

112TH CONGRESS  
2D SESSION

# H. R. 6112

To require Federal contractors and other recipients of Federal funds to participate in the E-Verify Program for employment eligibility verification, to permanently reauthorize the E-Verify Program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 12, 2012

Mr. WOODALL (for himself, Mr. FRANKS of Arizona, Mr. McCLINTOCK, Mr. WILSON of South Carolina, Mr. AUSTIN SCOTT of Georgia, Mr. CAMPBELL, Mr. KING of Iowa, Mr. WESTMORELAND, Mr. JONES, Mr. LONG, Mr. OLSON, Mr. SCOTT of South Carolina, and Mr. FITZPATRICK) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To require Federal contractors and other recipients of Federal funds to participate in the E-Verify Program for employment eligibility verification, to permanently reauthorize the E-Verify Program, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) The Department of Homeland Security esti-  
7 mates that there were 11.5 million illegal immi-  
8 grants in the United States in 2011, a population  
9 with a traditionally high rate of labor force partici-  
10 pation. During this time, 13.7 million Americans  
11 were unemployed.

12 (2) Pursuant to Executive Order 12989, as  
13 amended by Executive Order 13465, contractors and  
14 subcontractors that do business with the Federal  
15 Government must use the E-Verify Program to  
16 verify that their employees are authorized to work in  
17 the United States. Additionally, all Federal employ-  
18 ees must be screened through the E-Verify Program.

19 (3) The E-Verify Program is accurate, effective,  
20 and currently in use by more than 350,000 employ-  
21 ers. Ninety-eight and three-tenths percent of employ-  
22 ees are automatically confirmed as work-authorized  
23 either instantly or within 24 hours, requiring no em-  
24 ployee or employer action.

25 (4) The United States Court of Appeals for the  
26 Fourth Circuit decided in *Chamber of Commerce v.*

1 Janet Napolitano that entities that solicit and volun-  
2 tarily enter into contracts or agreements with the  
3 Federal Government can be subject to a requirement  
4 for electronic verification of employment eligibility.

5 **SEC. 3. REQUIREMENT FOR FEDERAL CONTRACTORS AND**  
6 **OTHER RECIPIENTS OF FEDERAL FUNDS TO**  
7 **PARTICIPATE IN E-VERIFY PROGRAM.**

8 (a) IN GENERAL.—Section 402(e)(1) of the Illegal  
9 Immigration Reform and Immigrant Responsibility Act of  
10 1996 (8 U.S.C. 1324a note) is amended by adding at the  
11 end the following new subparagraphs:

12 “(C) FEDERAL CONTRACTORS AND SUB-  
13 CONTRACTORS.—

14 “(i) IN GENERAL.—Any Federal con-  
15 tractor described in clause (ii), and any  
16 subcontractor described in clause (iii),  
17 shall elect, prior to receipt of any payment  
18 under the contract or subcontract, to par-  
19 ticipate in the E-Verify Program described  
20 in section 403(a) and shall comply with the  
21 terms and conditions of such election.

22 “(ii) FEDERAL CONTRACTORS DE-  
23 SCRIBED.—A Federal contractor is de-  
24 scribed in this clause if the contractor—

25 “(I) employs individuals; and

1                   “(II) has been awarded (and has  
2                   not completed performance of) a con-  
3                   tract by the Federal Government for  
4                   the procurement of goods or services.

5                   “(iii)        SUBCONTRACTORS        DE-  
6                   SCRIBED.—A subcontractor is described in  
7                   this clause if the subcontractor—

8                   “(I) employs individuals; and

9                   “(II) has been awarded (and has  
10                  not completed performance of) a sub-  
11                  contract by a Federal contractor de-  
12                  scribed in clause (ii).

13                  “(iv) COVERAGE OF WORKFORCE.—In  
14                  implementing this subparagraph, the Sec-  
15                  retary of Homeland Security shall ensure  
16                  that the E-Verify Program is applied to—

17                  “(I) all persons hired during the  
18                  contract term by the contractor to  
19                  perform employment duties within the  
20                  United States;

21                  “(II) all employees assigned by  
22                  the contractor to perform work within  
23                  the United States on the contract;  
24                  and

1                   “(III) in the case of a subcon-  
2                   tractor, all employees of the subcon-  
3                   tractor who are directly engaged in  
4                   performing work under the contract.

