

Employment Eligibility Verification System in the STRIVE Act of 2007 (STRIVE: Security Through Regularized Immigration and a Vibrant Economy)*

The STRIVE Act (HR 1645), which was introduced in the U.S. House of Representatives on March 22, 2007, by Representatives Jeff Flake (R-AZ) and Luis Gutierrez (D-IL), includes its employment eligibility verification system (EEVS) proposal in Title III. The full text of the bill can be found at <http://thomas.loc.gov/>.

PROVISION	SUMMARY
<p>Unlawful employment of non-U.S. citizens</p>	<ul style="list-style-type: none"> ■ Unlawful for an employer to hire, recruit, or refer for a fee (or continue to employ) a non-U.S. citizen “knowing or with reckless disregard” of the fact that the person is unauthorized to work. ■ Prohibits an employer from using a contract, subcontract or exchange entered into, renegotiated, or extended after the date of the enactment of the STRIVE Act to employ a person “knowing or with reckless disregard” of the fact that the person is unauthorized to be employed in the U.S. ■ Requires employers to comply with document verification requirements and participate in the EEVS. Provides good faith defense for employers who do so (notwithstanding a technical or procedural failure by the EEVS). ■ Contractors are not liable for the employment of unauthorized noncitizens by subcontractors unless the contractor “knew” that the subcontractor hired or continued to hire unauthorized noncitizens. ■ The secretary of Homeland Security (the “Secretary”) can require an employer to certify that the employer is in compliance with the employment eligibility verification requirements (or has instituted a program to come into compliance) if the Secretary has “reasonable cause” to believe that the employer is not in compliance. the Secretary will publish standards and methods for certification in the Federal Register.
<p>Document verification requirements</p>	<ul style="list-style-type: none"> ■ Employer must attest under penalty of perjury on a form that the employer has verified the identity and employment eligibility of an employee by examining the documents presented by the individual. ■ The employer has complied with the requirement to verify documents if the document “reasonably appears on its face to be genuine” and “relates to the individual.” Employers must not require additional documents. ■ Employees must present employment and identification documents as follow: <ul style="list-style-type: none"> — U.S. citizens must present a U.S. passport; a biometric, machine-readable, tamper-resistant Social Security card; or a driver’s license or identity card that complies with the REAL ID Act. — LPRs must present a permanent resident card or a biometric, machine-readable, tamper-resistant Social Security card. — Noncitizens with employment authorization must present an employment authorization card that (1) contains a photograph of the individual or other identifying information including the individual’s name, date of birth, gender, and address; and (2) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use, or a biometric, machine-readable, tamper-resistant Social Security card. ■ If individuals cannot present the documents prescribed, they may present a document designated by the Secretary that

* This summary does not include sections on employer compliance, penalties, and debarment from federal contracts.

