

AILA section-by-section summary of WH draft bill sections Working Draft 2/21/13

On February 18, 2013, three titles of a draft White House immigration reform bill were posted on the internet by the Miami Herald. They were apparently leaked to the Miami Herald and to USA Today which released a story the previous day. Due to the unauthorized nature of the released titles, it is unlikely that they represent the final position or the complete bill of the White House.

This AILA document is a section-by-section summary of the three titles. It is a working draft and, given the limited time in which we completed it, may have errors. The text of the titles can be found at http://www.aila.org/content/default.aspx?docid=43314. The draft bill text and this summary cover the following:

- Title I:Enforcement
- Title II: Legalization of Undocumented Individuals
- Subtitle X-XI: Employment Verification System & Protecting American Workers

Title I- Enforcement

SEC. 100. Findings. Finds that the borders are more secure than at any time in history in regards to border patrol staffing, technology, and infrastructure. Also finds that apprehensions and crime rates near border communities have decreased while enforcement through removals and worksite enforcement have increased.

Subtitle A- Investing in Border Security and Infrastructure

- **SEC. 101.** Directs DHS to continue use of existing or additional technologies to secure the borders, subject to appropriations. Directs DHS to conduct a privacy/civil liberties impact assessment prior to the deployment of the technologies.
- **SEC. 102.** Authorizes CBP Commissioner to enter into reimbursable fee agreements for a period of up to 5 years for the provision of CBP services and any other costs incurred by CBP relating to such services, including additional services at new or existing facilities and expanded services at land border facilities.
- **SEC. 103.** Authorizes DHS Secretary, in accordance with fee collected through the land border crossing fee and subject to appropriations, to hire full-time active duty port of entry inspectors and to provide appropriate training, equipment, and support.
- **SEC. 104.** Directs CBP Commissioner to conduct a study within 9 months of enactment assessing feasibility and cost of collecting a land border crossing fee for both land border pedestrians and passenger vehicles along the northern and southern borders.

- **SEC. 105.** Increases customs fees, and allows for allocation from fees to pay salaries of POE inspectors.
- **SEC. 106.** Allows DHS to accept donations of property, monetary donations, and non-personal services for purposes of constructing, altering, operating or maintaining a new or existing land POE facility. The donation may specify the facility(ies) and the timeframe in which donated property/services must be used, but must otherwise be made unconditionally.
- **SEC. 107.** Eliminates the 2014 sunset date on Travel Authorization Fee. Creates within the Treasury department a CBP Travel Facilitation Account into which an unspecified percentage of the Travel Authorization Fee will be deposited beginning September 30, 2015. The funds in this account is available for maintaining the staffing levels at ports of entry and for the implementation of any CBP travel facilitation program.
- **SEC. 108.** Establishes a border communities liaison office in each border patrol sector to foster and institutionalize consultation with border communities, provide information, coordinate outreach and education, and receive concerns/complaints. Creates a new Border Communities Liaison Officer to which the office will report. Directs DHS to create a uniform complaint system within 180 days of enactment to file, track, and address complaints on CBP actions.
- **SEC. 109.** Directs DHS to ensure appropriate training for all officers on immigration law and procedures, including protections for victims, civil rights and liberties, and use of force policies and procedures.
- **SEC. 110.** Authorizes DHS to award grants to Indian tribes who have been adversely affected by illegal immigration. The funds may be used for law enforcement activities, health care services, environmental restoration, and preservation of cultural resources.
- **SEC. 111.** Directs the CBP Commissioner to collect and publish quarterly statistics related to deaths along US-Mexico border and to submit to DHS Secretary an annual report with trends and recommendations to reduce and prevent deaths.
- **SEC. 112.** Grants individuals designated to perform the duties of an office of the Customs Service the same privileges and immunities as an officer. Authorizes DHS Secretary to extend to designated officers of foreign governments the same privileges and immunities as necessary.
- **SEC. 113.** Authorizes foreign customs officers to carry and use firearms and other weapons for purposes of carrying out their duties at a preclearance facility, to the same extent as U.S. customs officers acting in their official capacity.
- **SEC. 114.** Authorizes DHS and DOJ, with approval of Chief of Mission for that country, to station or deploy law enforcement personnel in a foreign country or accept the stationing of foreign law enforcement officials in the United States for the purpose of enhancing law enforcement cooperation.
- **SEC. 115.** Establishes federal jurisdiction and authorizes prosecution of individuals in the United States for conduct engaged in while stationed/deployed in a foreign country as part of a cross-border initiative.
- **SEC. 116.** Creates a base offense with maximum imprisonment at 5 years for unlawful flight from federal checkpoints, including any customs or immigration inspection at an immigration checkpoint or at a port of entry. Requires a scienter of "knowingly." Adds a penalty for failing to disobey/disregard the

