

**AMENDMENT**

**OFFERED BY MR. KING OF IOWA**

Add at the end the following:

1       **TITLE III—MISCELLANEOUS**

2       **SEC. 301. CLARIFICATION THAT WAGES PAID TO UNAU-**  
3                   **THORIZED ALIENS MAY NOT BE DEDUCTED**  
4                   **FROM GROSS INCOME.**

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

9                   “(4) WAGES PAID TO OR ON BEHALF OF UNAU-  
10 THORIZED ALIENS.—

11                   “(A) IN GENERAL.—No deduction shall be  
12 allowed under subsection (a) for any wage paid  
13 to or on behalf of an unauthorized alien, as de-  
14 fined under section 274A(h)(3) of the Immigra-  
15 tion and Nationality Act (8 U.S.C.  
16 1324a(h)(3)).

17                   “(B) WAGES.—For the purposes of this  
18 paragraph, the term ‘wages’ means all remu-  
19 nation for employment, including the cash

1 value of all remuneration (including benefits)  
2 paid in any medium other than cash.

3 “(C) SAFE HARBOR.—If a person or other  
4 entity is participating in the E-Verify Program  
5 described in section 403(a) of the Illegal Immi-  
6 gration Reform and Immigrant Responsibility  
7 Act of 1996 (8 U.S.C. 1324a note) and obtains  
8 confirmation of identity and employment eligi-  
9 bility in compliance with the terms and condi-  
10 tions of the program with respect to the hiring  
11 (or recruitment or referral) of an employee,  
12 subparagraph (A) shall not apply with respect  
13 to wages paid to such employee.

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

20 “(E) LIMITATION ON TAXPAYER AUDIT.—  
21 The Secretary may not commence an audit or  
22 other investigation of a taxpayer solely on the  
23 basis of a deduction taken under this section by  
24 reason of this paragraph.”.

1 (b) SIX-YEAR LIMITATION ON ASSESSMENT AND  
2 COLLECTION.—Subsection (c) of section 6501 of the In-  
3 ternal Revenue Code of 1986 (relating to exceptions) is  
4 amended by adding at the end the following new para-  
5 graph:

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

13 (c) USE OF DOCUMENTATION FOR ENFORCEMENT  
14 PURPOSES.—Section 274A of the Immigration and Na-  
15 tionality Act (8 U.S.C. 1324a) is amended—

16 (1) in subparagraph (b)(5), by inserting “, sec-  
17 tion 162(c)(4) of the Internal Revenue Code of  
18 1986,” after “enforcement of this Act”;

19 (2) in subparagraph (d)(2)(F), by inserting “,  
20 section 162(c)(4) of the Internal Revenue Code of  
21 1986,” after “enforcement of this Act”; and

22 (3) in subparagraph (d)(2)(G), by inserting  
23 “section 162(c)(4) of the Internal Revenue Code of  
24 1986 or” after “or enforcement of”.

25 (d) AVAILABILITY OF INFORMATION.—

1           (1) IN GENERAL.—The Commissioner of Social  
2           Security, the Secretary of the Department of Home-  
3           land Security, and the Secretary of the Treasury,  
4           shall jointly establish a program to share informa-  
5           tion among such agencies that may or could lead to  
6           the identification of unauthorized aliens (as defined  
7           under section 274A(h)(3) of the Immigration and  
8           Nationality Act), including any no-match letter, any  
9           information in the earnings suspense file, and any  
10          information in the investigation and enforcement of  
11          section 162(c)(4) of the Internal Revenue Code of  
12          1986.

13          (2) DISCLOSURE BY SECRETARY OF THE  
14          TREASURY.—

15                 (A) IN GENERAL.—Subsection (i) of sec-  
16                 tion 6103 of the Internal Revenue Code of 1986  
17                 is amended by adding at the end the following  
18                 new paragraph:

19                 “(9) PAYMENT OF WAGES TO UNAUTHORIZED  
20                 ALIENS.—Upon request from the Commissioner of  
21                 the Social Security Administration or the Secretary  
22                 of the Department of Homeland Security, the Sec-  
23                 retary shall disclose to officers and employees of  
24                 such Administration or Department—

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

5           “(B) taxpayer identity information of indi-  
6           viduals to whom such wages were paid,  
7           for purposes of carrying out any enforcement activi-  
8           ties of such Administration or Department with re-  
9           spect to such employers or individuals.”.

10           (B) RECORDKEEPING.—Paragraph (4) of  
11           section 6103(p) of such Code is amended—

12           (i) by striking “(5), or (7)” in the  
13           matter preceding subparagraph (A) and in-  
14           serting “(5), (7), or (9)”, and

15           (ii) by striking “(5) or (7)” in sub-  
16           paragraph (F)(ii) and inserting “(5), (7),  
17           or (9)”.

18           (e) EFFECTIVE DATE.—

19           (1) Except as provided in paragraph (2), this  
20           Act and the amendments made by this Act shall  
21           take effect on the date of the enactment of this Act.

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

1 **SEC. 302. MODIFICATION OF E-VERIFY PROGRAM.**

2 (a) MAKING PERMANENT.—Subsection (b) of section  
3 401 of the Illegal Immigration Reform and Immigrant Re-  
4 sponsibility Act of 1996 (8 U.S.C. 1324a note) is amended  
5 by striking the last sentence.

6 (b) APPLICATION TO CURRENT EMPLOYEES.—

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

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

1           (3) SCOPE OF ELECTION.—Subparagraph (A)  
2 of section 402(e)(2) of such Act is amended to read  
3 as follows:

4           “(A) IN GENERAL.—Any electing person or  
5 other entity may provide that the election under  
6 subsection (a) shall apply (during the period in  
7 which the election is in effect)—

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

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

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

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

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

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

4 (B) in paragraph (3)—

5 (i) in subparagraph (A), by striking  
6 all that follows “(as specified by the Sec-  
7 retary of Homeland Security)” and insert-  
8 ing “after the date of the hiring, or re-  
9 cruitment or referral, in the case of inquir-  
10 ies made pursuant to a hiring, recruitment  
11 or referral (and not of previously hired in-  
12 dividuals).”; and

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

16 (c) APPLICATION TO JOB APPLICANTS.—Section  
17 402(c)(2) of such Act is amended by adding at the end  
18 the following:

19 “(C) JOB OFFER MAY BE MADE CONDI-  
20 TIONAL ON FINAL CONFIRMATION BY E-  
21 VERIFY.—A person or other entity that elects to  
22 participate in the E-Verify Program may offer  
23 a prospective employee an employment position  
24 conditioned on final verification of the identity  
25 and employment eligibility of the employee

- 1 using the employment eligibility confirmation
- 2 system established under section 404.”.

