To amend the Immigration and Nationality Act to make mandatory and permanent requirements relating to use of an electronic employment eligibility verification system, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Legal Workforce Act”.
SEC. 2. EMPLOYMENT ELIGIBILITY VERIFICATION PROCESS.

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

“(b) EMPLOYMENT ELIGIBILITY VERIFICATION PROCESS.—

“(1) NEW HIRES, RECRUITMENT, AND REFERRAL.—The requirements referred to in paragraphs (1)(B) and (3) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, the following:

“(A) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.—

“(i) ATTESTATION.—During the verification period (as defined in subparagraph (E)), the person or entity shall attest, under penalty of perjury and on a form, including electronic and telephonic formats, designated or established by the Secretary by regulation not later than 6 months after the date of the enactment of the Legal Workforce Act, that it has verified that the individual is not an unauthorized alien by—
“(I) obtaining from the individual the individual’s social security account number and recording the number on the form (if the individual claims to have been issued such a number), and, if the individual does not attest to United States nationality under subparagraph (B), obtaining such identification or authorization number established by the Department of Homeland Security for the alien as the Secretary of Homeland Security may specify, and recording such number on the form; and

“(II) examining—

“(aa) a document relating to the individual presenting it described in clause (ii); or

“(bb) a document relating to the individual presenting it described in clause (iii) and a document relating to the individual presenting it described in clause (iv).
“(ii) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION AND ESTABLISHING IDENTITY.—A document described in this subparagraph is an individual’s—

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

“(II) unexpired permanent resident card that contains a photograph;

“(III) unexpired employment authorization card that contains a photograph;

“(IV) in the case of a non-immigrant alien authorized to work for a specific employer incident to status, a foreign passport with Form I–94 or Form I–94A, or other documentation as designated by the Secretary specifying the alien’s non-immigrant status as long as the period of status has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified in the documentation;
“(V) passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I–94 or Form I–94A, or other documentation as designated by the Secretary, indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI; or

“(VI) other document designated by the Secretary of Homeland Security, if the document—

“(aa) contains a photograph of the individual and biometric identification data from the individual and such other personal identifying information relating to the individual as the Secretary of Homeland Security finds, by regulation, sufficient for purposes of this clause;

“(bb) is evidence of authorization of employment in the United States; and
“(cc) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.

“(iii) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is an individual’s social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States).

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

“(I) an individual’s unexpired State issued driver’s license or identification card if it contains a photograph and information such as name, date of birth, gender, height, eye color, and address;

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

“(III) an individual’s unexpired Native American tribal identification
document issued by a tribal entity recognized by the Bureau of Indian Affairs; or

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

“(v) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary of Homeland Security finds, by regulation, that any document described in clause (i), (ii), or (iii) as establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Secretary may prohibit or place conditions on its use for purposes of this paragraph.

“(vi) SIGNATURE.—Such attestation may be manifested by either a hand-written or electronic signature.

“(B) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—During the verification period (as defined in subparagraph
(E), the individual shall attest, under penalty of perjury on the form designated or established for purposes of subparagraph (A), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary of Homeland Security to be hired, recruited, or referred for such employment. Such attestation may be manifested by either a hand-written or electronic signature. The individual shall also provide that individual’s social security account number (if the individual claims to have been issued such a number), and, if the individual does not attest to United States nationality under this subparagraph, such identification or authorization number established by the Department of Homeland Security for the alien as the Secretary may specify.

“(C) Retention of verification form and verification.—

“(i) In general.—After completion of such form in accordance with subparagraphs (A) and (B), the person or entity shall—
“(I) retain a paper, microfiche, microfilm, or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the recruiting or referral of the individual, or, in the case of the hiring of an individual, the date on which the verification is completed, and ending—

“(aa) in the case of the recruiting or referral of an individual, 3 years after the date of the recruiting or referral; and

“(bb) in the case of the hiring of an individual, the later of 3 years after the date the verification is completed or one year after the date the individual’s employment is terminated; and
“(II) during the verification period (as defined in subparagraph (E)), make an inquiry, as provided in subsection (d), using the verification system to seek verification of the identity and employment eligibility of an individual.

“(ii) CONFIRMATION.—

“(I) CONFIRMATION RECEIVED.—If the person or other entity receives an appropriate confirmation of an individual’s identity and work eligibility under the verification system within the time period specified, the person or entity shall record on the form an appropriate code that is provided under the system and that indicates a final confirmation of such identity and work eligibility of the individual.

