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The Honorable Arlen Specter
United States Senate
711 Senate Hart Office Building
Washington, DC 20510

Dear Mr. Chairman:

I am writing in to thank you for your efforts on comprehensive immigration reform. We believe it is important to address the challenges within the current immigration system while creating a secure border and effective enforcement mechanism that strengthen and improves the employment verification system. With that in mind, we wish both to commend you for the inclusion of important provisions in your Chairman's mark of the Comprehensive Immigration Reform Act, and to register our concern with other provisions.

In particular, we wish to thank you for including provisions in this measure that would encourage foreign graduates of U.S. universities to work in the U.S., rather than be prevented from remaining in the country – as is often the case today. We believe that this sensible reform promotes U.S. leadership in innovation and job creation. Regrettably, the current system has the perverse effect of allowing the world's brightest students to come to the United States to study in some of the world's finest educational institutions, but then forces them to leave the United States and put their talents to work abroad, instead of in the United States. The reforms included in your Chairman's mark are crafted to reduce this problem, and create more jobs here in the U.S.

Additionally, the legislation contains provisions regarding electronic verification. We believe it is important that any measures to promote electronic verification results in a system that is administratively easy to use, creates efficiencies, expedites the employment verification process and, most importantly, restores integrity to our immigration system. To that end we wish to express our concern in several areas.

Inadequate System Capacity – We appreciate your recognition that the current system is not ready for universal participation, and agree with your approach to phase-in the market incrementally. However, the Chairman's Mark creates an electronic system to verify a new hire's eligibility for employment as early as 180 days after enactment for the critical infrastructure industry, and 18 months thereafter for the nation's largest employers. Without some assurance that the system will work properly at the time the next phase begins, employers fear that the system may become prone to delays and errors, and the result would be counter productive to the efficiency that the Chairman envisions.

The current system, commonly known as the "Basic Pilot," is a voluntary system and was designed to verify employment electronically just as the proposed legislation intends. However, as reported by the Government Accountability Office (GAO), only 2,300 out of 5.6 million current U.S. employers actively participated in the Basic Pilot in 2004, and even with the relatively low participation rate, the GAO found that about 15% of all queries require additional verification because the automated system is unable to provide accurate responses. As recently as last month, Ms. Barbara Bovbjerg, Director of Education, Workforce and Income Security Issues for the GAO testified before the House Ways and Means Committee, Subcommittee on Social Security and Oversight, that the basic pilot is nowhere near ready for nationwide compulsory participation. We support efforts to ensure that appropriate accuracy and efficiency standards are set, and that realistic timetables are established, before this system is expanded.

Unnecessary Administrative Burdens – The Chairman's Mark, in addition to mandating use of an electronic verification system, would require an employer to continue to attest on the Form I-9 that he or she had examined the new hire's employment and identification documents (Social Security Card, driver's license, U.S passport or other authorizing documents) to ensure authenticity. This will significantly increase, not decrease, the amount of staff time and resources that an employer must spend in the verification process. We support movement to an all-electronic verification process.

Increased Penalties – The Chairman's Mark will significantly increase civil penalties for recruiting, hiring, and referral violations. While we support increased penalties for employers that blatantly violate the law, we are extremely concerned that employers that have even inadvertent paperwork violations could be facing penalties up to \$20,000. Likewise, we are also concerned about the provision in the Mark that would create a presumption of intentional wrongdoing if the employer hires ten undocumented workers in a year. Indeed, if one reason for reform is that Congress recognizes the current system is unreliable and employers can be misled with false documents, then it logically follows that, without additional indicia of *mens rea*, employers who hire thousands of new employees a year cannot be presumed to violate the law intentionally when they easily could have been misled ten times by false documents.

Again, we thank you for addressing the important issue of immigration reform, including worksite enforcement reform. We look forward to working with Congress to improve and strengthen the employment verification process.

Sincerely,



Dave McCurdy
President, Electronic Industries Alliance

cc: Members of the Senate Judiciary Committee
Majority/Minority Leadership Offices