command of a federal law enforcement officer (max 2 years). Increases penalty to 10 years for high-speed flight, 20-30 years for flight causing serious bodily injury or death.

<u>Subtitle B – Building a Fair and Firm Enforcement System</u>

SEC. 117. Clarifies that federal law preempts state and local laws that impose sanctions for immigration violations or condition receipt of goods or services on immigration status.

Amends the law governing immigration status information sharing between governmental
agencies. States that DHS shall provide states and localities requesting information about the
immigration status of an individual in only 2 circumstances: 1) when the request is made for a
purpose authorized/required by federal law; or 2) the request is made for the purpose of
cooperating with DOJ in the enforcement of federal immigration laws.

SEC. 118. Creates a modified expedited removal procedure for visa overstays who are deportable under 237(a)(2) (criminal) or 237(a)(4) (security) grounds.

- A nonimmigrant may contest expedited removal under this section ONLY on the basis of an application for:
 - Asylum/withholding/CAT;
 - U visa/VAWA/SIJS;
 - Cancellation
 - AOS immediate relative
- Exception for youth (under the age of 21 at the time of admission) or short period of unauthorized stay (less than 180 days).
- Protections:
 - Reasonable notice of charges and opportunity to contest on the specified grounds;
 - Privilege of being represented by counsel (not appointed);
 - Determination for the record that the subject is in fact the person named in notice
 - Final order of removal NOT adjudicated by charging official and reviewed by supervisor
- DHS must inform nonimmigrant visa applicant of these expedited removal provisions.
- Placing nonimmigrants in this expedited removal process is discretionary.

SEC. 119. Creates a new ground of inadmissibility for those who willingly fail to comply with biometric information requests as part of immigration application, with a waiver.

SEC. 120. Provides sanctions for countries that delay or prevent repatriation of their citizens and nationals.

SEC. 121. Eliminates mandatory detention for those with a credible fear of persecution.

- Under current law, if an asylum officer determines that a noncitizen has a credible fear of persecution, that person must still be detained pending further consideration of his or her asylum claim.
- This section permits DHS to decide whether to continue to detain or to release that person (on bond or on their own recognizance) pending final adjudication of their asylum claim.
- Bond or release does not constitute an admission or parole.

SEC. 122. Narrows the definition of "aggravated felony" and expands judicial discretion to consider applications for Cancellation of Removal by LPRs convicted of an aggravated felony.

- Increases the severity of the crimes for which individuals will be deportable (from "at least one year" to "more than five years" jail time imposed in most cases, and from \$10,000 to \$100,000 for money laundering/fraud).
- Adds "aggravated sexual abuse" to the list of aggravated felonies.
- Qualifies "smuggling" by adding "committed for purpose of commercial advantage."
- Expands the opportunity for LPRs convicted of less serious aggravated felonies (those resulting in an aggregate term of imprisonment of less than 5 years) to apply for case-by-case relief from deportation. This form of relief is called "cancellation of removal."
- Makes this opportunity for relief contingent upon the LPR not having been issued a prior administrative order of removal.
- Maintains retroactivity.

SEC. 123. Narrows the definition of "convictions" that will render someone inadmissible or deportable.

- Excludes dismissed, expunged, deferred, annulled, invalidated, withheld, or vacated convictions.
- Excludes orders of probation without entry of judgment or any similar disposition.
- Excludes suspended sentences.
- Only includes final convictions, or convictions for which direct appeals of right have been waived or exhausted.

SEC. 124. Expands judicial discretion to consider non-LPR applications for Cancellation of Removal.

