

It was decided in the { Yeas ..... 159  
negative ..... } Nays ..... 260

¶31.17 [Roll No. 76]  
AYES—159

Abercrombie	Green	Paxon
Andrews	Hall (OH)	Payne (NJ)
Baesler	Hastings (FL)	Pelosi
Barcia	Hastings (WA)	Petri
Bartlett	Hayworth	Pombo
Becerra	Hefner	Portman
Boehner	Hilleary	Poshard
Bonior	Hilliard	Quillen
Boucher	Hinchev	Rahall
Brown (CA)	Hoekstra	Ramstad
Brown (FL)	Jackson (IL)	Rangel
Brown (OH)	Jackson-Lee	Reed
Brownback	(TX)	Richardson
Bunn	Jacobs	Roemer
Bunning	Jefferson	Ros-Lehtinen
Buyer	Johnson, E. B.	Rose
Camp	Johnson, Sam	Roybal-Allard
Chabot	Jones	Salmom
Chapman	King	Sanders
Chenoweth	Kingston	Sanford
Chrysler	Klug	Scarborough
Clay	LaHood	Schroeder
Clayton	Lewis (GA)	Sensenbrenner
Clyburn	Lewis (KY)	Serrano
Coburn	Linder	Slaughter
Coleman	Longley	Smith (MI)
Collins (GA)	Lucas	Smith (NJ)
Collins (MI)	Manzullo	Smith (WA)
Conyers	Martinez	Souder
Coyle	Matsui	Stockman
Crane	McDade	Stupak
Crapo	McDermott	Tate
Cubin	McHugh	Taylor (NC)
DeLay	McIntosh	Tejeda
Dellums	McNulty	Thompson
Diaz-Balart	Meek	Tiahrt
Doolittle	Menendez	Torkildsen
Doyle	Mica	Torres
Durbin	Miller (FL)	Towns
Edwards	Mink	Upton
Ehlers	Mollohan	Velazquez
Engel	Murtha	Vento
English	Myers	Waldholtz
Ensign	Myrick	Walsh
Evans	Nethercutt	Ward
Ewing	Ney	Watt (NC)
Fields (LA)	Norwood	Weldon (PA)
Filner	Oberstar	White
Flake	Obey	Woolsey
Flanagan	Olver	Wynn
Fox	Ortiz	Yates
Funderburk	Owens	Young (AK)
Gibbons	Oxley	
Gillmor	Pastor	

NOES—260

Ackerman	Burr	Dooley
Allard	Burton	Dornan
Archer	Callahan	Dreier
Armey	Calvert	Duncan
Bachus	Campbell	Dunn
Baker (CA)	Canady	Ehrlich
Baker (LA)	Cardin	Emerson
Baldacci	Castle	Eshoo
Ballenger	Chambliss	Everett
Barr	Christensen	Farr
Barrett (NE)	Clement	Fattah
Barrett (WI)	Clinger	Fawell
Barton	Coble	Fazio
Bass	Combest	Fields (TX)
Bateman	Condit	Foglietta
Beilenson	Costello	Foley
Bentsen	Cox	Forbes
Bereuter	Coyne	Ford
Berman	Cramer	Fowler
Bevill	Creameans	Frank (MA)
Billbray	Cunningham	Franks (CT)
Bilirakis	Danner	Franks (NJ)
Bishop	Davis	Frelinghuysen
Bliley	de la Garza	Frisa
Blute	Deal	Frost
Boehlert	DeFazio	Furse
Bonilla	DeLauro	Gallely
Bono	Deutsch	Ganske
Borski	Dickey	Gejdenson
Brewster	Dicks	Gekas
Browder	Dingell	Gephardt
Bryant (TN)	Geran	Gehring
Bryant (TX)	Doggett	Gilchrest