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	<p>(1) contains a photograph of the individual or other identifying information including the individual's name, date of birth, gender, and address; and (2) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.</p> <ul style="list-style-type: none"> ■ Until an employer is required to participate in the EEVS, or participates on a voluntary basis, employers may accept identity documents acceptable under current law. ■ Minors under 18, who are unable to present the identity document prescribed in the STRIVE Act, are exempt from presenting the required documents if (1) a parent or legal guardian completes a form prescribed by the Secretary, and in the space for the minor's signature, the parent or legal guardian writes the words, "minor under age 18"; (2) a parent or legal guardian completes a form prescribed by the Secretary, the "Preparer/Translator certification"; and (3) the employer of the minor writes in a form prescribed by the Secretary, in the space after the words "Document Identification #," the words "minor under age 18." ■ Individuals with disabilities¹ who are being placed into employment by a nonprofit organization or association or as part of a rehabilitation program, and individuals with mental retardation, whether or not the individuals participates in an employment placement program through a nonprofit organization or association or as part of a rehabilitation program, who are unable to present the identity document prescribed in the STRIVE Act, are exempt from presenting such documents if (1) a parent or legal guardian, or a representative from the nonprofit organization, association, or rehabilitation program placing the individual into a position of employment completes a form prescribed by the Secretary, and in the space for the covered individual's signature, writes the words, "special placement"; (2) a parent or legal guardian of the individual or the program representative, completes a form prescribed by the Secretary, the "Preparer/Translator certification"; and (3) the employer of the covered individual writes in a form prescribed by the Secretary, in the space after the words "Document Identification #," the words "special placement." ■ The Secretary has the authority to prohibit the acceptance for verification purposes of certain documents if they are found not reliable to establish identity or are being fraudulently used to an unacceptable degree. The Secretary's findings regarding which documents are no longer acceptable must be published in the Federal Register. ■ An employer may accept a receipt for the application for a document in lieu of the required document in the following circumstances: (1) the individual is unable to provide the required document because the document was lost, stolen, or damaged; (2) the individual presents a receipt for the application for the document within the time specified; (3) the individual presents the actual document within 90 days of hire. The individual may be granted an additional 90 days, if his or her application is still under review by USCIS 60 days after receipt of the application. An employer may <u>not</u> accept a receipt in lieu of the required document if the individual is hired for a duration of less than 10 working days. ■ Other than LPRs, any limitations to a noncitizen's employment authorization must be conspicuously stated on the document or endorsement. ■ Individuals must attest on a form that they are a U.S. national, an LPR, or a noncitizen in an employment-authorized status. An individual who falsely represents that he or she is employment-authorized is subject to a fine of no more than \$5,000 for each violation, a prison term of 3 years, or both.
<p>Records that must be kept by employers</p>	<ul style="list-style-type: none"> ■ Employers must retain: (1) employer and employee attestations; (2) a copy of the document that the employee submitted as proof of identity and employment eligibility; and (3) records of any action taken and copies of any correspondence written or received related to the verification of an individual's identity or employment authorization through the EEVS for 3 years after

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	<p>date of hire, or 1 year after the individual's employment is terminated, whichever is longer. The Secretary has the authority to designate a shorter period.</p> <ul style="list-style-type: none"> ■ Employers are prohibited from using retained documents for any purpose other than complying with the requirements in the section.
<p>EEVS: Design and operation of the EEVS</p>	<ul style="list-style-type: none"> ■ DHS, in cooperation with SSA, must design and operate an EEVS: <ul style="list-style-type: none"> — To maximize its reliability and ease of use consistent with protecting the privacy and security of the information maintained in the EEVS; — To permit an employer to submit an inquiry to the EEVS through the Internet or other electronic media or over a telephone line; — To respond to each inquiry made by an employer; — To maintain a record of each response; — To track and record any occurrence when the EEVS is unable to receive in inquiry; — To include appropriate administrative, technical and physical safeguards to prevent unauthorized disclosure of personal information during use, transmission, storage, or disposal of that information, including the use of encryption, carrying out periodic testing of the EEVS to detect, prevent, and respond to vulnerabilities or other failures, and utilizing periodic security updates; — To allow for monitoring of the use of the EEVS and provide an audit capability; — To have reasonable safeguards, developed in consultation with the U.S. attorney general to prevent employers from engaging in unlawful discriminatory practices; — To permit an employer to submit the attestations required under the document verification requirements; and — To permit an employer to utilize any technology that is consistent with STRIVE and with any regulation or guidance from the Secretary to streamline the procedures to comply with the attestation and employment eligibility verification requirements. ■ SSA must: <ul style="list-style-type: none"> — Establish a reliable, secure method to provide through the EEVS: (1) a determination of whether the name, date of birth, employer identification number, and SSN submitted by an employer is consistent with information maintained by the Commissioner of SSA (the "Commissioner"); (2) a determination of the citizenship status associated with such name and SSN; (3) a determination of whether the name and SSN belong to an individual who is deceased; (4) a determination of whether the name and SSN is blocked (see "Miscellaneous," below, for information); and (5) a confirmation or nonconfirmation notice in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the EEVS. — Carry out responsibilities under this provision only to the extent DHS provides, in advance, funds to cover SSA's costs. In no case can funds be taken from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund to fund activities carried out under this provision. ■ DHS must establish a reliable, secure method to provide through the EEVS: (1) a determination of whether the name and alien identification or authorization number provided by an employer match such information maintained by the Secretary; (2) a