- This section makes it easier for long-time non-LPR legal residents to go before a judge and present their unique circumstances and equities before being deported. This form of relief is called "cancellation of removal."
- Eliminates the 4,000 statutory annual cap on non-LPR cancellation of removal grants.
- Changes "exceptional and extremely unusual hardship" back to the pre-1996 "extreme hardship."
- Permits claims of extreme hardship to the alien himself, not just to qualifying relatives.

SEC. 125. Removes a provision regarding voluntary renunciation of U.S. nationality.

SEC. 126. Tightens penalties for willful failure to comply with the regulations implementing either:

- Supervised release for individuals who have not departed within 90 days of an order of removal (INA 241(a)(3)); or
- Release from DHS custody after arrest (INA 236(a)(2) and (c)(2)).

Also imposes fines for willfully tampering with or destroying monitoring equipment.

SEC. 127. Limits attorneys' fees awards under the Equal Access to Justice Act to cases in which the government's position was not substantially justified.

SEC. 128. Reforms the visa waiver program by tightening the qualification criteria for a country's participation in the program (for example it requires a nonimmigrant "overstay rates" for nationals of that country of no more than 3 percent) and specifies authority to reassess and/or terminate the designation; provides for ongoing reports to Congress on risk assessment of noncitizens who enter without an Electronic System for Travel Authorization verification.

- **SEC. 129.** Reduces administrative burdens on the government to conduct in-person interviews for visa applicants who pose a low security risk and where an in-person interview would not add material benefit to the adjudication process; the government retains its discretion to conduct in-person interviews in any case.
- **SEC. 130.** Tightens criminal penalties and civil sanctions for passport, visa and immigration fraud. Includes protections for authorized law enforcement activities and refugees/asylum seekers.
- SEC. 131. Creates new inadmissibility and deportability grounds for violations in section 130 (above).
- **SEC. 132.** Increases penalties for notario fraud.
- **SEC. 133.** Creates a statute of limitations for fraud/false statements concerning participation in a human rights offense.
- **SEC. 134.** Increases penalties for those who aid or assist in bringing human rights violators into the country.
- **SEC. 135.** Expands and codifies the screening of noncitizens in state and local jails.
 - Specifically, this section mandates the continuation of the Institutional Removal Program (now part of the Criminal Alien Program) or "other program" to "identify removable criminal aliens in Federal and State correctional facilities" and permits the extension of the program to all states while increasing the use of videoconferencing and other technology to expand the program.
- SEC. 136. Expands the warrantless arrest and civil immigration detainer authority of immigration agents.
 - Expands the warrantless arrest authority of immigration agents by allowing DHS to take into custody any noncitizen apprehended, detained, or incarcerated by state/local police for whom a detainer is issued, if the agent has a reasonable suspicion (lower than the "probable cause" standard in the current statute) that the noncitizen is subject to removal (currently, INA 287(a)(2) gives immigration agents warrantless arrest authority only based on probable cause that the person is removable AND that the person is likely to escape before an arrest warrant can be obtained).
 - Codifies that civil immigration detainers authorize state/local police to detain the subject for a period not exceeding 48 hours excluding Saturday, Sunday, and holidays.
 - Requires that DHS limit its issuance of detainers consistent with the enforcement priorities of the Department and provides for training, notification and data-collection.
- **SEC. 137.**: Limits 287(g) federal/state enforcement partnership authority to detention-related duties and provides for training/data collection as well as data review by the Attorney General.

Subtitle C- Fighting Transnational Crime

- SEC. 138. Expands definition of "racketeering activity."
- **SEC. 139.** Modifies the knowledge requirement in concealment money laundering.