5                   “(v) EXCEPTIONS TO CONTRACTS  
6                   COVERED.—For purposes of clause (ii)(II),  
7                   a contract by the Federal Government for  
8                   the procurement of goods or services does  
9                   not include any of the following contracts:

10                   “(I) A contract in an amount less  
11                   than the simplified acquisition thresh-  
12                   old.

13                   “(II) A contract that is for the  
14                   procurement of only commercially  
15                   available off-the-shelf items (or minor  
16                   modifications to such items) and re-  
17                   lated services.

18                   “(III) A contract with a term of  
19                   less than 120 days.

20                   “(IV) A contract under which all  
21                   work is performed outside the United  
22                   States.

23                   “(D) RECIPIENTS OF GRANTS, LOANS, AND  
24                   OTHER FEDERAL BENEFITS.—

1           “(i) IN GENERAL.—Any recipient of a  
2 Federal benefit described in clause (ii)  
3 shall elect, prior to receipt of the benefit,  
4 to participate in the E-Verify Program de-  
5 scribed in section 403(a) and shall comply  
6 with the terms and conditions of such elec-  
7 tion.

8           “(ii) RECIPIENT OF FEDERAL FUNDS  
9 DESCRIBED.—A recipient of a Federal ben-  
10 efit is described in this clause if the recipi-  
11 ent—

12                   “(I) employs individuals; and

13                   “(II) has received (and not com-  
14 pleted the term of) a grant, loan, loan  
15 guarantee, or cooperative agreement  
16 from the Federal Government.

17           “(iii) COVERAGE OF WORKFORCE.—In  
18 implementing this subparagraph, the Sec-  
19 retary of Homeland Security shall ensure  
20 that the E-Verify Program is applied to—

21                   “(I) all persons hired during the  
22 term of the grant, loan, loan guar-  
23 antee, or cooperative agreement by  
24 the recipient of the Federal benefit to

1 perform employment duties within the  
2 United States; and

3 “(II) all employees assigned by  
4 the recipient of the Federal benefit to  
5 perform work within the United  
6 States under the project or activity  
7 funded by the grant, loan, loan guar-  
8 antee, or cooperative agreement.”.

9 (b) **EFFECTIVE DATE.**—The amendment made by  
10 subsection (a) shall apply to contracts, grants, loans, loan  
11 guarantees, or cooperative agreements entered into,  
12 awarded, renewed, or extended, as the case may be, on  
13 or after the expiration of the 60-day period beginning on  
14 the date of the enactment of this Act.

15 **SEC. 4. PERMANENT REAUTHORIZATION OF E-VERIFY.**

16 (a) **IN GENERAL.**—Section 401 of the Illegal Immi-  
17 gration Reform and Immigrant Responsibility Act of 1996  
18 (8 U.S.C. 1324a note) is amended—

19 (1) in subsection (a), by striking “pilot”;

20 (2) in subsection (b)—

21 (A) by striking “the pilot programs” and  
22 inserting “the programs required under this  
23 subtitle”; and

24 (B) by striking “Unless the Congress oth-  
25 erwise provides, the Secretary of Homeland Se-

1 security shall terminate a pilot program on Sep-  
2 tember 30, 2012.”; and

3 (3) in subsection (d)—

4 (A) by redesignating paragraphs (1), (2),  
5 (3), (4), (5), (6), and (7) as paragraphs (4),  
6 (1), (5), (2), (3), (7), and (6), respectively; and

7 (B) by amending paragraph (4), as redesi-  
8 gnated, to read as follows:

9 “(4) PROGRAM.—The term ‘program’ means  
10 any of the 3 programs provided for under this sub-  
11 title.”.

12 (b) CONFORMING AMENDMENTS.—Subtitle A of title  
13 IV of division C of the Illegal Immigration Reform and  
14 Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a  
15 note) is amended—

16 (1) in section 402, by striking “pilot” each  
17 place such term appears; and

18 (2) in section 403(a)(2)—

19 (A) in subparagraph (A), by amending  
20 clause (i) to read as follows:

21 “(i) A document referred to in section  
22 274A(b)(1)(B)(ii) of the Immigration and  
23 Nationality Act (8 U.S.C.  
24 1324a(b)(1)(B)(ii)) shall be designated by  
25 the Secretary of Homeland Security as



1 suitable for the purpose of identification in  
2 a program provided for under this sub-  
3 title.”; and

4 (B) in subparagraph (B), by striking  
5 “pilot”.

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