

“E-Verify: Ensuring Lawful Employment in America”

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**before the Subcommittee on Workforce Protections of
the Education and Workforce Committee of
the House of Representatives**

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Chairman Mackenzie and Ranking Member Omar, I appreciate the opportunity to testify before you today about E-Verify.

I am the Cofounder and Policy Director for the Immigration Accountability Project. I have been working on immigration issues in various capacities since 1990.

E-Verify is a critical tool for deterring illegal immigration to the United States. The vast majority of illegal aliens who enter the United States are coming here for economic opportunity—in other words, jobs. Prospective illegal aliens make a rational cost-benefit analysis: if they believe the benefits, especially economic benefits, of entering illegally outweigh the risks of the journey and of being apprehended and returned home, they come. If they know they will not be able to obtain work here, many will not come. Removing the benefit of easily obtainable jobs significantly shifts the calculation.

In addition to deterring illegal immigration, E-Verify is a necessary tool to prevent the exploitation of illegal labor by international smuggling cartels and unscrupulous employers. The cartels make billions of dollars smuggling people into the United States based on the promise of jobs here. Once they arrive, often in debt to the cartels, illegal aliens are vulnerable to unscrupulous employers. Mandatory use of E-Verify by U.S. employers would evaporate the cartels' promise of jobs.

E-Verify is essential not only to deter illegal aliens from seeking and obtaining employment in the United States, but also to provide good-faith employers with a cheap and effective way to verify that the documents submitted by new hires are valid. Simply posting prominently a sign that a business uses E-Verify deters many illegal aliens from even applying for a job at that business. Equally important, however, in this era of fraudulent documents, is that E-Verify removes the burden on employers to be document-fraud experts, so long as the documents submitted by new hires are “reasonably valid on their face,” as is required by law. In the absence of E-Verify, employers find themselves in a bind: if they accept documents that turn out to be fraudulent, they can be held liable for employing unauthorized aliens; but if they request additional documents, they can be sued by the employee for civil rights violations. E-Verify eliminates that problem by allowing employers to submit the information on the documents for verification by the government, and then to rely on that verification.

Is the E-Verify system perfect? No. It is still possible for illegal aliens to game the system by using the identity of an American citizen or authorized alien worker. This scenario is what leads to most “false positives,” or cases in which an unauthorized worker is confirmed by E-Verify as authorized to work. Additionally, there have been “data glitches” where authorized workers received Final Nonconfirmations in error. However, the vast majority of E-Verify “errors” are due to employer errors (e.g., inputting data incorrectly or not giving new hires the legally required opportunity to correct data errors) and employee data mismatches (e.g., when a new hire has failed to update a name change with the Social Security Administration).

During the first half of FY 2025, 21,306,003 new hires were run through the E-Verify system. Nearly all—97.8 percent—of those cases were confirmed virtually instantly, while another 0.19 percent were confirmed after an initial mismatch. Of the 2.02 percent of cases in which the new

hire was found to not be authorized to work, 0.52 percent were uncontested, 0.03 percent were contested but found unauthorized, and 1.46 percent were unresolved or still in process as of September 26, 2025.¹

In order to become a truly effective deterrent to illegal immigration, E-Verify should be made mandatory for all employers in the United States. As former Representative, civil rights icon, and Chairwoman of the U.S. Commission on Immigration Reform, Barbara Jordan told the House Judiciary Committee in 1995, “Reducing the employment magnet is the linchpin of a comprehensive strategy to reduce illegal immigration. Illegal aliens are here for jobs. That is the attraction. So the only effective way to deter illegal immigration must include the worksite.”²

Employer Sanctions Prior to E-Verify

The Immigration Reform and Control Act (IRCA), enacted by Congress in 1986, made it illegal for employers to hire aliens without authorization to work in the United States. This prohibition was touted as the solution to future illegal immigration so that the amnesties included in IRCA would never be repeated.