- **SEC. 140.** Clarifies the definition of "unlicensed money transmitted business" with regard to cases of failure to comply with registration requirements by adding that the knowledge of the defendant as to the compliance requirement does not matter.
- **SEC. 141.** Increases the penalty for bulk cash smuggling, from max 5 years to 10 years. Doubles fines when committed in conjunction with another violation of U.S. law.
- **SEC. 142.** Adds "monetary transaction" to current "financial transaction" covered under money laundering.
- SEC. 143. Updates criminal forfeiture provisions with modifications made in other sections of this title.
- **SEC. 144.** Modifies procedures for subpoenas in money laundering and forfeiture cases.
- **SEC. 145.** Modifies provisions for cases of civil forfeiture of property in the United States based on foreign offenses. Extends the duration of restraining order on the property from 30 to 90 days.
- **SEC. 146.** Adds under administrative forfeiture authority funds accessible through a prepaid access device or other portable storage device.
- **SEC. 147.** Subjects to seizure and forfeiture any property that is used (intended or facilitate) in alien smuggling and harboring and any proceeds derived from the violation.
- **SEC. 148.** Outlines forfeiture notice for property detained at the border.
- SEC. 149. Permits international cooperation regarding witness relocation.
- **SEC. 150.** Increases penalties for vessels and aircraft with alien stowaways. Includes exemptions for humanitarian assistance without compensation.
- **SEC. 151.** Establishes territorial jurisdiction over a vessel or aircraft of the United States, and deems conduct committed on those vessels/aircrafts to have been committed within the territory of the United States.
- **SEC. 152.** Establishes penalties for crimes of organized human smuggling, illicit spotting, destruction of border controls (fence, barrier, camera, etc), and violence/sexual abuse, and abandonment of individuals who are being smuggled.
- **SEC. 153.** Establishes a uniform statute of limitations of 10 years on certain immigration, passport, and naturalization offenses. Adds additional offenses under the current SOL provision, including: human trafficking, failure to depart after final removal order, failure to register, alien harboring, unlawful employment of aliens, improper entry, re-entry, aiding/assisting entry
- **SEC. 154.** Directs the United States Sentencing Commission to promulgate or amend sentencing guidelines related to material false statements or omissions related to terrorism-related offenses. Directs review of guidelines to reflect intent of Congress to increase penalties for offenders who engage in organized or abusive human smuggling.

<u>Subtitle D – Strengthening the Immigration Court System</u>

- **SEC. 155.** Increases the number of immigration judges and court personnel.
- **SEC. 156.**: Clarifies that immigration judges can sanction ICE trial attorneys, not just counsel for the noncitizen, and requires the Attorney General to issue regulations enhancing accountability.
- **SEC. 157.**: Defining Board of Immigration Appeals "Member" as an attorney whom the Attorney General appoints as an administrative judge within EOIR, qualified to review decisions of immigration judges and other matters within the jurisdiction of the BIA.
- **SEC. 158.** Permits immigration judges to appoint counsel, at government expense, during removal proceedings and requires the establishment of pilot programs to provide counsel to unaccompanied children and mentally incompetent adults.
- **SEC. 159.** Establishes a Training and Resource Center to provide training for adjudicators and staff of EOIR and stating that the Attorney General has sole and unreviewable discretion to determine the contents of country condition information, which may be entered into evidence in immigration proceedings.
- **SEC. 160.** Authorizes the existing alternatives to detention ATD program for qualified individuals during removal proceedings. Clarifies that DHS has sole discretion for placing someone into an alternatives program, and lists factors to consider (high flight risk; danger to self, public, national security; individual is subject to "mandatory detention by law"). Does not make substantial modifications to the ATD program or who is eligible for ATDs.
- **SEC. 161.** Establishes an Office of Legal Access Programs within EOIR to administer Legal Orientation Programs, including presentations to all detainees within 5 days of arrival into custody.
- **SEC. 162.** Provides safeguards for mentally incompetent noncitizens in removal proceedings including release. Requires immigration judges to terminate proceedings if they cannot be made fundamentally fair.

Title II- Legalization of Undocumented individuals

Subtitle A- Lawful Prospective Immigrants

- **SEC. 201**. Authorizes the DHS Secretary to grant Lawful Prospective Immigrant (LPI) status and establishes eligibility criteria for the status.
 - Requires LPI applicants to be present on date of introduction and remain in US until the grant of LPI status.
 - Excludes (among others) people with convictions for aggravated felonies, a single offense with time served of more than 1 year, or 3 or more offenses with an aggregate time served of 90 days or more.
 - Requires screening for grounds of inadmissibility, but exempts applicants from some grounds.
 - Provides a waiver for some inadmissibility grounds but none for the other eligibility grounds.
 - Excludes LPRs, asylees, refugees, nonimmigrants and certain other individuals with lawful status.

