

AMENDMENT NO. _____ Calendar No. _____

Purpose: To revise the applicability of the employment eligibility verification system to small businesses.

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. FRANKEN
(for himself, Mr. LEE, and Ms. HIRONO)

Viz:

1 On page 437, lines 20 through 21, strike “Not later
2 than 4 years” and insert “Except as provided in subpara-
3 graph (H), not later than 4 years”.

4 On page 438, line 9, strike “subparagraph (H)” and
5 insert “subparagraphs (H) and (I)”.

6 On page 438, between lines 15 and 16, insert the fol-
7 lowing:

8 “(H) APPLICABILITY TO SMALL BUSI-
9 NESS.—

1 “(i) IN GENERAL.—Employers with
2 14 or fewer employees shall participate in
3 the System with respect to all newly hired
4 employees and employees with expiring
5 temporary employment authorization docu-
6 ments commencing on the earliest of the
7 following:

8 “(I) On the date that is 4 years
9 after regulations are published imple-
10 menting this subsection, if the Inspec-
11 tor General of the Department of
12 Homeland Security certifies that the
13 System had an error rate of 0.26 per-
14 cent or less in the previous fiscal year.

15 “(II) On January 1 of any cal-
16 endar year beginning after the date
17 that is 4 years after regulations are
18 published implementing this sub-
19 section, if the Inspector General cer-
20 tifies that the System had an error
21 rate of 0.26 percent or less in the pre-
22 vious fiscal year.

23 “(III) On the date that is 8 years
24 after regulations are published imple-
25 menting this subsection.

1 “(ii) ERROR RATE DEFINED.—In this
2 subparagraph, the term ‘error rate’ means
3 the percentage determined by dividing—

4 “(I) the number of employment
5 authorized individuals who received
6 further action notices, contested such
7 notices, and were subsequently found
8 to be employment authorized; by

9 “(II) the number of System in-
10 quires submitted for employment au-
11 thorized individuals.

12 “(iii) ANNUAL REPORT ON ERROR
13 RATE.—Not later than November 30 each
14 year, the Inspector General shall submit to
15 Secretary, with a copy to the Speaker of
16 the House of Representatives and the
17 President of the Senate, a report setting
18 forth the error rate of the System for the
19 previous fiscal year, including a certifi-
20 cation whether the accuracy standards
21 specified in clause (i) were or were not met
22 by the System in such fiscal year. The re-
23 port shall describe in detail the method-
24 ology employed to make the certification.

1 “(iv) FOR RECORDKEEPING OR
2 VERIFICATION PRACTICES FOLLOWING
3 PERSISTENT SYSTEM INACCURACY.—Not-
4 withstanding subsection (e)(4)(C)(i), in
5 any calendar year beginning on or after
6 the date on which employers with 14 or
7 fewer employees begin participating in the
8 System under clause (i), if the Inspector
9 General certified under clause (iii) for the
10 previous fiscal year that the System had
11 an error rate higher than 0.26 percent for
12 such previous fiscal year, the civil penalty
13 assessable by the Secretary or an adminis-
14 trative law judge under that subsection for
15 each first-time violation by an employer
16 who has not previously been penalized
17 under this section may not exceed \$1,000.

18 “(v) RULE OF CONSTRUCTION.—The
19 failure of employers with 14 or fewer em-
20 ployees to participate in the System pursu-
21 ant to this subparagraph may not be con-
22 strued to affect or delay the certification to
23 be provided under section 3(c)(2)(A)(iii) of
24 the Border Security, Economic Oppor-
25 tunity, and Immigration Modernization

- 1 Act, regarding whether the System has
- 2 been implemented.