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	<p>determination of whether such number was issued to the individual;(3) a determination of whether the individual is authorized to be employed in the U.S.; and (4) any other related information that the Secretary determines is appropriate.</p> <ul style="list-style-type: none"> ■ SSA and DHS must provide appropriate training materials to employers participating in the EEVS to ensure that employers are able to comply with EEVS requirements.
<p>EEVS: Technology standards</p>	<ul style="list-style-type: none"> ■ No later than 180 days after the date of the enactment of the STRIVE Act, the Secretary, based upon recommendations from the director of the National Institute of Standards and Technology, must develop and certify a technology standard. The Secretary has the discretion to extend the 180-day period. ■ The technology standard must be the technological basis for a cross-agency, cross-platform electronic system that is a cost-effective, efficient, fully integrated means to share immigration and Social Security information necessary to confirm the employment eligibility of all individuals seeking employment. ■ No later than 18 months after the date of the enactment of the STRIVE Act, the Secretary and the director of the National Institute of Standards and Technology must jointly submit to Congress a report describing the development, implementation, efficacy, and privacy implications of the technology standard and the EEVS.
<p>EEVS: Verification process</p>	<ul style="list-style-type: none"> ■ An employer must use the EEVS to seek confirmation of an individual's identity and employment eligibility not later than 5 days after the employment commences. ■ Employers must notify affected individuals that the EEVS may be used for immigration enforcement purposes, obtain from the individual the required documents, and record on a form prescribed by the Secretary (which must be retained by the employer): <ul style="list-style-type: none"> — The individual's SSN. — In the case that the individual does not attest that he or she is a U.S. national, an identification or authorization number as the Secretary shall require. ■ The Secretary, through the EEVS, must provide a response to the employer no later than 1 day after the initial inquiry that either confirms an individual's identity and employment authorization or issues a "tentative nonconfirmation" of an individual's identity and employment authorization. ■ If the initial verification results in a tentative nonconfirmation of the individual's identity and employment eligibility: <ul style="list-style-type: none"> — DHS must provide the individual with the opportunity to submit information verifying the individual's identity and employment eligibility and conduct an automatic secondary manual verification. — No later than 10 days after the issuance of the tentative nonconfirmation, the employer must notify the individual in a manner prescribed by the Secretary that includes information regarding the individual's right to submit information to contest the tentative nonconfirmation and the address and telephone numbers established by SSA and DHS to obtain information on how to submit such information. ■ If the employee contests the tentative nonconfirmation notice, he or she must acknowledge receipt of the notice in writing, and has 15 working days after receiving the notice to submit appropriate information to SSA or DHS. The 15-day period may be extended by the Secretary for good cause at the request of the individual. ■ If the employee does not contest the tentative nonconfirmation notice within 15 days of receiving it, the nonconfirmation notice