“(II) TENTATIVE NONCONFIRMATION RECEIVED.—If the person or other entity receives a tentative non-confirmation of an individual’s identity or work eligibility under the
verification system within the time period specified, the person or entity shall so inform the individual for whom the verification is sought. If the individual does not contest the nonconfirmation within the time period specified, the nonconfirmation shall be considered final. The person or entity shall then record on the form an appropriate code which has been provided under the system to indicate a final nonconfirmation. If the individual does contest the nonconfirmation, the individual shall utilize the process for secondary verification provided under subsection (d). The nonconfirmation will remain tentative until a final confirmation or nonconfirmation is provided by the verification system within the time period specified. In no case shall an employer terminate employment of an individual because of a failure of the individual to have identity and work eligibility confirmed under this section.
until a nonconfirmation becomes final. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure. In no case shall an employer rescind the offer of employment to an individual because of a failure of the individual to have identity and work eligibility confirmed under this subsection until a nonconfirmation becomes final. Nothing in this subclause shall apply to a recission of the offer of employment for any reason other than because of such a failure.

“(III) FINAL CONFIRMATION OR NONCONFIRMATION RECEIVED.—If a final confirmation or nonconfirmation is provided by the verification system regarding an individual, the person or entity shall record on the form an appropriate code that is provided under the system and that indicates a confirmation or nonconfirmation of identity and work eligibility of the individual.
“(IV) Extension of Time.—If the person or other entity in good faith attempts to make an inquiry during the time period specified and the verification system has registered that not all inquiries were received during such time, the person or entity may make an inquiry in the first subsequent working day in which the verification system registers that it has received all inquiries. If the verification system cannot receive inquiries at all times during a day, the person or entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such an inquiry, and does not have to provide any additional proof concerning such inquiry.

“(V) Consequences of non-confirmation.—

“(aa) Termination or Notification of Continued Employment.—If the person or other entity has received a final
nonconfirmation regarding an individual, the person or entity may terminate employment of the individual (or decline to recruit or refer the individual). If the person or entity does not terminate employment of the individual or proceeds to recruit or refer the individual, the person or entity shall notify the Secretary of Homeland Security of such fact through the verification system or in such other manner as the Secretary may specify.

“(bb) FAILURE TO NOTIFY.—If the person or entity fails to provide notice with respect to an individual as required under item (aa), the failure is deemed to constitute a violation of subsection (a)(1)(A) with respect to that individual.

“(VI) CONTINUED EMPLOYMENT AFTER FINAL NONCONFIRMATION.—If the person or other entity continues to
employ (or to recruit or refer) an individual after receiving final nonconfirmation, a rebuttable presumption is created that the person or entity has violated subsection (a)(1)(A).

“(D) Effective Dates of New Procedures.—

“(i) Hiring.—Except as provided in clause (iii), the provisions of this paragraph shall apply to a person or other entity hiring an individual for employment in the United States as follows:

“(I) With respect to employers having 10,000 or more employees in the United States on the date of the enactment of the Legal Workforce Act, on the date that is 6 months after the date of the enactment of such Act.

“(II) With respect to employers having 500 or more employees in the United States, but less than 10,000 employees in the United States, on the date of the enactment of the Legal Workforce Act, on the date that
is 12 months after the date of the enactment of such Act.

“(III) With respect to employers having 20 or more employees in the United States, but less than 500 employees in the United States, on the date of the enactment of the Legal Workforce Act, on the date that is 18 months after the date of the enactment of such Act.

“(IV) With respect to employers having 1 or more employees in the United States, but less than 20 employees in the United States, on the date of the enactment of the Legal Workforce Act, on the date that is 24 months after the date of the enactment of such Act.

“(ii) Recruiting and Referring.—Except as provided in clause (iii), the provisions of this paragraph shall apply to a person or other entity recruiting or referring an individual for employment in the United States on the date that is 12
months after the date of the enactment of
the Legal Workforce Act.

“(iii) AGRICULTURAL LABOR OR SERV-
ICES.—With respect to an employee per-
forming agricultural labor or services, this
paragraph shall not apply with respect to
the verification of the employee until the
date that is 36 months after the date of
the enactment of the Legal Workforce Act.
For purposes of the preceding sentence,
the term ‘agricultural labor or services’ has
the meaning given such term by the Sec-
retary of Agriculture in regulations and in-
cludes agricultural labor as defined in sec-
tion 3121(g) of the Internal Revenue Code
of 1986, agriculture as defined in section
3(f) of the Fair Labor Standards Act of
1938 (29 U.S.C. 203(f)), the handling,
planting, drying, packing, packaging, proc-
essing, freezing, or grading prior to deliv-
ery for storage of any agricultural or horti-
cultural commodity in its unmanufactured
state, all activities required for the prepa-
ration, processing or manufacturing of a
product of agriculture (as such term is de-
fined in such section 3(f) for further distribution, and activities similar to all the foregoing as they relate to fish or shellfish in aquaculture facilities. An employee described in this clause shall not be counted for purposes of clause (i).

“(iv) EXTENSIONS.—Upon request by an employer having 50 or fewer employees, the Secretary shall allow a one-time 6 month extension of the effective date set out in this subparagraph applicable to such employer. Such request shall be made to the Secretary and shall be made prior to such effective date.

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

“(I) This subsection, as in effect before the enactment of the Legal Workforce Act.
“(II) Subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), as in effect before the effective date in section 7(c) of the Legal Workforce Act.

