AMENDMENT NO._____   Calendar No._____

Purpose: To provide for the suspension of enforcement ac-
tions during workplace investigations of protected work-
place activities.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for
other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. BLUMENTHAL

Viz:

1   On page 540, between lines 10 and 11, insert the fol-

2   lowing:

3   (c) SUSPENSION OF ENFORCEMENT ACTIONS DUR-

4   ING WORKPLACE INVESTIGATIONS OF PROTECTED WORK-

5   PLACE ACTIVITIES..—Section 274A (8 U.S.C. 12324a), as

6   amended by section 3101, is further amended by adding

7   at the end of subsection (e) the following:

8   "(10) SUSPENSION OF CIVIL WORKSITE EN-

9   FORCEMENT ACTIONS DURING WORKPLACE INVES-

10   TIGATIONS OR PROTECTED WORKPLACE ACTIVITIES

11   FOR PROTECTION OF WORKERS' RIGHTS.—

1   "(A) IN GENERAL.—To ensure that en-

2   forcement actions of U.S. Immigrations and

3   Customs Enforcement are consistent with laws

4   protecting the rights of workers and workplace

5   rights, the Secretary may not initiate or con-

6   tinue a civil worksite enforcement action—

7   "(i) at a facility where an investiga-

8   tion of violations of workplace rights by

9   another government agency or body is on-

10   going; or

11   "(ii) directed at employees who are

12   engaged in a protected workplace activity.

13   "(B) REQUIREMENTS BEFORE COMMENCE-

14   MENT OF ENFORCEMENT ACTIONS.—

15   "(i) NO INITIATION WITHOUT DETER-

16   MINATION.—Whenever the Secretary con-

17   templates initiating a civil worksite en-

18   forcement action, the Secretary shall first

19   determine whether either conditions set

20   forth in clause (i) or (ii) of subparagraph

21   (A) are met.

22   "(ii) MANNER OF MAKING DETER-

23   MINATION.—The Secretary shall make

24   each determination required by clause (i)

25   by all means reasonably available to the

1   Secretary and appropriate under the cir-
2   cumstances, including, but not limited to—
3   "(I) by contacting the Depart-
4   ment of Labor, which shall act as a
5   repository for reports or claims filed
6   concerning protected workplace activ-
7   ity (including reports and claims filed
8   with government agencies or bodies);
9   and
10   "(II) by reviewing records of the
11   Secretary of previous enforcement ac-
12   tions, if any, at the facility concerned.
13   "(iii) DEPARTMENT OF LABOR ASSIST-
14   ANCE.—The Secretary of Labor shall as-
15   sist the Secretary in making determina-
16   tions under this subparagraph by providing
17   timely and accurate information to allow
18   for identification of civil worksite enforce-
19   ment actions at facilities.
20   "(C) DEFINITIONS.—In this paragraph:
21   "(i) ENFORCEMENT   ACTION.—The
22   term 'enforcement action' includes the civil
23   authority of Immigration and Customs En-
24   forcement to inspect Forms I-9, to inves-
25   tigate referrals received from the electronic

1 employment eligibility verification program

2 of the U.S. Citizenship and Immigration

3 Services, to investigate, to search, to fine,

4 and to make civil arrests for violations of

5 immigration law relating to employment of

6 aliens without work authorization.

7 ''(ii) GOVERNMENT AGENCY OR

8 BODY.—The term 'government agency or

9 body' including any Federal, State, or local

10 government entity.

11 ''(iii) PROTECTED WORKPLACE ACTIV-

12 ITY.—The term 'protected workplace activ-

13 ity' includes the assertion or exercise of

14 any workplace rights.

15 ''(iv) WORKPLACE RIGHTS.—The term

16 'workplace rights' has the meaning given

17 that term in section 274A(b)(8).''.

18   On page 540, strike lines 11 through 13 and insert

19 the following:

20   (d) TEMPORARY STAY OF REMOVAL.—Section 274A

21 (8 U.S.C. 1324a), as amended by section 3101 and sub-

22 section (c), is further amended—

5

1   On page 540, line 16, strike "(10)" and insert
2 "(11)".

3   On page 543, line 6, strike "(d)" and insert "(e)".

4   On page 543, line 23, strike "(e)" and insert "(f)".

5   On page 544, line 4, strike "(f)" and insert "(g)".

6   On page 546, line 10, strike "(g)" and insert "(h)".