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	<p>becomes final. An individual's failure to contest should not be considered an admission that he or she is not authorized to work.</p> <ul style="list-style-type: none"> ■ Not later than 30 days after the last day that an individual has to contest the tentative nonconfirmation, DHS must provide the employer with a confirmation of the individual's identity and employment eligibility or a final nonconfirmation. ■ If a final confirmation or nonconfirmation notice is not issued by the Secretary within the timeframe prescribed, the individual will automatically be confirmed as employment-authorized. <ul style="list-style-type: none"> — The Secretary reserves the right to revoke such confirmation if the Secretary later determines the individual is, in fact, not eligible to work. — The Secretary must provide notice of such revocation and final nonconfirmation to the employer. The individual has the right to administrative and judicial review of such final nonconfirmation. ■ An employer may not terminate a worker based on a tentative nonconfirmation notice until it becomes final. ■ If a tentative or final confirmation or nonconfirmation is provided by the EEVS, the employer must record on the form designated by the Secretary the appropriate code that is provided under the EEVS to indicate a confirmation or nonconfirmation of the identity and employment eligibility of the individual. ■ It is an unfair immigration-related employment practice for an employer to reverify an individual's identity and employment eligibility unless (1) the individual's work authorization expires; (2) the employer has actual or constructive knowledge that the individual is not authorized to work; or (3) unless otherwise required by law. However, critical infrastructure employers, including all agencies and departments of the U.S.(including the armed forces), state government (including a state employment agency), or any other employer working in a location that is a federal, state, or local government building, military base, nuclear energy site, weapons site, or airport, must complete a one-time verification of all individuals. ■ An employer may not verify an individual's employment eligibility if the individual is continuing in his or her employment as defined in 8 CFR 274a.2(b)(1)(viii). ■ No later than 30 days prior to the date an individual's employment authorization expires, the Secretary must notify the employer. The individual may present a receipt for application of a replacement document, extension of employment authorization, or document accepted to prove identity and employment eligibility by the expiration date, and must present the actual document no later than 90 days from the date the employment authorization expires. The individual may be granted an additional 90 days, if his or her application is still under review by USCIS 60 days after the individual's employment authorization expired.
EEVS: Consequences of final nonconfirmation notice	<ul style="list-style-type: none"> ■ Employer must terminate worker. If employer fails to terminate worker, a rebuttable presumption of violation is created.
EEVS: Requirements for participation	<ul style="list-style-type: none"> ■ With respect to current employees and new hires, critical employers — including all agencies and departments of the U.S.(including the armed forces), state government (including a state employment agency), or any other employer working in a location that is a federal, state, or local government building, military base, nuclear energy site, weapon site, or airport — must participate in the EEVS 1 year after date of enactment.

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	<ul style="list-style-type: none"> ■ With respect to new hires, all other employers must participate as follows: <ul style="list-style-type: none"> — Employers with 5,000 or more employees must participate in the EEVS 2 years after enactment. — Employers with over 1,000 employees and less than 5,000 must participate in the EEVS 3 years after enactment. — Employers with less than 1,000 employees must participate in the EEVS 4 years after enactment. ■ DHS will publish requirements for participation in the Federal Register prior to the effective date of participation. ■ Employers may participate in the EEVS on a voluntary basis before they are required to. ■ Employers are not required to use the EEVS to verify the identity and employment eligibility for the following individuals: (1) an individual performing casual employment for the employer and who provides domestic service in a private home that is sporadic, irregular, or intermittent; (2) a worker provided to the employer by a person providing contract services, such as a temporary agency; or (3) an independent contractor performing services for the employer. ■ DHS is authorized to waive or delay the participation requirements with respect to any employer or class of employers if the Secretary provides notice to Congress. ■ The Secretary <u>must</u> waive or delay the participation requirements with respect to any employer or class of employers until the date that the U.S. comptroller general submits the initial certification that the EEVS meets certain standards and if the comptroller general fails to submit certification before subsequent phase-in of the EEVS (see “Annual reports and certification,” below). ■ If an employer fails to participate in the EEVS, a rebuttable presumption is created that the employer violated the law related to unlawful employment of immigrants. ■ Employers are not liable for any employment-related action taken in good faith reliance on information provided by the EEVS.
<p>EEVS: Annual reports and certification</p>	<ul style="list-style-type: none"> ■ Not later than 21 months after enactment of the STRIVE Act, and annually thereafter, the comptroller general must conduct studies and submit reports to DHS and Congress. The reports must determine whether the EEVS meets the following requirements: <ul style="list-style-type: none"> — <u>Demonstrated accuracy of the databases.</u> New information and information changes submitted by an individual to the EEVS are updated in all of the relevant databases not later than 3 working days after submission in at least 99 percent of all cases. — <u>Low error rates and delays in verification.</u> During a year: (1) not more than 1 percent of all tentative nonconfirmations are incorrect; (2) not more than 3 percent of all final nonconfirmations are incorrect; (3) the number of incorrect tentative nonconfirmations for individuals who are not nationals of the U.S. is not more than 300 percent more than the number of incorrect notices provided for nationals of the U.S.; and (4) the number of incorrect final nonconfirmations for individuals who are not nationals of the U.S. is not more than 300 percent more than the number of incorrect notices provided for nationals of the U.S. — <u>Measurable employer compliance with EEVS requirements.</u> Based on an independent study commissioned by the Comptroller General in each phase of expansion, the EEVS has not and will not result in increased discrimination or cause reasonable employers to conclude that individuals of certain races or ethnicities are more likely to have difficulties when offered employment caused by the operation of the EEVS.