“(III) Any other provision of Federal law requiring the person or entity to participate in the E–Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), as in effect before the effective date in section 7(c) of the Legal Workforce Act, including Executive Order 13465 (8 U.S.C. 1324a note; relating to Government procurement).

“(E) VERIFICATION PERIOD DEFINED.—

“(i) In general.—For purposes of this paragraph:

“(I) In the case of recruitment or referral, the term ‘verification period’ means the period ending on the date recruiting or referring commences.
“(II) In the case of hiring, the term ‘verification period’ means the period beginning on the date on which an offer of employment is extended and ending on the date that is three business days after the date of hire, except as provided in clause (iii). The offer of employment may be conditioned in accordance with clause (ii).

“(ii) Job offer may be conditional.—A person or other entity may offer a prospective employee an employment position that is conditioned on final verification of the identity and employment eligibility of the employee using the procedures established under this paragraph.

“(iii) Special rule.—Notwithstanding clause (i)(II), in the case of an alien who is authorized for employment and who provides evidence from the Social Security Administration that the alien has applied for a social security account number, the verification period ends three business days after the alien receives the social security account number.
“(2) Reverification for individuals with limited work authorization.—

“(A) In general.—Except as provided in subparagraph (B), a person or entity shall make an inquiry, as provided in subsection (d), using the verification system to seek reverification of the identity and employment eligibility of all individuals with a limited period of work authorization employed by the person or entity during the three business days after the date on which the employee’s work authorization expires as follows:

“(i) With respect to employers having 10,000 or more employees in the United States on the date of the enactment of the Legal Workforce Act, beginning on the date that is 6 months after the date of the enactment of such Act.

“(ii) With respect to employers having 500 or more employees in the United States, but less than 10,000 employees in the United States, on the date of the enactment of the Legal Workforce Act, beginning on the date that is 12 months...
after the date of the enactment of such Act.

“(iii) With respect to employers having 20 or more employees in the United States, but less than 500 employees in the United States, on the date of the enactment of the Legal Workforce Act, beginning on the date that is 18 months after the date of the enactment of such Act.

“(iv) With respect to employers having 1 or more employees in the United States, but less than 20 employees in the United States, on the date of the enactment of the Legal Workforce Act, beginning on the date that is 24 months after the date of the enactment of such Act.

“(B) AGRICULTURAL LABOR OR SERVICES.—With respect to an employee performing agricultural labor or services, or an employee recruited or referred by a farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801)), subparagraph (A) shall not apply with respect to the reverification of the employee until the date that is 36 months after
the date of the enactment of the Legal Work-
force Act. For purposes of the preceding sen-
tence, the term ‘agricultural labor or services’
has the meaning given such term by the Sec-
retary of Agriculture in regulations and in-
cludes agricultural labor as defined in section
3121(g) of the Internal Revenue Code of 1986,
agriculture as defined in section 3(f) of the
203(f)), the handling, planting, drying, packing,
packaging, processing, freezing, or grading
prior to delivery for storage of any agricultural
or horticultural commodity in its unmanufac-
tured state, all activities required for the prepa-
ration, processing, or manufacturing of a prod-
uct of agriculture (as such term is defined in
such section 3(f)) for further distribution, and
activities similar to all the foregoing as they re-
late to fish or shellfish in aquaculture facilities.
An employee described in this subparagraph
shall not be counted for purposes of subpara-
graph (A).

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

“(i) use a form designated or established by the Secretary by regulation for purposes of this paragraph; and

“(ii) retain a paper, microfiche, microfilm, or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during the period beginning on the date the reverification commences and ending on the date that is the later of 3 years after the date of such reverification or 1 year after the date the individual’s employment is terminated.

“(3) PREVIOUSLY HIRED INDIVIDUALS.—

“(A) ON A MANDATORY BASIS FOR CERTAIN EMPLOYEES.—

“(i) IN GENERAL.—Not later than the date that is 6 months after the date of the enactment of the Legal Workforce Act, an employer shall make an inquiry, as provided in subsection (d), using the
verification system to seek verification of
the identity and employment eligibility of
any individual described in clause (ii) em-
ployed by the employer whose employment
eligibility has not been verified under the
E–Verify Program described in section
403(a) of the Illegal Immigration Reform
and Immigrant Responsibility Act of 1996

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

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

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

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

“(aa) is not applicable to indi-

viduals who have a clearance
under Homeland Security Presi-
dential Directive 12 (HSPD 12
clearance), are administrative or
overhead personnel, or are work-
ing solely on contracts that pro-
vide Commercial Off The Shelf
goods or services as set forth by
the Federal Acquisition Regu-

latory Council, unless they are
subject to verification under sub-

clause (II); and

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

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

“(i) The Commissioner of Social Security shall notify annually employees (at the employee address listed on the Wage and Tax Statement) who submit a social security account number to which more than one employer reports income and for which there is a pattern of unusual multiple use. The notification letter shall identify the number of employers to which income is being reported as well as sufficient information notifying the employee of the process to contact the Social Security Administration Fraud Hotline if the employee believes the employee’s identity may have been stolen. The notice shall not share information protected as private, in order to avoid any recipient of the notice from being in the position to further commit or begin committing identity theft.