Application Process

- Establishes application process and timeframes to apply.
- Provides a mechanism for individuals apprehended, in removal proceedings, or previously excluded, removed, deported, or ordered to depart to apply.
- Requires applicants to provide biometric and biographic data and to undergo background checks.
- Requires a fee to cover all costs associated with the LPI process. Authorizes DHS Secretary to set
 fees and fee exemptions. Also requires payment of a \$250 for those 21 and older penalty when
 they file the first extension of the initial period of LPI status. Designates how fees/penalty will
 be allocated and spent.
- Authorizes DHS to interview applicants.
- Establishes criteria for when those denied LPI status can re-apply.
- Requires issuance of a tamper-proof ID card for those granted LPI status that will serve as evidence for travel, reentry and employment purposes.
- Authorizes DHS to avoid re-adjudicating requirements already met by DACA grantees.
- Authorizes DHS to initiate a pre-application registration process to improve efficiency.

Benefits for applicants while final decision is pending

- Allows for advance parole, only for urgent humanitarian circumstances.
- Excludes applicants from being considered "unlawfully present."
- Protects from detention or removal, unless DHS determines the individual is or has become ineligible for LPI status.
- Directs DHS to issue a receipt documenting receipt of an application.
- Provides protection for employers who continue to employ applicant after knowledge of application.

Benefits of LPI status

- Enables those granted LPI status to petition for spouses and children outside the U.S. or in the U.S. in lawful status. Requires a fee to cover the costs of processing LPI visas and for changing status to LPI status.
- Authorizes employment for those granted LPI status.
- Allows travel and reentry; establishes criteria for when individuals are seeking readmission after travel
- Protects from detention or removal, unless DHS determines the individual is no longer eligible for LPI status or has had their status revoked.
- Considers the individual as having been lawfully admitted (in LPI status).
- Authorizes individuals with LPI status to be considered "lawfully present," except for the purposes of premium tax credits and reduced cost sharing under the Affordable Care Act.

Duration, Extension, and Revocation of LPI status

- Establishes initial period of authorized admission for a LPI as 4 years.
- Establishes criteria for extension of LPI's period of lawful admission, including continuing eligibility for LPI status and background check.
- Establishes requirement for registration.
- Establishes procedures and criteria for revocation if the individual: has become ineligible for LPI status; is the subject of an order of removal/deportation/exclusion that became final after granting of LPI status; fraud; was absent from U.S. not in compliance with travel guidelines.

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• Grants DHS sole and unreviewable discretion to deny an application for LPI status.

SEC. 202. Authorizes DHS to adjust the status of LPI to an alien lawfully admitted for permanent residence and establishes eligibility criteria for the adjustment of status.

- Requires LPIs to continue to be eligible for LPI status. Previous waivers of inadmissibility are
 maintained except for conduct after filing for LPI status. Holds an application for adjustment of
 status until final determinations on revocation of LPI status are made.
- Requires applicants to achieve understanding of English and U.S. history/government, but exempts applicants under the age of 14.
- Requires payment of taxes, continuous physical presence (no single absence of more than six months), and if applicable, registration for selective service.

Application Process

- Requires applicants to wait a minimum of 6 years after initial grant of LPI status before filing for adjustment, and either 8 years after enactment or 30 days after an immigrant visa has become available for petitions filed before enactment.
- Authorizes DHS to adjust at any time the status of child entrants who, at the time of adjustment, have completed at least 2 years, acquired a bachelor's or higher degree, or served 2 years in the military. Enables child entrants to include spouse/child in application for adjustment.
- Requires a fee to cover all costs associated with the adjustment of status process. Authorizes
 DHS Secretary to set fees and fee exemptions. Also requires penalty of \$500 for those 21 and
 older when they file for adjustment. Designates how fees/penalties will be allocated and spent.
- Authorizes DHS to interview applicants.
- Requires applicants to undergo background checks.
- Grants DHS sole and unreviewable discretion to deny an application for LPI status.
- Clarifies ineligibility for federal means-tested public benefit.