IRCA provides that:

It is unlawful for a person or other entity...to hire, or to recruit or refer for a fee, for employment in the United States an alien knowing the alien is an unauthorized alien...with respect to such employment....³

It is unlawful for a person or other entity, after hiring an alien for employment...to continue to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.⁴

IRCA also established the “I-9” system, in which employers must examine the identity and employment authorization documents of new hires to determine their authorization to work. This system placed the burden directly on employers to determine the validity of the documents submitted by new hires, or risk prosecution. The unintended consequence was an explosion of criminal networks producing and selling fraudulent documents “proving” both identity and employment authorization.

As Lamar Smith, chairman of the House Judiciary Committee’s immigration subcommittee from 1995 to 2000 and author of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, explained in the *St. Mary’s Law Journal* (along with then-subcommittee counsel Edward Grant) in 1997:

¹ “E-Verify Performance,” USCIS, Sept. 26, 2025, *available at* <https://www.e-verify.gov/about-e-verify/e-verify-data/e-verify-performance>.

² “Verification of Eligibility for Employment and Benefits”, Hearing Before the Subcommittee on Immigration and Claims of the House Committee on the Judiciary, 104th Congress, 1995.

³ Pub. L. No. 99-603, § 101(a) of part A of title I (1986) (found at INA § 274A(a)(1)(A) (8 U.S.C. § 1324a(a)(1)(A)).

⁴ *Id.* (found at INA § 274A(a)(2) (8 U.S.C. § 1324a(a)(2))).

“The enforcement centerpiece of the IRCA—sanctions against employers who hire illegal aliens—failed to include any system whereby employers could reasonably verify the status of their new employees. A booming market in fraudulent documents soon developed.

“Unfortunately, the easy availability of counterfeit documents...has made a mockery of the law. Fake documents were produced in mass quantities.... As a result, even the vast majority of employers who wanted to obey the law had no reliable means of identifying illegal aliens.... At the other extreme, rogue employers could easily collude with illegal alien employees to avoid the provisions of IRCA...comfortable in the knowledge that they were presented with ‘genuine’ documents.”⁵

The Origins of E-Verify⁶

The current E-Verify program was based on a recommendation of the U.S. Commission on Immigration Reform, chaired by Barbara Jordan. In 1994, the Commission said:

“A better system for verifying work authorization is central to the effective enforcement of employer sanctions.

“The Commission recommends development and implementation of a simpler, more fraud-resistant system for verifying work authorization....

“In examining the options for improving verification, the Commission believes that the most promising option for secure, non-discriminatory verification is a computerized registry using data provided by the Social Security Administration...and the INS [then-Immigration and Naturalization Service].”⁷
[Emphasis in original.]

Chairwoman Jordan provided further details of the Commission’s recommendation to the House Judiciary Committee’s Subcommittee on Immigration and Claims in 1995:

“As envisioned by the Commission, [a] computerized registry would be used to verify that a social security number is valid and has been issued to the individual who is being hired. This database would be created and updated from SSA [Social Security Administration] and [DHS] files, but not connected to either. From SSA would come a limited set of data: name; social security number; and several other

⁵ Lamar Smith & Edward Grant, *Immigration Reform: Seeking the Right Reasons*. 28 St. Mary’s L.J. 883, 890 n.22 (1997), available at <https://commons.stmarytx.edu/cgi/viewcontent.cgi?article=2201&context=thestmaryslawjournal>.

⁶ George Fishman, Senior Legal Fellow at the Center for Immigration Studies and former Chief Counsel of the immigration subcommittee of the House Judiciary Committee, was instrumental in laying out the history of E-Verify as presented in this testimony.

⁷ U.S. Commission on Immigration Reform, *U.S. Immigration Policy: Restoring Credibility: A Report to Congress* 12 (1994), available at <https://babel.hathitrust.org/cgi/pt?id=pur1.32754064885563&seq=22>.

identifiers, such as date of birth and mother's maiden name. From [DHS] would come information about the immigration status of lawfully admitted immigrants, nonimmigrants, and other aliens permitted to remain temporarily or permanently in the United States....