“(ii) If the person to whom the social security account number was issued by the Social Security Administration has been
identified and confirmed by the Commissioner, and indicates that the social security account number was used without their knowledge, the Secretary and the Commissioner shall lock the social security account number for employment eligibility verification purposes and shall notify the employers of the individuals who wrongfully submitted the social security account number that the employee may not be work eligible.

“(iii) Each employer receiving such notification of an incorrect social security account number under clause (ii) shall use the verification system described in subsection (d) to check the work eligibility status of the applicable employee within 10 business days of receipt of the notification.

“(C) ON A VOLUNTARY BASIS.—Subject to paragraph (2), and subparagraphs (A) through (C) of this paragraph, beginning on the date that is 30 days after the date of the enactment of the Legal Workforce Act, an employer may make an inquiry, as provided in subsection (d), using the verification system to seek verification
of the identity and employment eligibility of any individual employed by the employer. If an employer chooses voluntarily to seek verification of any individual employed by the employer, the employer shall seek verification of all individuals employed at the same geographic location or, at the option of the employer, all individuals employed within the same job category, as the employee with respect to whom the employer seeks voluntarily to use the verification system.

An employer’s decision about whether or not voluntarily to seek verification of its current workforce under this subparagraph may not be considered by any government agency in any proceeding, investigation, or review provided for in this Act.

“(D) Verification.—Paragraph (1)(C)(ii) shall apply to verifications pursuant to this paragraph on the same basis as it applies to verifications pursuant to paragraph (1), except that employers shall—

“(i) use a form designated or established by the Secretary by regulation for purposes of this paragraph; and
“(ii) retain a paper, microfiche, microfilm, or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during the period beginning on the date the verification commences and ending on the date that is the later of 3 years after the date of such verification or 1 year after the date the individual’s employment is terminated.

“(4) EARLY COMPLIANCE.—

“(A) FORMER E–VERIFY REQUIRED USERS, INCLUDING FEDERAL CONTRACTORS.—Notwithstanding the deadlines in paragraphs (1) and (2), beginning on the date of the enactment of the Legal Workforce Act, the Secretary is authorized to commence requiring employers required to participate in the E–Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), including employers required to participate in such program by reason of Federal acquisition laws
(and regulations promulgated under those laws, including the Federal Acquisition Regulation), to commence compliance with the requirements of this subsection (and any additional requirements of such Federal acquisition laws and regulation) in lieu of any requirement to participate in the E-Verify Program.

“(B) Former E-Verify voluntary users and others desiring early compliance.—Notwithstanding the deadlines in paragraphs (1) and (2), beginning on the date of the enactment of the Legal Workforce Act, the Secretary shall provide for the voluntary compliance with the requirements of this subsection by employers voluntarily electing to participate in the E-Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) before such date, as well as by other employers seeking voluntary early compliance.

“(5) Copying of documentation permitted.—Notwithstanding any other provision of law, the person or entity may copy a document presented by an individual pursuant to this subsection
and may retain the copy, but only (except as otherwise permitted under law) for the purpose of complying with the requirements of this subsection.

“(6) LIMITATION ON USE OF FORMS.—A form designated or established by the Secretary of Homeland Security under this subsection and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this Act and any other provision of Federal criminal law.

“(7) GOOD FAITH COMPLIANCE.—

“(A) IN GENERAL.—Except as otherwise provided in this subsection, a person or entity is considered to have complied with a requirement of this subsection notwithstanding a technical or procedural failure to meet such requirement if there was a good faith attempt to comply with the requirement.

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

“(i) the failure is not de minimus;

“(ii) the Secretary of Homeland Security has explained to the person or entity
the basis for the failure and why it is not
de minimus;

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

“(iv) the person or entity has not cor-
corrected the failure voluntarily within such
period.

“(C) EXCEPTION FOR PATTERN OR PRACTICE VIOLATORS.—Subparagraph (A) shall not
apply to a person or entity that has or is engag-
ing in a pattern or practice of violations of sub-
section (a)(1)(A) or (a)(2).

“(8) SINGLE EXTENSION OF DEADLINES UPON
CERTIFICATION.—In a case in which the Secretary
of Homeland Security has certified to the Congress
that the employment eligibility verification system
required under subsection (d) will not be fully oper-
ational by the date that is 6 months after the date
of the enactment of the Legal Workforce Act, each
deadline established under this section for an em-
ployer to make an inquiry using such system shall
be extended by 6 months. No other extension of such
a deadline shall be made except as authorized under paragraph (1)(D)(iv).”.

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

“(4) DEFINITION OF DATE OF HIRE.—As used in this section, the term ‘date of hire’ means the date of actual commencement of employment for wages or other remuneration, unless otherwise specified.”.

