that section.

(2) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under paragraph (1). Such report shall include, at a minimum, the following:

(A) An assessment of available information regarding the number of working age nationals of the United States and individuals who have employment authorized status who lack documents required for employment by such section 274A.

(B) A description of the additional steps required for individuals who have employment authorized status and do not possess the documents required by such section 274A to obtain such documents.

(C) A general assessment of the average financial costs for individuals who have employment authorized status who do not possess the documents required by such section 274A to obtain such documents.

(D) A general assessment, conducted in consultation with the Chief Counsel of the Office of Advocacy of the Small Business Administration, of the average financial costs and challenges for employers who have been required to participate in the Employment Verification System established by subsection (d) of such section 274A.

(E) A description of the barriers to individuals who have employment authorized status in obtaining the documents required by such section 274A, including barriers imposed by the executive branch of the Government.

(F) Any particular challenges facing individuals who have employment authorized status who are members of a federally recognized Indian tribe in complying with the provisions of such section 274A.

(e) EARLY ADOPTION FOR SMALL EMPLOYERS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall create a mobile application and utilize other available smart-phone technology for employers utilizing the System, to encourage small employers to utilize the System prior to the time at which utilization becomes mandatory for all employers.

(2) MARKETING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall, in consultation with the Administrator of the Small Business Administration, make available marketing and other incentives to small business concerns to encourage small employers to utilize the System prior to the time at which utilization of the System becomes mandatory for all employers.

SA 1736. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 1406 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 3717. COST EFFECTIVENESS IN DETENTION FACILITY CONTRACTING.

The Director of U.S. Immigration and Customs Enforcement shall take appropriate measures to minimize, and if possible reduce, the daily bed rate charged to the Federal Government through a competitive process in contracting for or otherwise obtaining detention beds while ensuring that the most recent detention standards, including health standards, and management practices employed by the agency are met.

SA 1737. Ms. LANDRIEU (for herself and Mr. COCHRAN) submitted an amendment intended to be proposed to amendment SA 1406 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

(j) REPORTS.—

(1) REQUIREMENT FOR REPORTS.—Not later than 90 days after the date of the enactment of this Act, and every 180 days thereafter, the Secretary shall submit to the Committee on the Judiciary and the Committee on Appropriations of the Senate and the Committee on the Judiciary and the Committee on Appropriations of the House of Representatives a report on the EB-5 program carried out pursuant to section 203(b)(5) of the Immigration and Nationality (8 U.S.C. 1153(b)(5)), as amended by this section.

(2) CONTENT.—Each report required by paragraph (1) shall include the following:

(A) The number of applications pending for an immigrant visa described in section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)), disaggregated by State.

(B) The period of time each such application has been pending.

(C) The average length of time required to conduct an economic evaluation of a project and suitability of a petitioner for such a visa and the Secretary's goals for these timeframes.

(D) A description of any additional resources necessary to efficiently administer the EB-5 program carried out pursuant to such section 203(b)(5).

(E) The number of applications that have been approved or denied for such a visa in the most recent reporting period with an accompanying explanation of reasons for such approval or denial, disaggregated by State.

(F) The number of jobs created by such EB-5 program in each 180-day period, disaggregated by State.

(G) The types of projects proposed and the number of aliens granted such a visa in each 180-day period, disaggregated by State and by North American Industry Classification System (NAICS) code.

SA 1738. Ms. LANDRIEU (for herself, Mr. CARPER, Mr. BEGICH, and Ms. MURKOWSKI) submitted an amendment intended to be proposed to amendment SA 1406 submitted by Ms. LANDRIEU and intended to be proposed to the bill S. 744, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

(d) DONATIONS FOR LAND PORTS OF ENTRY FACILITIES.—

(1) DONATIONS PERMITTED.—Notwithstanding any other provision of law, including chapter 33 of title 40, United States Code, the Secretary, for purposes of constructing, altering, operating, or maintaining a new or existing land port of entry facility, may accept donations of real and personal property (including monetary donations) and nonpersonal services from private parties and State and local government entities.

(2) ALLOWABLE USES OF DONATIONS.—The Secretary, with respect to any donation provided pursuant to paragraph (1), may—

(A) use such property or services for necessary activities related to the construction, alteration, operation, or maintenance of a new or existing land port of entry facility under the custody and control of the Secretary, including expenses related to—

(i) land acquisition, design, construction, repair and alteration;

(ii) furniture, fixtures, and equipment;

(iii) the deployment of technology and equipment; and

(iv) operations and maintenance; or

(B) transfer such property or services to the Administrator of General Services for necessary activities described in paragraph (1) related to a new or existing land port of entry facility under the custody and control of the Administrator.

(3) EVALUATION PROCEDURES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, in consultation with the Administrator, shall establish procedures for evaluating a proposal submitted by any person described in paragraph (1) to make a donation of real or personal property (including monetary donations) or nonpersonal services to facilitate the construction, alteration, operation, or maintenance of a new or existing land port of entry facility under the custody and control of the Secretary.