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	<ul style="list-style-type: none"> — <u>Protection of workers' private information</u>. At least 97 percent of employers who participate in the EEVS are in full compliance with the privacy requirements described in the STRIVE Act. — <u>Adequate agency staffing and funding</u>. The Secretary and Commissioner of Social Security have sufficient funding to meet all of the deadlines and requirements of the EEVS. ■ In conducting a study, the comptroller general shall consult with representatives of business, labor, immigrant communities, state governments, privacy advocates, and appropriate departments of the U.S. ■ If the comptroller general determines that the EEVS meets the requirements, the comptroller shall certify the determination and submit the certification to Congress. ■ Not later than 2 years after enactment of the STRIVE Act and annually thereafter, the comptroller general must submit reports to DHS and Congress on the impact of the EEVS on employers and employees. The reports must include the following: <ul style="list-style-type: none"> — An assessment of the impact of the EEVS on the employment of immigrants who are not eligible for employment in the U.S., including whether the EEVS has indirectly caused an increase in exploitation of unauthorized workers. — An assessment of the accuracy of the databases utilized by the EEVS and of the timeliness and accuracy of the responses provided through the EEVS to employers. — An assessment of the privacy and confidentiality of the EEVS and of the overall security of the EEVS with respect to cyber-theft and theft or misuse of private data. — An assessment of whether the EEVS is being implemented in a nondiscriminatory and nonretaliatory manner. — An assessment of the most common causes for the erroneous issuance of nonconfirmations by the EEVS and recommendations to correct such causes. — Recommendations regarding a funding scheme for the maintenance of the EEVS, which may include minimal costs to employers or individuals. — Recommendations regarding whether or not the EEVS should be modified prior to further expansion.
<p>EEVS: Due process</p>	<ul style="list-style-type: none"> ■ The Secretary, in consultation with the commissioner of SSA, must establish a process to permit individuals to verify their employment eligibility and identity prior to obtaining or changing employment, to view their own records, and to correct or update information in the EEVS. ■ DHS must establish a fully staffed 24-hour hotline that shall receive inquiries from individuals or employers concerning determinations made by the EEVS and shall identify for an individual the particular data that resulted in a determination that the EEVS was unable to verify the individual's identity or eligibility for employment. ■ Individuals have 60 days after termination from employment to file an administrative appeal. <ul style="list-style-type: none"> — DHS and SSA will develop procedures for reviewing appeals. — If the appeal results in a confirmation of the individual's employment eligibility, DHS must determine if it was agency error. — If DHS determines that it was agency error, the individual is entitled to compensation for wages lost (calculated based on the wage rate and work schedule that prevailed prior to termination) beginning on the first scheduled work day after employment was terminated and ending 180 days after completion of the administrative review process or the day after the individual is reinstated or obtains employment elsewhere, whichever occurs first. Compensation will not include any