Gilman	Leach	Roukema
Gonzalez	Levin	Royce
Goodlatte	Lewis (CA)	Sabo
Goodling	Lightfoot	Sawyer
Gordon	Lincoln	Saxton
Goss	Lipinski	Schaefer
Graham	Livingston	Schiff
Greenwood	LoBiondo	Schumer
Gunderson	Lofgren	Scott
Gutierrez	Lowe	Seastrand
Gutknecht	Luther	Shadegg
Hall (TX)	Maloney	Shaw
Hamilton	Manton	Shays
Hancock	Markey	Shuster
Hansen	Martini	Sisisky
Harman	Masara	Skaggs
Hastert	McCarthy	Skeen
Hayes	McCollum	Skelton
Hefley	McCrery	Smith (TX)
Heineman	McHale	Spence
Herger	McInnis	Spratt
Hobson	McKeon	Stearns
Hoke	McKinney	Stenholm
Holden	Meehan	Studds
Horn	Metcalf	Stump
Houghton	Meyers	Talent
Hoyer	Miller (CA)	Tanner
Hunter	Minge	Tauzin
Hutchinson	Molinari	Taylor (MS)
Hyde	Montgomery	Thomas
Inglis	Moorhead	Thornberry
Istook	Moran	Thornton
Johnson (CT)	Morella	Thurman
Johnson (SD)	Neal	Torricelli
Kanjorski	Neumann	Traficant
Kaptur	Nussle	Visclosky
Kasich	Orton	Volkmer
Kelly	Packard	Vucanovich
Kennedy (MA)	Pallone	Walker
Kennedy (RI)	Parker	Wamp
Kennelly	Payne (VA)	Watts (OK)
Kildee	Peterson (FL)	Waxman
Kim	Peterson (MN)	Weldon (FL)
Klecicka	Pickett	Weller
Klink	Pomeroy	Whitfield
Knollenberg	Pryce	Wicker
Kolbe	Quinn	Williams
LaFalce	Regula	Wilson
Lantos	Riggs	Wise
Largent	Rivers	Wolf
Latham	Roberts	Young (FL)
LaTourette	Rogers	Zeliff
Laughlin	Rohrabacher	Zimmer
Lazio	Roth	

NOT VOTING—12

Collins (IL)	Nadler	Solomon
Hohstettler	Porter	Stark
Hoston	Radanovich	Stokes
Moakley	Rush	Waters

So the amendment, as modified, was not agreed to.

After some further time,

¶31.18 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment, as modified, submitted by Mr. GALLEGLY:

Amend section 401 to read as follows (and conform the table of contents accordingly):  
**SEC. 401. EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.**

Section 274A (8 U.S.C. 1324a) is amended—  
(1) in subsection (a)(3), by inserting “(A)” after “DEFENSE.—”, and by adding at the end the following:

“(B) FAILURE TO SEEK AND OBTAIN CONFIRMATION.—Subject to subsection (b)(7), in the case of a hiring of an individual for employment in the United States by a person or entity that employs more than 3 employees, the following rules apply:

“(i) FAILURE TO SEEK CONFIRMATION.—  
“(I) IN GENERAL.—If the person or entity has not made an inquiry, under the mechanism established under subsection (b)(6), seeking confirmation of the identity, social security number, and work eligibility of the

individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after such 3 working days, except as provided in subclause (II).

“(II) SPECIAL RULE FOR FAILURE OF CONFIRMATION MECHANISM.—If such a person or entity in good faith attempts to make an inquiry during such 3 working days in order to qualify for the defense under subparagraph (A) and the confirmation mechanism has registered that not all inquiries were responded to during such time, the person or entity can make an inquiry in the first subsequent working day in which the confirmation mechanism registers no nonresponses and qualify for the defense.