(4) CONSIDERATIONS.—In determining whether or not to approve a proposal described in paragraph (3), the Secretary or the Administrator shall consider—

(A) the impact of the proposal on reducing wait times at that port of entry and other ports of entry on the same border;

(B) the potential of the proposal to increase trade and travel efficiency through added capacity;

(C) the potential of the proposal to enhance the security of the port of entry; and

(D) other factors that the Secretary determines to be relevant.

(5) CONSULTATION.—

(A) LOCATIONS FOR NEW PORTS OF ENTRY.—The Secretary is encouraged to consult with the Secretary of the Interior, the Secretary of Agriculture, the Secretary of State, the International Boundary and Water Commission, and appropriate representatives of States, local governments, Indian tribes, and property owners—

(i) to determine locations for new ports of entry; and

(ii) to minimize the adverse impacts from such ports on the environment, historic and cultural resources, commerce, and the quality of life for the communities and residents located near such ports.

(B) SAVINGS PROVISION.—Nothing in this paragraph may be construed—

(i) to create any right or liability of the parties described in subparagraph (A); and

(ii) to affect any consultation requirement under any other law.

(6) SUPPLEMENTAL FUNDING.—Property (including monetary donations) and services provided pursuant to paragraph (1) may be used in addition to any other funding (including appropriated funds), property, or services made available for the same purpose.

(7) UNCONDITIONAL DONATIONS.—A donation provided pursuant to paragraph (1) shall be made unconditionally, although the donor may specify—

(A) the land port of entry facility or facilities to be benefitted from such donation; and

(B) the timeframe during which the donated property or services shall be used.

(8) RETURN OF DONATIONS.—If the Secretary or the Administrator does not use the property or services donated pursuant to paragraph (1) for the specific land port of entry facility or facilities designated by the donor or within the timeframe specified by the donor, such donated property or services shall be returned to the entity that made the donation. No interest shall be owed to the donor with respect to any donation of funding provided under paragraph (1) that is returned pursuant to this paragraph.

(9) REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary, in consultation with the Administrator, shall submit a report to the congressional committees listed in subparagraph (B) that describes—

(i) the accepted donations received under this subsection;

(ii) the ports of entry that received such donations; and

(iii) how each donation helped facilitate the construction, alteration, operation, or maintenance of a new or existing land port of entry.

(B) CONGRESSIONAL COMMITTEES.—The congressional committees listed in this subparagraph are—

(i) the Committee on Appropriations of the Senate;

(ii) the Committee on Homeland Security and Governmental Affairs of the Senate;

(iii) the Committee on Finance of the Senate;

(iv) the Committee on Appropriations of the House of Representatives;

(v) the Committee on Homeland Security of the House of Representatives; and

(vi) the Committee on Ways and Means of the House of Representatives.

(10) SAVINGS PROVISION.—Nothing in this subsection may be construed to affect or alter the existing authority of the Secretary or the Administrator of General Services to construct, alter, operate, and maintain land port of entry facilities.

(e)

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on June 26, 2013, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, ''From the Lab Bench to the Courtroom: Advancing the Science and Standards of Forensics.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 26, 2013, at 10 a.m., in room SD–215 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Health Care Quality: The Path Forward.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on June 26, 2013, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. LEAHY. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on June 26, 2013, to conduct a hearing entitled ''Renewing the Conversation: Respecting Patients' Wishes and Advance Care Planning''

The Committee will meet in room 124 of the Dirksen Senate Office Building beginning at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELATING TO THE ONGOING CONFLICT IN THE DEMOCRATIC REPUBLIC OF THE CONGO

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 93, S. Res. 144.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 144) concerning the ongoing conflict in the Democratic Republic of the Congo and the need for international efforts supporting long-term peace, stability, and observance of human rights.

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Foreign Relations, with an amendment to strike all after the resolving clause and insert the part printed in italic, as follows:

S. RES. 144

Resolved, That the Senate—

(1) commends United Nations Secretary-General Ban Ki-Moon's commitment and leadership to resolving the crisis in the Democratic Republic of the Congo and his appointment of Mary Robinson as United Nations Special Envoy to the Great Lakes;

(2) supports the commitments agreed to by the signatories of the Peace, Security and Cooperation (in this resolution, the ''Framework''), and encourages them to work closely with the United Nations, the African Union, the International Conference on the Great Lakes Region, the Southern African Development Community, as guarantors of the Framework, and the United Nations Special Envoy, MONUSCO, and relevant international bodies and governments to develop, implement, and enforce a comprehensive peace process for the region;

(3) notes that the adoption of the Framework, the appointment of Mary Robinson as United Nations Special Envoy to the Great Lakes, and the expanded MONUSCO mandate provide an opportunity to make meaningful and sustained progress toward ending the recurrent cycles of violence in the Democratic Republic of the Congo, especially in eastern Congo;