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	<p>period that the individual was ineligible for employment in the U.S. Compensation may not come from DHS annual appropriations.</p> <ul style="list-style-type: none"> ■ Individuals have 90 days (or further time as the Secretary may allow) after the administrative review decision to obtain judicial review of the decision in a civil action. Not later than 180 days after the date of enactment of the STRIVE Act, the director of the Federal Judicial Center must submit to Congress a report on judicial review of an administrative decision on a final nonconfirmation that contains recommendations on jurisdiction and procedures that shall be instituted to seek adequate and timely review of such decision. ■ If the court overturns the administrative decision, the individual is entitled to compensation for wages lost (calculated based on the wage rate and work schedule that prevailed prior to termination) beginning on the first scheduled work day after employment was terminated and ending 180 days after completion of the judicial review process or the day after the individual is reinstated or obtains employment elsewhere, whichever occurs first. Compensation will not include any period that the individual was ineligible for employment in the U.S. ■ No private right of action exists for any claim based on a violation of this section. The U.S. government has exclusive enforcement authority over violations of this section and shall use only the powers, penalties, and mechanisms found in this section. This limitation applies to all cases in which a final judgment has not been entered prior to or on the date of enactment of the STRIVE Act.
<p>EEVS: Protections against discrimination</p>	<ul style="list-style-type: none"> ■ Amends INA section 274B, relating to unfair immigration-related employment practices, to explicitly apply to employment decisions related to the new EEVS. ■ Expands the definition of “protected individual” under INA section 274B to include LPRs, immigrants granted temporary residence, refugees, asylees, immigrants granted temporary protected status, nonimmigrants under 101(a)(15)(H)(ii)(c),² and immigrants granted parole. ■ Makes it an unfair immigration-related employment practice to: <ul style="list-style-type: none"> — Terminate an individual based on a tentative nonconfirmation notice; — Use the EEVS for screening of an applicant prior to an offer of employment; — Reverify the employment authorization of current employees beyond the time period required under law; — Use the EEVS selectively to exclude 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. ■ Expands INA section 274B, relating to unfair immigration-related employment practices, to cover individuals during the “compensation, terms, or conditions” of employment. ■ Eliminates the requirement in INA section 274B, relating to unfair immigration-related employment practices, that requires workers to prove that their employer had “intended” to discriminate against them. This new standard is subject to additional information and compliance assistance being provided to employers to assist them with complying with the law. ■ Extends the time that the Office of Special Council for Unfair Immigration-Related Employment Practices (OSC) has to file an independent investigation from within 180 days of the alleged discriminatory act to 1 year after the commencement of the independent investigation (the investigation must begin no later than 180 days after the alleged discriminatory act).

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	<ul style="list-style-type: none"> ■ Gives administrative law judges, upon a finding of unfair immigration-related employment practice, the discretion to require employers to provide relief as the ALJ determines appropriate. ■ Increases fines for violation of INA section 274B as follows: <ul style="list-style-type: none"> — For the first violation, a civil penalty of not less than \$1,000 and not more than \$4,000 for each individual discriminated against; — In the case of a person or entity previously subject to a single order, a civil penalty of not less than \$4,000 and not more than \$10,000 for each individual discriminated against; — In the case of a person or entity previously subject to more than one order, a civil penalty of not less than \$6,000 and not more than \$20,000 for each individual discriminated against; and — In the case of an employer requesting additional or different documentation than is required under the law, a civil penalty of not less than \$500 and not more than \$5,000 for each individual discriminated against. ■ Provides an additional \$40 million to the OSC for an information campaign for each fiscal years 2008–10.
EEVS: Privacy protections	<ul style="list-style-type: none"> ■ The EEVS may store only the minimum data on individuals necessary to operate the system, and in no case may the data stored be other than: <ul style="list-style-type: none"> — The individual's full legal name; — The individual's date of birth; — The individual's SSN or employment authorization number; — The address of the employer making the inquiry and the dates of any prior inquiries concerning the identity and authorization of the individual by the employer or any other employer and the address of such employer; — A record of each prior determination regarding the individual's identity and employment eligibility issued through the EEVS; and — In the case of the individual who successfully contested or appealed a tentative nonconfirmation or final nonconfirmation, explanatory information concerning the successful resolution of any erroneous data or confusion regarding the identity or eligibility for employment of the individual, including the source of that error. ■ SSA and DHS must each complete a privacy impact assessment (as described in section 208 of the E-Government Act of 2002). ■ Employers must safeguard any information collected for purposes of the EEVS and protect any means of access to the information to ensure that it is not used for any purpose other than to determine the identity and employment eligibility of the individual and to protect the confidentiality of such information, including ensuring that such information is not provided to any person other than a person who carries out the employer's responsibilities. ■ No department, bureau, or other agency of the U.S. is allowed to utilize any information, database, or other records used in the EEVS for any purpose other than as provided for under the STRIVE Act. ■ No officer or employee of any agency or department of the U.S., other than such an officer or employee who is responsible for the verification of employment eligibility or for the evaluation of an EEVS at SSA or DHS, and the U.S Dept. of Labor, may have access to any information, database, or other records utilized by the EEVS.