"The Commission believes the key to this process is the social security number. For decades, all workers have been required to provide employers with their social security number. The computerized registry would add only one step to this existing requirement: an employer check that the social security number is valid and has been issued to someone authorized to work in the United States."⁸

As a result of this recommendation, E-Verify's precursor, the "Basic Pilot" program, was enacted into law in the 1996 IIRIRA. The conference report on IIRIRA explained that "participation [in the pilot program]...will be voluntary...except with regard to the executive and legislative branches of the Federal Government and certain employers who have been found to be in violation of certain sections of the Immigration and Nationality Act."⁹

The House initially approved IIRIRA by a vote of 333-87 (with all but six Republicans and 105 Democrats (a majority) voting in favor).¹⁰ A House-Senate conference committee agreed to a conference report that included the Basic Pilot.¹¹ The House approved the conference report by a vote of 305-123 (with all but five Republicans and 76 Democrats voting in favor).¹²

Since then, as technology has improved, the pilot program has been migrated from a telephone-based system to an automated internet-based one. In 2005, it was expanded from a five-state pilot to a nationwide program open to all employers. In 2007, the Basic Pilot was officially renamed E-Verify. Currently, E-Verify is mandated for some employers by Federal statute, Executive Order, or regulation, and for other employers by State legislation. For all remaining employers, it may be used on a voluntary basis.

Simple, Fast, and Effective

The E-Verify system is free for all employers. To use E-Verify, an employer must sign up and complete a fairly straightforward online survey to ensure he or she is familiar with the I-9 requirements, the legal parameters for E-Verify use, and anti-discrimination laws. After that, the employer goes through the standard I-9 process with each new hire.

Within three working days after the date of the hire, the employer must submit to the E-Verify system information about the new hire taken directly from the I-9 form, including name, birth date, and the number from the document or documents provided by the new hire to establish identity and work authorization, as specified in 8 U.S.C. 1324a(b)(1). These documents may

⁸ *Verification of Eligibility for Employment and Benefits, Hearing Before the Subcommittee on Immigration and Claims of the House Committee on the Judiciary* at 10.

⁹ [H.R. Rep. 104-828](#) at 233.

¹⁰ 142 Cong. Rec. 2639-40 (March 21, 1996); <https://clerk.house.gov/Votes/199689>.

¹¹ H.R. Rep. 104-828 (1996).

¹² 142 Cong. Rec. 11091 (Sept. 25, 1996); <https://clerk.house.gov/Votes/1996432>.

include a U.S. passport or green card (which establish both identity and work authorization), or a U.S. driver's license and a Social Security number (with the former establishing identity, and the latter work authorization), among others.

In the vast majority of cases—97 to 99 percent—the E-Verify system returns a confirmation of employment eligibility virtually instantaneously. E-Verify accomplishes this by pinging the Social Security database and, if necessary, DHS data to confirm that the name and birth date match the document numbers and that the person is authorized to work in the United States.

In the remaining one to three percent of cases, the E-Verify system returns a “Tentative Nonconfirmation” (TNC) because it was not able to match the data provided with a work authorized individual. In the case of a TNC, the system informs the employer of the next steps that are required, both of the new hire and of the employer. The TNC could be a result of the employer inputting the new hire's data incorrectly, a data mismatch that can be corrected by the new hire (e.g., if the new hire was recently married and has not changed her name with the Social Security Administration), or the fact that the new hire is not authorized to work.

The new hire must be given the opportunity to contest the TNC. If the employee fails to contest it, the TNC becomes a “Final nonconfirmation” (FNC). If the employee contests the TNC, he or she has ten working days to address the problem before the employer is required to either submit updated information to E-Verify or to repeat the initial inquiry. The employer is prohibited by law from terminating the new hire until the system reports a FNC. If the employer chooses not to terminate the new hire after an FNC, the employer must notify DHS of that decision. Failure to do so creates a rebuttable presumption that the employer is “knowingly” employing an unauthorized alien.

The E-Verify system is designed to provide clear instructions to both the employer and the employee if the result of the inquiry does not result in an instant verification of employment authorization. It instructs the employer to print out and deliver specific instructions for the employee on how to resolve any mismatch. It also instructs the employer on next steps and how to resolve the case.