“(ii) FAILURE TO OBTAIN CONFIRMATION.—If the person or entity has made the inquiry described in clause (i)(I) but has not received an appropriate confirmation of such identity, number, and work eligibility under such mechanism within the time period specified under subsection (b)(6)(D)(iii) after the time the confirmation inquiry was received, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after the end of such time period.”;

(2) by amending paragraph (3) of subsection (b) to read as follows:

“(3) RETENTION OF VERIFICATION FORM AND CONFIRMATION.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must—

“(A) if the person employs not more than 3 employees, retain the form and make it available for inspection by officers of the Service, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

“(i) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral, and

“(ii) in the case of the hiring of an individual—

“(I) three years after the date of such hiring, or

“(II) one year after the date the individual’s employment is terminated, whichever is later; and

“(B) subject to paragraph (7), if the person employs more than 3 employees, seek to have (within 3 working days of the date of hiring) and have (within the time period specified under paragraph (6)(D)(iii)) the identity, social security number, and work eligibility of the individual confirmed in accordance with the procedures established under paragraph (6), except that if the person or entity in good faith attempts to make an inquiry in accordance with the procedures established under paragraph (6) during such 3 working days in order to fulfill the requirements under this subparagraph, and the confirmation mechanism has registered that not all inquiries were responded to during such time, the person or entity shall make an inquiry in the first subsequent working day in which the confirmation mechanism registers no nonresponses.”; and

(3) by adding at the end of subsection (b) the following new paragraphs:

“(6) EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.—

“(A) IN GENERAL.—Subject to paragraph (7), the Attorney General shall establish a confirmation mechanism through which the Attorney General (or a designee of the Attorney General which may include a nongovernmental entity)—

“(i) responds to inquiries by employers, made through a toll-free telephone line, other electronic media, or toll-free facsimile

number in the form of an appropriate confirmation code or otherwise, on whether an individual is authorized to be employed by that employer, and

“(ii) maintains a record that such an inquiry was made and the confirmation provided (or not provided)

“(B) EXPEDITED PROCEDURE IN CASE OF NO CONFIRMATION.—In connection with subparagraph (A), the Attorney General shall establish, in consultation with the Commissioner of Social Security and the Commissioner of the Service, expedited procedures that shall be used under the confirmation mechanism in cases in which the confirmation is sought but is not provided through confirmation mechanism.

“(C) DESIGN AND OPERATION OF MECHANISM.—The confirmation mechanism shall be designed and operated—

“(i) to maximize the reliability of the confirmation process, and the ease of use by employers, recruiters, and referrers, consistent with insulating and protecting the privacy and security of the underlying information, and

“(ii) to respond to all inquiries made by employers on whether individuals are authorized to be employed by those employers, recruiters, or referrers registering all times when such response is not possible.

“(D) CONFIRMATION PROCESS.—(i) As part of the confirmation mechanism, the Commissioner of Social Security shall establish a reliable, secure method, which within the time period specified under clause (iii), compares the name and social security account number provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information.

“(ii) As part of the confirmation mechanism, the Commissioner of the Service shall establish a reliable, secure method, which, within the time period specified under clause (iii), compares the name and alien identification number (if any) provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the alien is authorized to be employed in the United States.

“(iii) For purposes of this section, the Attorney General (or a designee of the Attorney General) shall provide through the confirmation mechanism confirmation or a tentative nonconfirmation of an individual’s employment eligibility within 3 working days of the initial inquiry. In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Service, an expedited time period not to exceed 10 working days within which final confirmation or denial must be provided through the confirmation mechanism in accordance with the procedures under subparagraph (B).

“(iv) The Commissioners shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information.

“(E) PROTECTIONS.—(i) In no case shall an individual be denied employment because of inaccurate or inaccessible data under the confirmation mechanism.

“(ii) The Attorney General shall assure that there is a timely and accessible process to challenge nonconfirmations made through the mechanism.

“(iii) If an individual would not have been dismissed from a job but for an error of the confirmation mechanism, the individual will be entitled to compensation through the mechanism of the Federal Tort Claims Act.

“(F) TESTER PROGRAM.—As part of the confirmation mechanism, the Attorney General shall implement a program of testers and investigative activities (similar to testing and other investigative activities assisted under the fair housing initiatives program under section 561 of the Housing and Community Development Act of 1987 to enforce rights under the Fair Housing Act) in order to monitor and prevent unlawful discrimination under the mechanism.

