

106TH CONGRESS  
1ST SESSION

# S. 1966

To provide for the immediate review by the Immigration and Naturalization Service of new employees hired by employers subject to Operation Vanguard or similar programs, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 1999

Mr. HAGEL (for himself and Mr. ROBERTS) introduced the following bill;  
which was read twice and referred to the Committee on the Judiciary

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## A BILL

To provide for the immediate review by the Immigration and Naturalization Service of new employees hired by employers subject to Operation Vanguard or similar programs, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. PILOT PROGRAM FOR IMMEDIATE CONFIRMA-**  
4                               **TION OF EMPLOYMENT ELIGIBILITY FOR**  
5                               **CERTAIN NEW EMPLOYEES.**

6       (a) PILOT PROGRAM.—The Attorney General, in con-  
7       sultation with the Commissioner of Social Security, shall  
8       establish a pilot program (in this Act referred to as the

1 “program”) to provide for the confirmation of identity and  
2 employment eligibility of any individual hired on or after  
3 180 days after the date of enactment of this Act by an  
4 employer described in this section. Such confirmation shall  
5 include an assessment of whether the individual hired has  
6 improperly claimed the identity of another person.

7 (b) PROGRAM REQUIREMENTS.—The program  
8 shall—

9 (1) provide an electronic confirmation or ten-  
10 tative nonconfirmation of an individual’s identity  
11 and employment eligibility within five business days  
12 of the receipt by the Attorney General of informa-  
13 tion submitted by an employer in accordance with  
14 the requirements of paragraph (5);

15 (2) adhere to the requirements of section  
16 403(a)(2) of the Illegal Immigration Reform and  
17 Immigrant Responsibility Act of 1996 with respect  
18 to the presentation of documentation;

19 (3) adhere to the requirements of section  
20 403(a)(4) of such Act with respect to employer re-  
21 sponsibilities in the event of confirmation or noncon-  
22 firmation of the identity and employment authoriza-  
23 tion of an individual described in this section, includ-  
24 ing the consequences of nonconfirmation;

1           (4) observe the limitations on use of the con-  
2           firmation system contained in section 404(h) of such  
3           Act;

4           (5) allow employers to submit copies of Form  
5           I-9 (or any subsequent form that satisfies the attes-  
6           tation requirements of section 274A(b) of the Immi-  
7           gration and Nationality Act) with respect to individ-  
8           uals covered by this section to the Immigration and  
9           Naturalization Service by facsimile or electronically  
10          not later than 3 business days after the date of hir-  
11          ing such individuals; and

12          (6) allow employers to elect to participate or  
13          not participate in such program.

14          (c) AGENCY AUTHORIZATION.—In order to carry out  
15          the terms of the program, officers and employees of the  
16          Immigration and Naturalization Service are authorized to  
17          confirm the eligibility of individuals to be employed in the  
18          United States. In confirming such eligibility, such officers  
19          and employees may use records that include or relate to  
20          social security account numbers to determine with respect  
21          to an individual whether the person with the identity  
22          claimed by the individual is authorized to be employed in  
23          the United States and whether the individual is claiming  
24          the identity of another person.

1 (d) DEFINITION OF EMPLOYER.—For purposes of  
2 this Act, an employer eligible to participate in the program  
3 is—

4 (1) any person or entity described by Standard  
5 Industrial Classification Code 2011 or by North  
6 American Industry Classification System Code  
7 31161; or

8 (2) any other person or entity designated as eli-  
9 gible to participate by the Attorney General.

10 (e) CONSTRUCTION.—Failure by the Attorney Gen-  
11 eral to make available the program described in this sec-  
12 tion to an employer described in subsection (d) shall act  
13 to prohibit the Attorney General from issuing administra-  
14 tive subpoenas under Operation Vanguard or under any  
15 similar program for all or substantially all of the Forms  
16 I–9 and related records of such employer until the pro-  
17 gram becomes available.

18 (f) EFFECTIVE DATE.—This section shall take effect  
19 on the date of enactment of this Act and shall apply to  
20 any individual hired for employment by an employer on  
21 or after the date of enactment of this Act.

22 **SEC. 2. ENHANCEMENT OF CIVIL PENALTIES.**

23 (a) IN GENERAL.—During the time that an employer  
24 is participating in the program, the civil penalties under

1 section 274A(e)(4)(A) of the Immigration and Nationality  
2 Act (8 U.S.C. 1324a(e)(4)(A)) shall apply as follows:

3 (1) Not less than \$250 and not more than  
4 \$5,000 for each unauthorized alien with respect to  
5 whom a violation occurred.

6 (2) Not less than \$5,000 and not more than  
7 \$10,000 for each unauthorized alien in the case of  
8 a person or entity previously subject to one or more  
9 orders under such section.

10 (b) EFFECTIVE DATE.—The amendments made by  
11 subsection (a) shall apply to violations that occur on or  
12 after the date that the program is available to employers  
13 electing to participate under this Act.

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