Perhaps more importantly from the employer's perspective, E-Verify provides a **safe harbor** against civil and criminal liability. The law specifically provides that no employer using E-Verify “shall be civilly or criminally liable under any law for any action taken in good faith reliance on information provided through the confirmation system.”¹³

Good-faith use of the E-Verify system also establishes a rebuttable presumption that the employer has not knowingly employed an unauthorized alien with respect to the particular new hire.

A Government Program that Actually Works

While E-Verify is still voluntary for most employers, its use has been mandated for some employers. IIRIRA, the statute that created E-Verify, mandates its use by Federal agencies and

¹³ Pub. L. No. 104-208, § 403(d) of subtitle A of title IV of division C (as amended).

Congress. Federal regulations¹⁴ mandating the use of E-Verify by Federal contractors have survived four different presidents. These regulations should be codified, as has been proposed in H.R. 2641.

Additionally, 21 states have adopted contracting or business licensing laws with E-Verify enrollment as a condition for some or all employers. These include Alabama, Arizona, Florida, Georgia, Idaho, Indiana, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, and West Virginia.¹⁵

The number of employers using E-Verify has increased from 265,453 in fiscal year 2011 to 1,392,898 currently.¹⁶

In FY2024, 43,495,876 employees were verified by E-Verify. In 98.32 percent of all inquiries, the employee was verified as work-authorized virtually instantly, and another 0.17 percent (72,121) were verified after a tentative nonconfirmation. Of the 1.68 percent that received TNCs:

- 36 percent (234,660) were uncontested, which generally means they were unauthorized aliens;
- One percent (7,323) led to a final nonconfirmation, meaning they were found to be unauthorized aliens; and
- 63 percent (414,966) were unresolved or in process.¹⁷ This category includes cases the employer closed as “self-terminated” and those awaiting further action by either the employer or employee.

In 2021, the CFI Group evaluated the satisfaction of participating employers with E-Verify using the methodology of the American Customer Satisfaction Index (ACSI). The customer satisfaction index was 88, as compared to the ACSI federal government report’s average satisfaction index of 63. Among the findings:

- “Overall satisfaction” with E-Verify was at 90;
- “Meets expectations” was at 89;
- “Compared to [the] ideal” verification system was at 86;
- Employers that have been using E-Verify for a year or more:
 - Would be willing to recommend it to others was at 91;
 - Were “confident in [its] accuracy” was at 93;
 - Plan to use it again in the future was at 96;
 - “Ease of navigating the E-Verify site” was at 91;
 - “Ease of submitting I-9 information on E-Verify” was at 93;
 - “Speed of receiving an initial response” was at 94; and
 - “Clarity of next steps as described in the response” was at 91.

¹⁴ 48 C.F.R. § 22.1802.

¹⁵ USCIS, *History and Milestones: Chronological Summary of the Milestones of the E-Verify Program*, <https://www.e-verify.gov/about-e-verify/history-and-milestones>.

¹⁶ *Id.*, <https://www.e-verify.gov/about-e-verify/history-and-milestones>. See also USCIS, *E-Verify: E-Verify Usage Statistics*, <https://www.e-verify.gov/about-e-verify/e-verify-data/e-verify-usage-statistics>, USCIS, *E-Verify: E-Verify Employer Search*, <https://www.e-verify.gov/e-verify-employer-search>.

¹⁷ USCIS, *E-Verify: E-Verify Performance*, <https://www.e-verify.gov/about-e-verify/e-verify-data/e-verify-performance>

- Employers that received a tentative nonconfirmation:
 - Found the “speed of resolving the case” was at 74;
 - “Clarity of communication about the steps involved in the resolution process” was at 77;
 - “Ease of resolving the case” was at 75; and
 - “TNC referral process” was at 80.¹⁸

States that have adopted mandatory E-Verify requirements have seen success with the program, as well. Economists Pia Orrenius and Madeline Zavodny concluded in a 2016 paper evaluating state mandatory E-Verify laws that:

“E-Verify laws reduce the number of unauthorized immigrants in a state. This effect tends to be concentrated among recent arrivals and is particularly large for newly arriving immigrants.... [T]he evidence suggests that E-Verify laws divert some newly arriving unauthorized immigrants to other states. The number of new likely unauthorized immigrants rises in a state as more nearby states begin requiring employers to use E-Verify.