SEC. 3. EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.

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

“(d) EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.—

“(1) IN GENERAL.—Patterned on the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), the Secretary of Homeland Security shall establish and administer a verification system through which the Secretary (or a designee of the Secretary, which may be a nongovernmental entity)—
“(A) responds to inquiries made by persons at any time through a toll-free telephone line and other toll-free electronic media concerning an individual’s identity and whether the individual is authorized to be employed; and

“(B) maintains records of the inquiries that were made, of verifications provided (or not provided), and of the codes provided to inquirers as evidence of their compliance with their obligations under this section.

“(2) Initial Response.—The verification system shall provide confirmation or a tentative nonconfirmation of an individual’s identity and employment eligibility within 3 working days of the initial inquiry. If providing confirmation or tentative nonconfirmation, the verification system shall provide an appropriate code indicating such confirmation or such nonconfirmation.

“(3) Secondary Confirmation Process in Case of Tentative Nonconfirmation.—In cases of tentative noneconfirmation, the Secretary shall specify, in consultation with the Commissioner of Social Security, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or noncon-
firmation not later than 10 working days after the
date on which the notice of the tentative noncon-
firmation is received by the employee. The Secretary,
in consultation with the Commissioner, may extend
this deadline once on a case-by-case basis for a pe-
period of 10 working days, and if the time is extended,
shall document such extension within the verification
system. The Secretary, in consultation with the
Commissioner, shall notify the employee and em-
ployer of such extension. The Secretary, in consulta-
tion with the Commissioner, shall create a standard
process of such extension and notification and shall
make a description of such process available to the
public. When final confirmation or nonconfirmation
is provided, the verification system shall provide an
appropriate code indicating such confirmation or
nonconfirmation.

“(4) DESIGN AND OPERATION OF SYSTEM.—
The verification system shall be designed and oper-
ated—

“(A) to maximize its reliability and ease of
use by persons and other entities consistent
with insulating and protecting the privacy and
security of the underlying information;
“(B) to respond to all inquiries made by such persons and entities on whether individuals are authorized to be employed and to register all times when such inquiries are not received;

“(C) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information;

“(D) to have reasonable safeguards against the system’s resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

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

“(ii) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants;

“(E) to maximize the prevention of identity theft use in the system; and

“(F) to limit the subjects of verification to the following individuals:
“(i) Individuals hired, referred, or recruited, in accordance with paragraph (1) or (4) of subsection (b).

“(ii) Employees and prospective employees, in accordance with paragraph (1), (2), (3), or (4) of subsection (b).

“(iii) Individuals seeking to confirm their own employment eligibility on a voluntary basis.

“(5) Responsibilities of Commissioner of Social Security.—As part of the verification system, the Commissioner of Social Security, in consultation with the Secretary of Homeland Security (and any designee of the Secretary selected to establish and administer the verification system), shall establish a reliable, secure method, which, within the time periods specified under paragraphs (2) and (3), compares the name and social security account number provided in an inquiry against such information maintained by the Commissioner in order to validate (or not validate) the information provided regarding an individual whose identity and employment eligibility must be confirmed, the correspondence of the name and number, 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 (other than such confirmation or nonconfirmation) under the verification system except as provided for in this section or section 205(c)(2)(I) of the Social Security Act.

“(6) Responsibilities of Secretary of Homeland Security.—As part of the verification system, the Secretary of Homeland Security (in consultation with any designee of the Secretary selected to establish and administer the verification system), shall establish a reliable, secure method, which, within the time periods specified under paragraphs (2) and (3), compares the name and alien identification or authorization number (or any other information as determined relevant by the Secretary) which are provided in an inquiry against such information maintained or accessed by the Secretary in order to validate (or not validate) the information provided, the correspondence of the name and number, whether the alien is authorized to be employed in the United States, 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.
“(7) UPDATING INFORMATION.—The Commissioner of Social Security and the Secretary of Homeland Security shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in paragraph (3).

“(8) LIMITATION ON USE OF THE VERIFICATION SYSTEM AND ANY RELATED SYSTEMS.—

“(A) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

“(B) CRITICAL INFRASTRUCTURE.—The Secretary may authorize or direct any 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 use the verification system to the
extent the Secretary determines that such use
will assist in the protection of the critical infra-
structure.

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

SEC. 4. RECRUITMENT, REFERRAL, AND CONTINUATION OF
EMPLOYMENT.

