AMENDMENT TO RULES COMMITTEE PRINT 115-39

OFFERED BY MR. KING OF IOWA

Add at the end the following:

TITLE VI—NEW IDEA ACT

SEC. 6001. SHORT TITLE.

This title may be cited as—

(1) the “New IDEA Act”; or

(2) the “New Illegal Deduction Elimination Act”.

SEC. 6002. CLARIFICATION THAT WAGES PAID TO UNAUTHORIZED ALIENS MAY NOT BE DEDUCTED FROM GROSS INCOME.

(a) IN GENERAL.—Subsection (c) of section 162 of the Internal Revenue Code of 1986 (relating to illegal bribes, kickbacks, and other payments) is amended by adding at the end the following new paragraph:

“(4) WAGES PAID TO OR ON BEHALF OF UNAUTHORIZED ALIENS.—

“(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for any wage paid to or on behalf of an unauthorized alien, as defined under section 274A(h)(3) of the Immigra-
tion and Nationality Act (8 U.S.C. 1324a(h)(3)).

“(B) WAGES.—For the purposes of this paragraph, the term ‘wages’ means all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash.

“(C) SAFE HARBOR.—If a person or other entity is participating in the E-Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) and obtains confirmation of identity and employment eligibility in compliance with the terms and conditions of the program with respect to the hiring (or recruitment or referral) of an employee, subparagraph (A) shall not apply with respect to wages paid to such employee.

“(D) BURDEN OF PROOF.—In the case of any examination of a return in connection with a deduction under this section by reason of this paragraph, the Secretary shall bear the burden of proving that wages were paid to or on behalf of an unauthorized alien.
“(E) LIMITATION ON TAXPAYER AUDIT.—

The Secretary may not commence an audit or other investigation of a taxpayer solely on the basis of a deduction taken under this section by reason of this paragraph.”.

(b) SIX-YEAR LIMITATION ON ASSESSMENT AND COLLECTION.—Subsection (c) of section 6501 of the Internal Revenue Code of 1986 (relating to exceptions) is amended by adding at the end the following new paragraph:

“(12) DEDUCTION CLAIMED FOR WAGES PAID TO UNAUTHORIZED ALIENS.—In the case of a return of tax on which a deduction is shown in violation of section 162(c)(4), any tax under chapter 1 may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed.”.

(c) USE OF DOCUMENTATION FOR ENFORCEMENT PURPOSES.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subparagraph (b)(5), by inserting “, section 162(c)(4) of the Internal Revenue Code of 1986,” after “enforcement of this Act”;
(2) in subparagraph (d)(2)(F), by inserting “,
section 162(c)(4) of the Internal Revenue Code of
1986,” after “enforcement of this Act”; and
(3) in subparagraph (d)(2)(G), by inserting
“section 162(c)(4) of the Internal Revenue Code of
1986 or” after “or enforcement of”.

(d) AVAILABILITY OF INFORMATION.—

(1) IN GENERAL.—The Commissioner of Social
Security, the Secretary of the Department of Home-
land Security, and the Secretary of the Treasury,
shall jointly establish a program to share informa-
tion among such agencies that may or could lead to
the identification of unauthorized aliens (as defined
under section 274A(h)(3) of the Immigration and
Nationality Act), including any no-match letter, any
information in the earnings suspense file, and any
information in the investigation and enforcement of
section 162(c)(4) of the Internal Revenue Code of
1986.

(2) DISCLOSURE BY SECRETARY OF THE
TREASURY.—

(A) IN GENERAL.—Subsection (i) of sec-
tion 6103 of the Internal Revenue Code of 1986
is amended by adding at the end the following
new paragraph:
“(9) Payment of wages to unauthorized aliens.—Upon request from the Commissioner of the Social Security Administration or the Secretary of the Department of Homeland Security, the Secretary shall disclose to officers and employees of such Administration or Department—

“(A) taxpayer identity information of employers who paid wages with respect to which a deduction was not allowed by reason of section 162(c)(4), and

“(B) taxpayer identity information of individuals to whom such wages were paid, for purposes of carrying out any enforcement activities of such Administration or Department with respect to such employers or individuals.”.

(B) Recordkeeping.—Paragraph (4) of section 6103(p) of such Code is amended—

(i) by striking “(5), or (7)” in the matter preceding subparagraph (A) and inserting “(5), (7), or (9)”, and

(ii) by striking “(5) or (7)” in subparagraph (F)(ii) and inserting “(5), (7), or (9)”.

(c) Effective Date.—
(1) Except as provided in paragraph (2), this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 2017.

SEC. 6003. MODIFICATION OF E-VERIFY PROGRAM.

(a) MAKING PERMANENT.—Subsection (b) of section 401 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by striking the last sentence.

(b) APPLICATION TO CURRENT EMPLOYEES.—

(1) VOLUNTARY ELECTION.—The first sentence of section 402(a) of such Act is amended to read as follows: “Any person or other entity that conducts any hiring (or recruitment or referral) in a State or employs any individuals in a State may elect to participate in the E-Verify Program.”.

(2) BENEFIT OF REBUTTABLE PRESUMPTION.—Paragraph (1) of section 402(b) of such Act is amended by adding at the end the following: “If a person or other entity is participating in the E-Verify Program and obtains confirmation of identity and employment eligibility in compliance with the terms and conditions of the program with respect to
individuals employed by the person or entity, the
person or entity has established a rebuttable pre-
sumption that the person or entity has not violated
section 274A(a)(2) with respect to such individ-
uals.”.

(3) Scope of election.—Subparagraph (A)
of section 402(c)(2) of such Act is amended to read
as follows:

“(A) In general.—Any electing person or
other entity may provide that the election under
subsection (a) shall apply (during the period in
which the election is in effect)—

“(i) to all its hiring (and all recruit-
ment or referral);

“(ii) to all its hiring (and all recruit-
ment or referral and all individuals em-
ployed by the person or entity);

“(iii) to all its hiring (and all recruit-
ment or referral) in one or more States or
one or more places of hiring (or recruit-
ment or referral, as the case may be); or

“(iv) to all its hiring (and all recruit-
ment or referral and all individuals em-
ployed by the person or entity) in one or
more States or one or more place of hiring
(or recruitment or referral or employment, as the case may be).”.

(4) PROCEDURES FOR PARTICIPANTS IN E-
VERIFY PROGRAM.—Subsection (a) of section 403 of such Act is amended—

(A) in the matter preceding paragraph (1), by inserting “or continued employment in the United States” after “United States”; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking all that follows “(as specified by the Secretary of Homeland Security)” and inserting “after the date of the hiring, or recruitment or referral, in the case of inquiries made pursuant to a hiring, recruitment or referral (and not of previously hired individuals).”; and

(ii) in subparagraph (B), by striking “such 3 working days” and inserting “the specified period”.

(c) APPLICATION TO JOB APPLICANTS.—Section 402(c)(2) of such Act is amended by adding at the end the following:

“(C) JOB OFFER MAY BE MADE CONDI-
TIONAL ON FINAL CONFIRMATION BY E-
VERIFY.—A person or other entity that elects to participate in the E-Verify Program may offer a prospective employee an employment position conditioned on final verification of the identity and employment eligibility of the employee using the employment eligibility confirmation system established under section 404.”