“[T]he results...suggest that most of the drop in the number of already-present unauthorized immigrants in states that adopt universal E-Verify laws is due to them leaving the USA entirely.”¹⁹

The following year, Orrenius and Zavodny wrote a report issued by the Federal Reserve Bank of Dallas. Ms. Orrenius stated that the report’s “key takeaways” were that “E-Verify, when it’s mandatory...can have very large deterrent effects on the employment of undocumented immigrants and possibly also on...illegal immigration.”²⁰

In addition to expanding the original E-Verify pilot into a nationwide system in 2005, USCIS has made some major improvements to the system. These include:

- Incorporating State Department passport data into E-Verify in order to help reduce the number of mismatches among naturalized citizens. E-Verify had been criticized because naturalized U.S. citizens had a higher rate of TNC than did native-born U.S. citizens. This often occurred because the naturalized citizen did not update his or her record with SSA following naturalization. USCIS addressed this problem by updating the E-Verify system to “automatically check [USCIS]

¹⁸ CFI Group, Federal Consulting Group, *Department of Homeland Security U.S. Citizenship and Immigration Services E-Verify Program: 2021 Annual Customer Satisfaction Survey Briefing* (2022), available at <https://www.e-verify.gov/sites/default/files/everify/data/EVerifyCustomerSatisfactionSurvey2021.pdf>.

¹⁹ Pia Orrenius & Madeline Zavodny, *Do State Work Eligibility Verification Laws Reduce Unauthorized Immigration?*, IZA Journal of Migration 5:5 (2016), available at <https://link.springer.com/article/10.1186/s40176-016-0053-3>.

²⁰ Federal Reserve Bank of Dallas, *Press Release: Universal E-Verify Mandates Largely Effective in Reducing Unauthorized Immigrant Employment, According to Dallas Fed Special Report* (Sept. 8, 2017), available at <https://www.dallasfed.org/news/releases/2017/nr170908>.

naturalization data” and passport photos. According to USCIS, this step “reduced citizenship status mismatches by approximately 39 percent.”²¹

- Introducing a photo-matching tool in which USCIS included the photos from visas and employment authorization documents in the E-Verify database. Employers can now match the photo in E-Verify to the photo on these Federal documents presented by the employee.
- Instituting a system that automatically prompts an employer to double-check the information entered into E-Verify when a query is about to result in a mismatch.
- Creating the Self-Check program, which allows an individual to run an E-Verify query on themselves so that they can ensure that they can fix any data mismatch and will be correctly confirmed as work authorized prior to an employer running them through the system.
- Connecting to the National Law Enforcement Telecommunications System (Nlets) to validate driver’s license and State identification documents against DMV records from 44 States and jurisdictions. (California, Maryland, Maine, Minnesota, Nebraska, New Jersey, New York, Pennsylvania, Vermont, and Washington have opted out of the program.) USCIS performs up to 25 million driver’s license verifications annually through Nlets.²²
- Creating a “self-lock” program in which individuals can “lock” their SSN so that if it is submitted for work authorization purposes, the employer who submitted it receives a TNC. This mechanism is aimed at preventing the unauthorized use of another individual’s SSN. Importantly, parents can also use this system to lock their children’s SSNs. Identity thieves often target children for identity theft, knowing they won’t be employed, and so won’t raise suspicion with SSA.

Next Steps for E-Verify

Make it mandatory for all U.S. employers. According to USCIS, E-Verify is fully capable of handling the workload that a national mandate would generate. In 2011, a USCIS official told the House Judiciary Committee that “the system can handle up to 60 million queries [a year]. We know that.”²³ The Government Accountability Office reported that “E-Verify program officials said that in 2007, USCIS successfully simulated an operational transaction load commensurate

²¹ H.R. Rep. No. 113-677, part 1, at 19.

²² “E-Verify Overview,” USCIS, March 2021, at 8, available at <https://www.uscis.gov/sites/default/files/document/presentations/11-E-Verify.pdf>.