“(G) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE EMPLOYMENT ELIGIBILITY CONFIRMATION MECHANISM.—No person shall be civilly or criminally liable for any action taken in good faith reliance on information provided through the employment eligibility confirmation mechanism established under this paragraph (including any pilot program established under paragraph (7)).

“(7) APPLICATION OF CONFIRMATION MECHANISM THROUGH PILOT PROJECTS.—

“(A) IN GENERAL.—Subsection (a)(3)(B) and paragraph (3) shall only apply to individuals hired if they are covered under a pilot project established under this paragraph.

“(B) UNDERTAKING PILOT PROJECTS.—For purposes of this paragraph, the Attorney General shall undertake pilot projects for all employers in at least 5 of the 7 States with the highest estimated population of unauthorized aliens, in order to test and assure that the confirmation mechanism described in paragraph (6) is reliable and easy to use. Such projects shall be initiated not later than 6 months after the date of the enactment of this paragraph. The Attorney General, however, shall not establish such mechanism in other States unless Congress so provides by law. The pilot projects shall terminate on such dates, not later than October 1, 1999, as the Attorney General determines. At least one such pilot project shall be carried out through a nongovernmental entity as the confirmation mechanism.

“(C) REPORT.—The Attorney General shall submit to the Congress annual reports in 1997, 1998, and 1999 on the development and implementation of the confirmation mechanism under this paragraph. Such reports may include an analysis of whether the mechanism implemented—

- “(i) is reliable and easy to use;
- “(ii) limits job losses due to inaccurate or unavailable data to less than 1 percent;
- “(iii) increase or decreases discrimination;
- “(iv) protects individual privacy with appropriate policy and technological mechanisms; and
- “(v) burdens individual employers with costs or additional administrative requirements.”

It was decided in the { Yeas ..... 86 negative ..... } Nays ..... 331

- Roth
- Roukema
- Royce
- Sabo
- Schumer
- Seastrand
- Shays
- Smith (NJ)
- Smith (TX)
- Stenholm
- Torricelli
- Traficant
- Vento
- Viscosky
- Vucanovich
- Waxman
- Wilson
- Wynn
- Young (AK)
- Young (FL)