(a) Additional Changes to Rules for Recruitment,
Referral, and Continuation of Employment.—Section 274A(a) of the Immigration and Nation-
ality Act (8 U.S.C. 1324a(a)) is amended—

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

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

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

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

(b) DEFINITION.—Section 274A(h) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)), as amended by section 2(b) of this Act, is further amended by adding at the end the following:

“(5) DEFINITION OF RECRUIT OR REFER.—As used in this section, the term ‘refer’ means the act of sending or directing a person who is in the United States or transmitting documentation or information to another, directly or indirectly, with the intent of obtaining employment in the United States for such person. Only persons or entities referring for remuneration (whether on a retainer or contingency basis) are included in the definition, except that union hiring halls that refer union members or non-union individuals who pay union membership dues are included in the definition whether or not they receive remuneration, as are labor service entities or labor service agencies, whether public, private, for-profit, or nonprofit, that refer, dispatch, or otherwise facilitate the hiring of laborers for any period of time by a third party. As used in this section, the term ‘recruit’ means the act of soliciting a person who is in the United States, directly or indirectly,
and referring the person to another with the intent of obtaining employment for that person. Only persons or entities referring for remuneration (whether on a retainer or contingency basis) are included in the definition, except that union hiring halls that refer union members or nonunion individuals who pay union membership dues are included in this definition whether or not they receive remuneration, as are labor service entities or labor service agencies, whether public, private, for-profit, or nonprofit that recruit, dispatch, or otherwise facilitate the hiring of laborers for any period of time by a third party.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 1 year after the date of the enactment of this Act, except that the amendments made by subsection (a) shall take effect 6 months after the date of the enactment of this Act insofar as such amendments relate to continuation of employment.

SEC. 5. GOOD FAITH DEFENSE.

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

“(3) GOOD FAITH DEFENSE.—
“(A) DEFENSE.—An employer (or person or entity that hires, employs, recruits, or refers (as defined in subsection (h)(5)), or is otherwise obligated to comply with this section) who establishes that it has complied in good faith with the requirements of subsection (b)—

“(i) 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 through the system established under subsection (d); and

“(ii) has established compliance with its obligations under subparagraphs (A) and (B) of paragraph (1) and subsection (b) absent a showing by the Secretary of Homeland Security, by clear and convincing evidence, that the employer had knowledge that an employee is an unauthorized alien.

“(B) MITIGATION ELEMENT.—For purposes of subparagraph (A)(i), if an employer
proves by a preponderance of the evidence that the employer uses a reasonable, secure, and established technology to authenticate the identity of the new employee, that fact shall be taken into account for purposes of determining good faith use of the system established under subsection (d).

“(C) FAILURE TO SEEK AND OBTAIN VERIFICATION.—Subject to the effective dates and other deadlines applicable under subsection (b), in the case of a person or entity in the United States that hires, or continues to employ, an individual, or recruits or refers an individual for employment, the following requirements apply:

“(i) FAILURE TO SEEK VERIFICATION.—

“(I) IN GENERAL.—If the person or entity has not made an inquiry, under the mechanism established under subsection (d) and in accordance with the timeframes established under subsection (b), seeking verification of the identity and work eligibility of the individual, the de-
fense under subparagraph (A) shall not be considered to apply with respect to any employment, except as provided in subclause (II).

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

“(ii) FAILURE TO OBTAIN VERIFICATION.—If the person or entity has made the inquiry described in clause (i)(I) but has not received an appropriate verification of such identity and work eligibility under such mechanism within the time period specified under subsection
(d)(2) after the time the verification 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.”.

SEC. 6. PREEMPTION AND STATES’ RIGHTS.

Section 274A(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(2)) is amended to read as follows:

“(2) PREEMPTION.—

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

“(B) STATE ENFORCEMENT OF FEDERAL LAW.—

“(i) BUSINESS LICENSING.—A State, locality, municipality, or political subdivision may exercise its authority over business licensing and similar laws as a penalty for failure to use the verification sys-
tem described in subsection (d) to verify employment eligibility when and as re-
quired under subsection (b).

“(ii) GENERAL RULES.—A State, at its own cost, may enforce the provisions of
this section, but only insofar as such State follows the Federal regulations imple-
menting this section, applies the Federal penalty structure set out in this section,
and complies with all Federal rules and guidance concerning implementation of this
section. Such State may collect any fines assessed under this section. An employer
may not be subject to enforcement, including audit and investigation, by both a Fed-
eral agency and a State for the same viola-
tion under this section. Whichever entity,
the Federal agency or the State, is first to
initiate the enforcement action, has the
right of first refusal to proceed with the
enforcement action. The Secretary must
provide copies of all guidance, training,
and field instructions provided to Federal
officials implementing the provisions of
this section to each State.”.
SEC. 7. REPEAL.

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

(b) References.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of, or pertaining to, the Department of Homeland Security, Department of Justice, or the Social Security Administration, to the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is deemed to refer to the employment eligibility confirmation system established under section 274A(d) of the Immigration and Nationality Act, as amended by section 3 of this Act.

(c) Effective Date.—This section shall take effect on the date that is 36 months after the date of the enactment of this Act.

(d) Clerical Amendment.—The table of sections, in section 1(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, is amended by striking the items relating to subtitle A of title IV.

SEC. 8. PENALTIES.