²³ *E-Verify—Preserving Jobs for American Workers: Hearing Before the House Committee on the Judiciary, Subcommittee on Immigration Policy and Enforcement*, 112th Cong. 148 (Feb. 10, 2011) (testimony of Theresa Bertucci, Associate Director, Enterprise Services Directorate, USCIS).

with an annual rate of 240 million queries per year—the higher estimate of the number of queries expected to be generated by a mandatory E-Verify program.”²⁴

As long as E-Verify remains a largely voluntary program, those employers who want to be able to hire unauthorized workers will not use it. Illegal aliens seeking employment will simply have to avoid the businesses that participate and seek out those that don’t. This dramatically limits E-Verify’s effectiveness in deterring illegal immigration.

Just as important is the fact that voluntary use of E-Verify creates an uneven playing field for businesses. Imagine being, for example, the owner of a construction company. You feel a civic duty to obey all labor and immigration laws, so you sign up to use E-Verify to make sure your workforce is legal. If your competitor down the road feels no such civic duty, he will be able to undercut you in every bid by hiring illegal labor at reduced wages and cutting corners on benefits and safety compliance. In order to recruit authorized workers, you have to pay a sufficient wage, provide benefits, and comply with safety laws. Abiding by the law should not be a competitive disadvantage.

Both Chambers of Congress have passed mandatory E-Verify, though always as part of larger immigration bills. The failure of IRCA (amnesty in exchange for enforcement, where enforcement never happens) is a lesson that should not be repeated. The House most recently passed E-Verify as part of H.R. 2, the Secure the Border Act.

The Legal Workforce Act, H.R. 251 in the current Congress, has been introduced as a stand-alone E-Verify bill in every Congress since the 112th. The Legal Workforce Act phases in mandatory use of E-Verify by all employers in the United States. Congress should pass this bill.

Require States to share driver’s license data, including photos, with USCIS for inclusion in E-Verify. As noted earlier, the primary cause of “false positives,” or unauthorized workers being confirmed as work authorized by E-Verify, is the use of stolen identities. E-Verify confirms that the data inputted by an employer matches the data of an individual who is authorized to work in the United States, and it verifies the validity of driver’s licenses and State identification cards issued by most States through Nlets. However, it cannot confirm that the individual an employer has just hired is the same individual who was issued the documents E-Verify is matching.

As Westat pointed out in its 2009 report to DHS:

“[I]ndividuals may borrow documents belonging to relatives or friends, use stolen documents, or purchase valid documents that have been sold by the owner....

²⁴ U.S. Government Accountability Office, *Employment Verification: Federal Agencies Have Taken Steps to Improve E-Verify, but Significant Challenges Remain*, 44 (table 2) (2010), available at <https://www.gao.gov/assets/gao-11-146.pdf>.

E-Verify cannot identify these documents as fraudulent since they are, in fact, genuine....”²⁵

Providing employers with the means to visually match the person standing in front of them to the person pictured on a driver’s license provided by a state and to the photo in the document provided for the I-9 would go a long way toward fixing this. USCIS has proven that the E-Verify system can incorporate photos since it has included photos from immigration documents and passports in its Photo Match tool.

Require SSA to notify victims of identity theft. Identity theft is a serious crime that can have devastating impacts on the victims’ lives. When two or more different employers are reporting full-time income to a single individual’s Social Security account, especially when those employers are in different parts of the country, SSA has clear notice that the individual’s SSN may be being misused. In most cases, this scenario means an individual’s SSN has been stolen and is being used by one or more illegal aliens for employment.

For years, SSA’s policy has been to ignore the situation, rather than notifying the rightful owner of the SSN. This is why most people don’t learn their identity has been stolen until/unless creditors come after them for bills—or even mortgages—they know nothing about. By that time, recovering or rebuilding their identity is a nightmare.

SSA should instead be required to block further use of that SSN, notify the parties, and establish who the legitimate owner of the SSN actually is. The other party or parties should be referred for prosecution.

²⁵ Westat, *Findings of the E-Verify Program Evaluation* (2009), at 131-32, available at <https://www.e-verify.gov/sites/default/files/everify/data/FindingsEVerifyEval2010.pdf>.