NOES—331

- Abercrombie
- Ackerman
- Allard
- Andrews
- Archer
- Army
- Bachus
- Baessler
- Baker (LA)
- Baldacci
- Ballenger
- Barcia
- Barr
- Barrett (NE)
- Barrett (WI)
- Bartlett
- Bass
- Becerra
- Bentsen
- Bevill
- Bishop
- Bliley
- Blute
- Boehlert
- Boehner
- Bonilla
- Bonior
- Boucher
- Brewster
- Browder
- Brown (CA)
- Brown (FL)
- Brown (OH)
- Brownback
- Bryant (TN)
- Bunn
- Bunning
- Burr
- Buyer
- Callahan
- Camp
- Chabot
- Chambliss
- Chapman
- Chenoweth
- Christensen
- Chrysler
- Clay
- Clayton
- Clement
- Clinger
- Clyburn
- Coble
- Coburn
- Coleman
- Collins (GA)
- Collins (MI)
- Combest
- Conyers
- Cooley
- Costello
- Cox
- Coyne
- Cramer
- Crane
- Crapo
- Creameans
- Cubin
- Danner
- Davis
- de la Garza
- DeLay
- Dellums
- Deutsch
- Diaz-Balart
- Dickey
- Dicks
- Dingell
- Dixon
- Doggett
- Dooley
- Doolittle
- Dornan
- Doyle
- Dunn
- Durbin
- Edwards
- Ehlers
- Ehrlich
- Emerson
- Engel
- English
- Ensign
- Evans
- Everett
- Ewing
- Fattah
- Fawell
- Fazio
- Fields (LA)
- Fields (TX)
- Filner
- Flake
- Flanagan
- Forbes
- Ford
- Fowler
- Fox
- Franks (CT)
- Franks (NJ)
- Frelinghuysen
- Frisa
- Frost
- Funderburk
- Ganske
- Gekas
- Gephardt
- Gibbons
- Gillmor
- Gilman
- Gonzalez
- Goodling
- Gordon
- Graham
- Green
- Greenwood
- Gunderson
- Gutierrez
- Gutknecht
- Hall (OH)
- Hall (TX)
- Hamilton
- Hancock
- Hansen
- Harman
- Hastert
- Hastings (FL)
- Hastings (WA)
- Hayworth
- Hefley
- Hefner
- Heineman
- Herber
- Hillery
- Hilliard
- Hinchee
- Hobson
- Hoekstra
- Hoke
- Houghton
- Hoyer
- Hutchinson
- Hyde
- Inglis
- Istook
- Jackson (IL)
- Jackson-Lee
- (TX)
- Jefferson
- Johnson, E. B.
- Jones
- Johnson, Sam
- Jones
- Kanjorski
- Kaptur
- Kasich
- Kelly
- Kennelly
- Kildee
- King
- Kingston
- Klecza
- Klink
- Klug
- Knollenberg
- Kolbe
- LaHood
- Lantos
- Largent
- Latham
- LaTourette
- Laughlin
- Lazio
- Lewis (GA)
- Lewis (KY)
- Lightfoot
- Lincoln
- Linder
- Lipinski
- Livingston
- LoBiondo
- Lofgren
- Longley
- Lucas
- Luther
- Maloney
- Manzullo
- Martini
- Mascara
- Matsui
- McCarthy
- McCrery
- McDade
- McDermott
- McHale
- McHugh
- McInnis
- McIntosh
- McNulty
- Meek
- Menendez
- Mica
- Miller (FL)
- Minge
- Mink
- Molinaro
- Mollohan
- Montgomery
- Moran
- Morella
- Murtha
- Myers
- Myrick
- Nethercutt
- Neumann
- Ney
- Norwood
- Nussle
- Oberstar
- Olver
- Ortiz
- Orton
- Owens
- Oxley
- Parker
- Pastor
- Paxon
- Payne (NJ)
- Pelosi
- Peterson (FL)
- Peterson (MN)
- Petri
- Pickett
- Pombo
- Pomeroy
- Porter
- Portman
- Poshard
- Pryce
- Quillen
- Quinn
- Rahall
- Ramstad
- Rangel
- Reed
- Regula
- Richardson
- Riggs
- Rivers
- Roberts
- Roemer
- Rogers
- Ros-Lehtinen
- Roybal-Allard
- Rush
- Salmon
- Sanders
- Sanford
- Sawyer
- Saxton
- Scarborough
- Schaefer
- Schiff
- Schroeder

31.19 [Roll No. 77] AYES—86

- Baker (CA)
- Barton
- Bateman
- Beilenson
- Bereuter
- Berman
- Bilbray
- Billirakis
- Bono
- Borski
- Bryant (TX)
- Burton
- Calvert
- Campbell
- Canady
- Cardin
- Castle
- Condit
- Cunningham
- Deal
- DeFazio
- DeLauro
- Dreier
- Duncan
- Eshoo
- Farr
- Foglietta
- Foley
- Frank (MA)
- Furse
- Gallegly
- Gejdenson
- Geren
- Gilchrest
- Goodlatte
- Goss
- Holden
- Horn
- Hunter
- Jacobs
- Johnson (SD)
- Kennedy (MA)
- Kennedy (RI)
- Kim
- LaFalce
- Leach
- Levin
- Lewis (CA)
- Lowey
- Manton
- Markey
- Martinez
- McCollum
- McKeon
- McKinney
- Meehan
- Metcalf
- Meyers
- Miller (CA)
- Moorhead
- Neal
- Obey
- Packard
- Pallone
- Payne (VA)
- Rohrabacher