SEC. 203. Outlines administrative and judicial review of decisions of LPI status and adjustment of status. *Administrative review*

- Directs DHS Secretary to designate an appellate authority for single level of administrative appellate review of determinations regarding applications for LPI status, extension, revocation, adjustment of status, or petition for spouse and children filed by LPI. Applications are not renewable or reviewable by DOJ.
- Limits applicants to a single appeal.
- Requires notice of appeal to be filed not later than 60 days after denial/revocation was served. An administrative decision become final after the 60 days have passed, or when the administrative appellate authority upholds an initial determination.
- Clarifies authority of DHS Secretary to certify appeals for review and final administrative decision.
- Protects individuals seeking review from removal until a final administrative determination is rendered, except on criminal or national security grounds.
- Clarifies that individuals seeking review are not considered "unlawfully present" during pendency of review.
- Prohibits motion to reopen/reconsider for initial administrative decisions. Allows a single motion to reopen/reconsider of the final decision of the administrative appellate body, filed not later than 60 days of decision.

Judicial Review

- Clarifies that individuals seeking review are not considered "unlawfully present" during pendency of review.
- Grants the court discretion to stay any order of removal/deportation/exclusion during pendency.
- Tolls any unexpired grant of voluntary departure during pendency.
- Establishes standard of review: judicial review based on administrative record, but court may remand to DHS for consideration of additional evidence where evidence is material and there were reasonable grounds for failure to adduce the evidence before DHS.
- Grants district courts jurisdiction over cause/claim arising from DHS conduct that is arbitrary, capricious, or contrary to law. Allows courts to order any appropriate relief.
- Grants United States District Court for the District of Columbia exclusive jurisdiction over any claim respect to the Act. (violation of Constitution/law) Plaintiffs are not required to exhaust administrative remedies.

SEC. 204. Establishes confidentiality provisions for applicants of LPI status or adjustment of status. Use of information furnished by applicant is limited to determination of application, revocation of previously approved application, identification/prevention of fraudulent claims, or to adjudicate future application/petition.

- Requires disclosures:
 - to law enforcement/court/grand jury in connection with a criminal investigation or prosecution
 - o in background check pursuant to the Brady Handgun Violence Protection Act
 - o in cases of national security investigation or prosecution
- Establishes criminal penalties for violation of confidentiality provisions.
- Allows for disclosure to law enforcement when the application has been denied based on a substantiation of fraud. Establishes criminal penalties for false statements in applications.

SEC. 205. Excludes those who adjust under this Act from being subject to the worldwide levels or numerical limitations.

SEC. 206. Establishes protections for employers of individuals eligible for LPI status. Prohibits evidence of employment from being used in a prosecution or investigation (civil or criminal) of the employer under INA 274A or tax laws, regardless of adjudication of application for LPI status. Does not apply to INA 274B or other labor/employment law.

SEC. 207. Directs SSA to assign a Social Security number and issue a Social Security card to those granted LPI status.

Subtitle B- Implementation

SEC. 208. Directs Attorney General, Secretaries of DHS and DOS to issue interim final regulations within 1 year of enactment. Exempts any decision by DHS Secretary from review under the National Environmental Policy Act.

SEC. 209. Exempts from government contracting and hiring rules any procurement and hiring for the purposes implementation of this title.

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- **SEC. 210.** Authorizes DHS Secretary to acquire leasehold interest in real property or provide in a lease for construction or modification of any facility in order to facilitate implementation.
- **SEC. 211.** Directs DHS Secretary to ensure appropriate administrative and physical safeguards to protect the security, confidentiality, and integrity of personally identifiable information collected, maintained, and disseminated pursuant to applications for LPI status or adjustment of status. Directs DHS to conduct a privacy and civil liberties impact assessment of the legalization program during the pendency of the interim final rule.
- **SEC. 212.** Clarifies that nothing in this title creates any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies/officers/persons.

Subtitle C- Miscellaneous

- **SEC. 213.** Exempts individuals granted LPI status or who have adjusted status under the Act from prosecution related to use of social security numbers before time of application for LPI status. Does not exempt conduct consisting of selling/intent to sell social security cards.
- **SEC. 214.** Directs appropriate Department heads to develop a fraud prevention program that provides for: fraud prevention training, regular audit of applications, receipt/evaluation of reports of fraud or abuse, identification and remedies of deficiencies in administrative practice/procedure, and referral for investigation of cases of identified or suspected fraud.
- **SEC. 215.** Establishes a grant program with USCIS that provides funding to eligible public/private non-profit organizations to develop and implement programs to assist eligible applicants with: public education, assistance in application for LPI status, adjustment of status, and citizenship. Allocates funding from the Immigration Reform Penalty Account.

