Checking E-Verify

The Costs and Consequences of a National Worker Screening Mandate

By Alex Nowrasteh and Jim Harper

EXECUTIVE SUMMARY

Many policymakers believe that an essential part of immigration reform is nationally mandating the use of E-Verify, the electronic employment eligibility verification system intended to prevent unlawful immigrants from working in the United States. A mandate requiring all employers to screen their new hires through federal government databases will likely be included in immigration reform measures contemplated by the 114th Congress. It is the latest in a decades-long effort to make "interior enforcement" of immigration law workable.

E-Verify is an intrusive labor-market regulation that places the onus of immigration law enforcement on American employers. E-Verify is expensive, and it has a startling degree of inaccuracy. It could exclude hundreds of thousands of Americans from employment—at least in the short run. E-Verify is also ineffective at preventing unauthorized immigrants from working in the United States, as the experience of Arizona with its E-Verify mandate shows. E-Verify does not lower wages for unauthorized immigrants enough to suppress unlawful immigration because the wage gap between the United States and other countries is too great. A national E-Verify mandate would not turn off the jobs magnet, but it would spur more unlawful immigrants to engage in identity theft and work under the table.

If E-Verify is mandated nationwide, worker and employer avoidance and noncompliance would cause supporters of interior enforcement of immigration law to seek harsher sanctions on businesses, more punitive measures for unauthorized workers, and a biometric identity system for all Americans—a step that must be avoided. E-Verify's high costs and ineffectiveness at deterring unlawful immigration should disqualify it as a component of immigration reform.

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INTRODUCTION

E-Verify is an electronic employment eligibility verification system run by the U.S. Department of Homeland Security (DHS) that is intended to weed unauthorized immigrants out of the labor market. Using E-Verify, employers must check new employees' identity information against government databases that either confirm or deny their right to work legally in the United States.

For years, policymakers and anti-immigration activists have touted federal employment controls as a way to turn off the "jobs magnet" that attracts unauthorized immigrants to our shores.[1] Far from turning off the jobs magnet, E-Verify is an expensive, intrusive, and ineffective means of combating unauthorized immigration. The experiences of states that have mandated E-Verify reveal its high costs and ineffectiveness at suppressing unlawful immigration—results that should give pause to E-Verify supporters.

A SHORT HISTORY OF INTERIOR ENFORCEMENT AND E-VERIFY

E-Verify is the latest in a long string of efforts to make "interior enforcement" of immigration viable. E-Verify's roots are found in the Immigration Reform and Control Act (IRCA), which in 1986 first required employers to check workers' credentials. The IRCA made it unlawful to knowingly hire workers who are not eligible to work in the United States under the immigration laws.[2] By requiring employers to check employees' documentation, the law conscripted employers into immigration law enforcement. All employers today are required to verify employees' work eligibility by collecting completed I-9 forms and by checking employees' documentation.[3]

The logic behind this idea was simple: making it illegal to hire an unauthorized immigrant could reduce the strength of the jobs magnet. But the policy of interior enforcement built on this simple logic failed because the strength of the jobs magnet overcomes the relatively slight wage penalty imposed by interior enforcement.

Despite fines and other attempts to enforce the I-9 system, it was largely ineffective at deterring the employment of unauthorized immigrants.[4] A 1990 Government Accountability Office (GAO) audit of IRCA and the I-9 form pointed to slightly negative impacts on Hispanic wages.[5] A later study found declines in the range of 6 to 7 percent for Hispanic nonagricultural workers relative to farmworkers.[6] The decline was not constant across the board: nonagricultural workers were impacted more heavily than agricultural workers because employer sanctions were phased in for farm workers while they were immediately implemented for nonagricultural workers.

That audit also found that Hispanic applicants—regardless of legal status—were more likely to have their documents examined by employers and more likely to be treated unfavorably or with hostility during the application process. Worse, applicants with birth certificates issued by the government of Puerto Rico, who *are* American citizens, were found to face similar levels of targeting and discrimination as nonnative and noncitizen Hispanic job applicants did. Hispanic job applicants, regardless of their immigration status or citizenship, faced increased discrimination as a result of the I-9 requirement.