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	<ul style="list-style-type: none"> ■ It is unlawful for any individual other than an employee of DHS and SSA specifically charged with maintaining the EEVS to intentionally and knowingly (1) access the EEVS or the databases utilized to verify identity or employment eligibility for the EEVS for any purpose other than verifying identity or employment eligibility or modifying the EEVS pursuant to law or regulation; or (2) obtain the information concerning an individual stored in the EEVS or the databases utilized to verify identity or employment eligibility for the EEVS for any purpose other than verifying identity or employment authorization or modifying the EEVS pursuant to law or regulation. ■ Any individual who unlawfully accesses the EEVS or the databases will be fined no more than \$1,000 per individual or sentenced to no more than 6 months imprisonment, or both, per individual whose file was compromised. ■ Any individual who unlawfully accesses the EEVS or the databases and uses the information to commit identity theft for financial gain or to evade security or to assist another in gaining financially or evading security, will be fined no more than \$10,000 per individual or sentenced to no more than 1 year of imprisonment, or both, per individual whose information was obtained and misappropriated.
Preemption of state and local law	<p>States and localities are preempted from:</p> <ul style="list-style-type: none"> ■ Imposing sanctions on employers who hire undocumented immigrants. ■ Requiring, authorizing, or permitting the use of a federally mandated EEVS for any purpose other than the one mandated in federal law, including verifying status of renters, determining eligibility for receipt of benefits, enrollment in school, obtaining or retaining a business license or other license provided by the unit of government, or conducting a background check. ■ Requiring employers to use an EEVS, unless otherwise mandated by federal law, for purposes such as (1) a condition of receiving a government contract; (2) a condition of receiving a business license; or (3) as a penalty.
Information-sharing	<ul style="list-style-type: none"> ■ Requires SSA to transmit the information in an individual's application for an SSN or Social Security card to DHS as the secretary of DHS determines necessary to implement the STRIVE Act. Such information shall be used solely for inclusion in the EEVS. ■ Creates new exemptions to confidentiality provisions of section 6103 of the Internal Revenue Code that would require SSA, upon written request by DHS, to disclose to DHS: <ul style="list-style-type: none"> — Employer taxpayer identity information if the employer has filed W-2's that have more than 100 names that did not match SSA records or more than 10 employees with the same SSN; — Employer taxpayer identity information of employers who filed W-2's when SSA believes there is identity fraud due to multiple persons filing returns of the same taxpayer identifying number; — Employer taxpayer identity information of employers who filed W-2's when SSA believes they are not participating in EEVS; — Upon certification by DHS that employer is not registered as participating in EEVS, taxpayer identity information on all its employees; and — Employer taxpayer identity information for every EEVS employer and taxpayer identity information for new employees. ■ Restricts disclosure to establishing and enforcing employer participation in the EEVS, enforcement of many provisions of the INA, and the civil operation of the Alien Terrorist Removal Court.

ABBREVIATIONS: "Commissioner": Commissioner of SSA • DHS: U.S. Dept. of Homeland Security • EEVS: electronic employment verification system • ICE: U.S. Bureau of immigration and Customs Enforcement • INA: Immigration and Nationality Act • LPR: lawful permanent resident • OSC: Office of Special Council for Unfair Immigration-Related Employment Practices • "Secretary": Secretary of DHS • SSA: Social Security Administration • SSN: Social Security number • USCIS: U.S. Citizenship and Immigration Services