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

(1) in subsection (e)(1)—
(A) by striking “Attorney General” each place such term appears and inserting “Secretary of Homeland Security”; and

(B) in subparagraph (D), by striking “Service” and inserting “Department of Homeland Security”;

(2) in subsection (e)(4)—

(A) in subparagraph (A), in the matter before clause (i), by inserting “, subject to paragraph (10),” after “in an amount”; 

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

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

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

(E) by moving the margin of the continuation text following subparagraph (B) two ems
to the left and by amending subparagraph (B) to read as follows:

“(B) may require the person or entity to take such other remedial action as is appropriate.”;

(3) in subsection (e)(5)—

(A) in the paragraph heading, strike “PAPERWORK”; 

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

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

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

(E) by adding at the end the following:

“Failure by a person or entity to utilize the employment eligibility verification system as required by law, or providing information to the system that the person or entity knows or reasonably believes to be false, shall be treated as a violation of subsection (a)(1)(A).”;

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

“(10) EXEMPTION FROM PENALTY FOR GOOD FAITH VIOLATION.—In the case of imposition of a
civil penalty under paragraph (4)(A) with respect to
a violation of subsection (a)(1)(A) or (a)(2) for hir-
ing or continuation of employment or recruitment or
referral by person or entity and in the case of impo-
sition of a civil penalty under paragraph (5) for a
violation of subsection (a)(1)(B) for hiring or re-
cruitment or referral by a person or entity, the pen-
alty otherwise imposed may be waived or reduced if
the violator establishes that the violator acted in
good faith.

“(11) MITIGATION ELEMENT.—For purposes of
paragraph (4), the size of the business shall be
taken into account when assessing the level of civil
money penalty.

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

“(A) IN GENERAL.—If a person or entity
is determined by the Secretary of Homeland Se-
curity to be a repeat violator of paragraph
(1)(A) or (2) of subsection (a), or is convicted
of a crime under this section, such person or
entity may be considered for debarment from
the receipt of Federal contracts, grants, or co-
operative agreements in accordance with the debar-
ment standards and pursuant to the debar-
ment procedures set forth in the Federal Acquisition Regulation.

“(B) Does not have contract, grant, agreement.—If the Secretary of Homeland Security or the Attorney General wishes to have a person or entity considered for debarment in accordance with this paragraph, and such an person or entity does not hold a Federal contract, grant or cooperative agreement, the Secretary or Attorney General shall refer the matter to the Administrator of General Services to determine whether to list the person or entity on the List of Parties Excluded from Federal Procurement, and if so, for what duration and under what scope.

“(C) Has contract, grant, agreement.—If the Secretary of Homeland Security or the Attorney General wishes to have a person or entity considered for debarment in accordance with this paragraph, and such person or entity holds a Federal contract, grant or cooperative agreement, the Secretary or Attorney General shall advise all agencies or departments holding a contract, grant, or cooperative agreement with the person or entity of the Govern-
ment’s interest in having the person or entity considered for debarment, and after soliciting and considering the views of all such agencies and departments, the Secretary or Attorney General may refer the matter to any appropriate lead agency to determine whether to list the person or entity on the List of Parties Excluded from Federal Procurement, and if so, for what duration and under what scope.

“(D) Review.—Any decision to debar a person or entity in accordance with this paragraph shall be reviewable pursuant to part 9.4 of the Federal Acquisition Regulation.

“(13) Office for State and Local Government Complaints.—The Secretary of Homeland Security shall establish an office—

“(A) to which State and local government agencies may submit information indicating potential violations of subsection (a), (b), or (g)(1) that were generated in the normal course of law enforcement or the normal course of other official activities in the State or locality;

“(B) that is required to indicate to the complaining State or local agency within five business days of the filing of such a complaint
by identifying whether the Secretary will fur-
ther investigate the information provided;

“(C) that is required to investigate those
complaints filed by State or local government
agencies that, on their face, have a substantial
probability of validity;

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

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

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

“(1) CRIMINAL PENALTY.—Any person or enti-
ty which engages in a pattern or practice of viola-
tions of subsection (a)(1) or (2) shall be fined not
more than $5,000 for each unauthorized alien with
respect to which such a violation occurs, imprisoned
for not more than 18 months, or both, notwith-
standing the provisions of any other Federal law re-
lating to fine levels.”.
SEC. 9. FRAUD AND MISUSE OF DOCUMENTS.

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

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

and

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

SEC. 10. PROTECTION OF SOCIAL SECURITY ADMINISTRATION PROGRAMS.

