

WebMemo



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Don't Let E-Verify Perish in the Next Congress

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On September 27, Congress voted to fund E-Verify through March 2009. This is certainly a positive step for the program, but it has put the ball in the next Congress's court to reauthorize and fund E-Verify into the future. It is also an opportunity to expand and improve on the program in conjunction with the new Administration.

Helping Employers Comply with the Law.

E-Verify allows employers to confirm the ability of a worker to legally work in the United States. An employer enters information provided by prospective employees (from the I-9 form) into an online portal. The system then compares that data to Social Security Administration (SSA) and Department of Homeland Security (DHS) databases. It will issue either a confirmation or a non-confirmation, which could later be approved upon clearing up any discrepancies. If not resolved, a final non-confirmation is issued and the employer is not allowed hire the worker. The error rate for E-Verify is under 4 percent of all queries, and DHS has established a quick, user-friendly readdress process for verification errors.

E-Verify is an effective tool for ensuring that employers are legally eligible to work. It not only benefits the government by diminishing enforcement demands on Immigration and Customs Enforcement (ICE), but it is also a boon to employers because they know beforehand whether an employee can legally work—minimizing tremendous financial losses if workers are later caught in an ICE raid or other enforcement measure.

While the program is currently free and voluntary, more than 80,000 employers participate in E-

Verify, and the number keeps growing. E-Verify has verified the identity of over 5.3 million workers. Some states have even made E-Verify mandatory. For example, Arizona enacted the Legal Arizona Workers Act in 2007, which, among other provisions, effectively required Arizona employers to use E-Verify. Even in the face of opposition, the Ninth Circuit Court of Appeals—the most liberal appellate court in America—upheld the right of the states to institute such legislation. This case may be appealed to the United States Supreme Court, but it is certainly a positive step toward broader E-Verify implementation.

The Way Forward. While the current Congress may have punted the issue of E-Verify to the next Congress, this delay is an opportunity for both the next Congress and the new Administration to expand and improve upon E-Verify:

- *Expand the IMAGE Initiative.* The ICE Mutual Agreement between Government and Employers (IMAGE) is helpful to E-Verify companies, especially industries that deal with large numbers of unlawfully present workers, by providing audits, internal training, and protocols for responding to “no match” letters from the SSA. IMAGE participants receive recognition from DHS as a com-

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pany employing “best practices” in workplace verification.

- **Improve the Issuance of No-Match Letters and SSN No-Match Sharing.** No-match letters sent to employers should include detailed guidance on the legal obligations as well as steps that should be taken once it is discovered that an individual is a no-match. SSA must also share information with DHS, including granting DHS access to no-match queries and information regarding stolen SSNs.
- **Reform the Visa Process and USCIS.** Reforms are needed at the United States Citizenship and Immigration Service (USCIS). USCIS needs to be a more efficient and effective partner in providing the immigration services and enforcement that the nation needs. These reforms include an entirely new USCIS funding model, a comprehensive overhaul of the agency’s service support enterprise, and better integration of USCIS programs with immigration enforcement and border control efforts. On the visa side, USCIS needs to streamline the visa programs already in place, such as those aimed at temporary or seasonal agricultural workers, to include other non-immigrant work visas.
- **Pilot a Temporary Workers Program.** America needs a temporary worker program that allows for a reliable and market-driven source of labor provided by a dynamic and rotating temporary workforce. Such a program would serve to diminish the demand for illegal immigrants by

allowing those who would normally enter the country illegally to come here legally, make money, and then return home. Such a program would serve a dual purpose of enhancing our national security while also serving the needs of the economy.

- **Encourage State and Local Initiatives.** The Ninth Circuit decision represents a tremendous opportunity for states and localities to take additional steps to control illegal immigration within their jurisdictions. While the Ninth Circuit covers only key states such as Arizona, California, and Nevada, the decision provides legal support for all states and localities to structure employment and identification laws in a constitutional manner.

A Great Opportunity. The new Congress and Administration should welcome the opportunity to expand and improve upon E-Verify. E-Verify assists employers economically and furthers national security goals. It is the type of common sense legislation that Washington should embrace.

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