PROVISION	SUMMARY
	<ul style="list-style-type: none"> ■ Taxpayer identity information may not be disclosed to any contractor of DHS unless the following conditions are met (to the satisfaction of the secretary of Treasury): <ul style="list-style-type: none"> — DHS has requirements in effect which require each such contractor that would have access to returns or return information to provide safeguards to protect the confidentiality of the information; — DHS agrees to conduct an on-site review every 3 years (mid-point review in the case of contracts or agreements of less than 1 year in duration) of each contractor to determine compliance with the requirements; — DHS submits the findings of the most recent review conducted to the secretary of Treasury as part of the report required by section 6103(p) of the tax code; and — DHS certifies to the secretary of Treasury for the most recent annual period that the contractor is in compliance with all requirements. The first certification must take place in 2007 and must include the name and address of each contractor, a description of the contract or agreement with the contractor, and the duration of the contract or agreement. ■ Amends the Internal Revenue Code to require SSA to provide information to the secretary of Treasury in order to comply with the new information-sharing requirements. ■ Provision sunsets after 3 years. ■ Authorizes SSA to carry out responsibilities under this provision only to the extent DHS provides, in advance, funds to cover SSA costs.
Anti-fraud measures for Social Security Cards	<ul style="list-style-type: none"> ■ Requires that the SSN card is made out of durable plastic of similar material. ■ Requires that each SSN card (2 years after enactment): (1) include an encrypted machine-readable electronic identification strip that must be unique to the individual to whom the card is issued (The Commissioner must develop the electronic identification strip in consultation with the DHS so employers can use the strip for employment verification purposes.); (2) contain physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes; (3) be consistent with the biometric standards for documents described in the STRIVE Act; and (4) contain a disclaimer stating the following: “This card shall not be used for the purpose of identification.” ■ The Commissioner must provide for the issuance (or reissuance) of a Social Security card, which includes a recent digitized photograph of the individual to whom the card is issued, to each individual who (1) has been assigned a Social Security account number; (2) has attained the minimum legal age to seek employment; and (3) files application for a card in a manner that will be prescribed by the Commissioner. ■ The Commissioner must maintain an ongoing effort to develop measures in relation to the Social Security card and the issuance thereof to preclude fraudulent use.
Office of Electronic Verification	<ul style="list-style-type: none"> ■ Authorizes DHS to establish the Office of Electronic Verification within the Office of Screening Coordination of DHS. ■ The Office of Electronic Verification must work with SSA: <ul style="list-style-type: none"> — To ensure the information maintained in the EEVS is updated in a manner that promotes maximum accuracy; — To ensure a process is provided for correcting erroneous information in the EEVS; — To ensure that the data received from field offices of U.S. Customs and Border Protection or from other points of contact

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PROVISION	SUMMARY
	<p>between immigrants and DHS is registered in all relevant databases;</p> <ul style="list-style-type: none"> — To ensure that the data received from field offices of the SSA and other points of contact between nationals of the U.S. and SSA is registered within all relevant databases; — To ensure that DHS has a sufficient number of personnel to conduct manual verifications; — To establish and promote telephone help lines accessible to employers and individuals 24 hours a day that provide information regarding the functioning of the EEVS or specific issues related to the issuance of a tentative nonconfirmations issued by the EEVS; — To establish an outreach and education program to ensure that all new employers are fully informed of their responsibilities under the EEVS; — To conduct random audits of individual’s files in the federal government’s database each year to determine accuracy rates and require corrections of errors in a timely manner; and — To provide to the employer antidiscrimination notices issued by the OSC.
Miscellaneous	<ul style="list-style-type: none"> ■ Authorizes an annual increase (subject to appropriations) of not less than 2,200 ICE personnel for a 5-year period. Also requires DHS to ensure that not less than 25 percent of all hours expended by ICE personnel are used for immigration enforcement at the worksite. ■ Requires the Commissioner to prevent fraudulent or other misuse of SSNs by establishing procedures under which an individual can block the use of his or her SSN under the EEVS and remove such block. ■ SSA must, to the maximum extent practicable, assign SSNs to temporary agricultural workers under the H-2A program, using the enumeration procedure administered jointly by the SSA, the U.S. secretary of State, and DHS. ■ Codifies the definition of an “independent contractor.” ■ Deletes part of the definition of “racketeering activity” in the Racketeer Influenced and Corrupt Organizations Act (RICO) relating to sections 274, 277, and 278 of the INA.

NOTES

¹ As defined in 42 USC § 12102.

² Immigrants granted the H-2C status under the STRIVE Act.