Subtitle X Employment Verification System

SEC. 301. Unlawful Employment of Aliens

- Makes it unlawful for employer to knowingly hire an alien who is unauthorized to work or to hire an individual without going through the process set forth in the legislation.
- Employer who obtains the labor of an alien through a subcontractor knowing that the alien is unauthorized will be considered to be in violation of this section.
- Employer can have a good faith defense if shown to have compiled with document verification requirements and requirements set forth in the new verification system (the System), a presumption against the employer is created if employer fails to comply with written requirements.
- Employers of less than 5 employees are not covered by this legislation.
- Steps employer must take when hiring include attesting to having reviewed of document showing identity and work authorization or documents showing separately, identity and work authorization.
- Individual must attest that they have work authorization.

- The DHS Secretary (the Secretary) and the Commissioner of SSA (the Commissioner must create and implement the System.
- Employers in the areas considered critical infrastructure must participate in the System within 1 year after the System is implemented, employers with more than 1,000 employees must participate within 2 years, employers with more than 250 employees must participate within 3 years and all other employers within 4 years (not including tribal government employees who have up to 5 years until participation is required).
- Employer must register to participate in the System and the legislation lays out the process by
 which the System will operate including the submission of prospective employee's information
 with which the System will make a determination of confirmation, nonconfirmation or further
 action notice.
- Procedures are established where System determines nonconfirmation or further action notice including re-examination of case, administrative review and review by administrative law judge.
- If nonconfirmation caused by employer negligence the aggrieved party has a private right of action.
- Establishes requirements for the Secretary to manage and operate the System.
- Compliance: sets forth process and procedures for individuals to file complaints and manner by which such complaints will be investigated and the types of fines and penalties for various types of violations.
- Preemption clause indicating that federal law will address matters dealing with employment of unauthorized aliens and the employment eligibility process.

SEC. 302. Effective Date – is the date of enactment.

SEC. 303. Increasing Security and Integrity of Social Security Cards

- Commissioner must develop fraud-resistant, tamper-resistant, and wear-resistant social security card.
- Within 2 years of enactment, only the new cards will be issued and new penalties for misuse of the card.

SEC. 304. Increasing Security and Integrity of Immigration Documents – Within 1 year of enactment the Secretary must report to Congress on the feasibility of including biometric information in addition to a photo to the work authorization document

SEC. 305. Responsibilities of the Social Security Administration – sets forth SSA's role in the employment verification process.

SEC. 306. Antidiscrimination Protections – prohibits discrimination based on national origin or citizenship, improper use of the System and provides certain exceptions as well as new fines and penalties.

SEC. 307. Authorization for Appropriations.

SEC. 308. Voluntary Pilot Program on Identity Authentication – Establishes a voluntary pilot program to evaluate new methods to authenticate identity and combat identity theft and Secretary must report to Congress within 2 years of enactment, the results of the pilot program.

SEC. 309. Regulations.

Subtitle XI Protecting American Workers

- **SEC. 310.** Continued Application of Remedies Ensures that certain remedies such as backpay will not be denied to worker who is unauthorized.
- **SEC. 311.** Victims of Serious Labor and Employment Violations or Crime Provides new protections and remedies for certain alien victims of serious crimes.
- **SEC. 312.** Labor Enforcement Actions Provides protections for unauthorized workers at the site of labor a labor enforcement action.
- **SEC. 313.** Enforcement of Labor Law Increased the penalties for employers who hire undocumented workers and who are found to be in violation of workplace safety standards, fees from such penalties will go to a new "labor law enforcement fund" to help ensure that industries that employ significant numbers of immigrant workers comply with labor laws.
- **SEC. 314.** Protections for Migrant and Seasonal Laborers Increases fines and penalties for certain violations against migrant and season workers.
- **SEC. 315.** Directive to the United States Sentencing Commission Sentencing enhancements for certain employer violations.

No SEC. 316.

SEC. 317. Confidentiality for Victims of Crime.