(a) FUNDING UNDER AGREEMENT.—Effective for fiscal years beginning on or after October 1, 2016, the Commissioner of Social Security and the Secretary of Homeland Security shall enter into and maintain an agreement which shall—

(1) provide funds to the Commissioner for the full costs of the responsibilities of the Commissioner under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by
section 3 of this Act, including (but not limited
to)—

(A) acquiring, installing, and maintaining

technological equipment and systems necessary

for the fulfillment of the responsibilities of the

Commissioner under such section 274A(d), but

only that portion of such costs that are attrib-

utable exclusively to such responsibilities; and

(B) responding to individuals who contest

a tentative nonconfirmation provided by the em-

ployment eligibility verification system estab-

lished under such section;

(2) provide such funds annually in advance of

the applicable quarter based on estimating method-

ology agreed to by the Commissioner and the Sec-

retary (except in such instances where the delayed

enactment of an annual appropriation may preclude

such quarterly payments); and

(3) require an annual accounting and reconcili-

ation of the actual costs incurred and the funds pro-

vided under the agreement, which shall be reviewed

by the Inspectors General of the Social Security Ad-

ministration and the Department of Homeland Secu-

rity.
(b) Continuation of Employment Verification

In Absence of Timely Agreement.—In any case in which the agreement required under subsection (a) for any fiscal year beginning on or after October 1, 2016, has not been reached as of October 1 of such fiscal year, the latest agreement between the Commissioner and the Secretary of Homeland Security providing for funding to cover the costs of the responsibilities of the Commissioner under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) shall be deemed in effect on an interim basis for such fiscal year until such time as an agreement required under subsection (a) is subsequently reached, except that the terms of such interim agreement shall be modified by the Director of the Office of Management and Budget to adjust for inflation and any increase or decrease in the volume of requests under the employment eligibility verification system. In any case in which an interim agreement applies for any fiscal year under this subsection, the Commissioner and the Secretary shall, not later than October 1 of such fiscal year, notify the Committee on Ways and Means, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives and the Committee on Finance, the Committee on the Judiciary, and the Committee on Appropriations of the Senate of the failure to reach the
agreement required under subsection (a) for such fiscal year. Until such time as the agreement required under subsection (a) has been reached for such fiscal year, the Commissioner and the Secretary shall, not later than the end of each 90-day period after October 1 of such fiscal year, notify such Committees of the status of negotiations between the Commissioner and the Secretary in order to reach such an agreement.

SEC. 11. FRAUD PREVENTION.

(a) Blocking Misused Social Security Account Numbers.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program in which social security account numbers that have been identified to be subject to unusual multiple use in the employment eligibility verification system established under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by section 3 of this Act, or that are otherwise suspected or determined to have been compromised by identity fraud or other misuse, shall be blocked from use for such system purposes unless the individual using such number is able to establish, through secure and fair additional security procedures, that the individual is the legitimate holder of the number.
(b) Allowing Suspension of Use of Certain Social Security Account Numbers.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program which shall provide a reliable, secure method by which victims of identity fraud and other individuals may suspend or limit the use of their social security account number or other identifying information for purposes of the employment eligibility verification system established under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by section 3 of this Act. The Secretary may implement the program on a limited pilot program basis before making it fully available to all individuals.

(c) Allowing Parents to Prevent Theft of Their Child’s Identity.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program which shall provide 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 employment eligibility verification system established under 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by section 3 of this Act. The Secretary may
implement the program on a limited pilot program basis
before making it fully available to all individuals.

SEC. 12. USE OF EMPLOYMENT ELIGIBILITY VERIFICATION
PHOTO TOOL.

An employer who uses the photo matching tool used
as part of the E–Verify System shall match the photo tool
photograph to both the photograph on the identity or em-
ployment eligibility document provided by the employee
and to the face of the employee submitting the document
for employment verification purposes.

SEC. 13. IDENTITY AUTHENTICATION EMPLOYMENT ELIGI-
BILITY VERIFICATION PILOT PROGRAMS.

Not later than 24 months after the date of the enact-
ment of this Act, the Secretary of Homeland Security,
after consultation with the Commissioner of Social Secu-
rity and the Director of the National Institute of Stand-
ards and Technology, shall establish by regulation not less
than 2 Identity Authentication Employment Eligibility
Verification pilot programs, each using a separate and dis-
tinct technology (the “Authentication Pilots”). The pur-
pose of the Authentication Pilots shall be to provide for
identity authentication and employment eligibility
verification with respect to enrolled new employees which
shall be available to any employer that elects to participate
in either of the Authentication Pilots. Any participating
employer may cancel the employer’s participation in the Authentication Pilot after one year after electing to participate without prejudice to future participation. The Secretary shall report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate the Secretary’s findings on the Authentication Pilots, including the authentication technologies chosen, not later than 12 months after commencement of the Authentication Pilots.

SEC. 14. INSPECTOR GENERAL AUDITS.

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

(1) Workers who dispute wages reported on their social security account number when they believe someone else has used such number and name to report wages.

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

(3) Employers whose workers present significant numbers of mismatched social security account numbers or names for wage reporting.
(b) SUBMISSION.—The Inspector General of the Social Security Administration shall submit the audits completed under subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate for review of the evidence of individuals who are not authorized to work in the United States. The Chairmen of those Committees shall then determine information to be shared with the Secretary of Homeland Security so that such Secretary can investigate the unauthorized employment demonstrated by such evidence.