Another, longer-term effect of the I-9 mandate was that it created a large black market for identity documents. The IRCA's requirement that workers needed government identification to get a job provided criminal entrepreneurs incentives to begin forging U.S. identity documents. They forged driver's licenses, Social Security cards, voter registration forms, birth certificates, and green cards in response to the government-mandated immigration checks by employers.[7] Because IRCA increased the costs to unauthorized immigrants of not having government identification, the benefits of owning forged documents increased—so the profit margins for forgers increased. From 1986 through 1993, roughly half of all the unauthorized immigrants hired in the United States were hired by employers who complied with I-9 requirements.[8] To this

day, document fraud helps make the I-9 process an ineffective deterrent to the hiring of unlawful immigrants.

Employers also responded to IRCA's I-9 requirement in two ways not anticipated by Congress. First, they continued to hire unlawful workers and pay them a lower wage because of the new possibility of fines and other punishments that would be imposed on them by the government. In a sense, the I-9 imposed a tax on the hiring of unauthorized workers that employers transferred to their unauthorized employees, thus marginally decreasing the economic benefits of working illegally in the United States.

The second employer response was to rely on subcontracted labor. Employers would not be legally required to run I-9 checks because the workers were not technically their employees. The subcontractor retained the legal risk of hiring the unlawful workers and kept a portion of their wages as compensation, effectively taxing unlawful workers. These two effects likely lowered the wages of unauthorized workers by roughly 13 percent between 1986 and 1992.[9]

While IRCA's I-9 requirement did suppress unauthorized immigrant wages and hiring to some degree, it did not turn off the jobs magnet.[10] In part, this was because IRCA's I-9 requirements only required the examination of documents, not verification. A convincing set of false documents would pass muster, provided they appeared authentic to an apathetic employer. Employers specialize in supplying the goods and services the economy demands, of course, not in judging the authenticity of government identity documents. In addition, the government initially poorly coordinated its enforcement of I-9 requirements. Investigators targeted random geographical areas while ignoring adjacent towns with similar demographics. They also focused enforcement on the construction industry and larger construction projects, but less often on landscaping firms, contractors, and other small, but frequent, employers of unlawful migrant workers.[11] Finally, political resistance at the national and local levels dulled enforcement efforts.[12]

Ten years after IRCA, with illegal immigration continuing apace, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 sought to improve on the failing policy of interior enforcement.[13] Among other programs intended to test electronic verification of employees' work eligibility under federal law, the new law created the so-called Basic Pilot program. Basic Pilot was intended to test whether verification procedures could make the existing I-9 process better by reducing document fraud and false claims of U.S. citizenship, discouraging discrimination against employees, avoiding violations of civil liberties and privacy, and minimizing the burden on employers.[14]

The Department of Homeland Security later christened Basic Pilot as the "employment eligibility verification" program, or EEV, and then renamed it again, this time to "E-Verify." E-Verify is the remaining effort from the 1996 law to try to verify work eligibility electronically. The federal government gradually rolled out Basic Pilot in California, Florida, Illinois, Texas, and New York, and later extended it to employers in all 50 states as a program that employers can voluntarily use. The DHS implemented an internet version of the Basic Pilot Program nationwide in June 2004.

Currently, state law mandates using E-Verify for all new hires in Alabama, Arizona, Mississippi, and South Carolina.[15] Utah, Georgia, and North Carolina require E-Verify checks for all new hires in firms with at least 15, 10, or 25 employees, respectively. The states of Florida, Georgia, Idaho, Indiana, Louisiana, Missouri, Nebraska, North Carolina, Pennsylvania, Tennessee, and Virginia mandate E-Verify for all state agencies, public employers, and government contractors, while Minnesota and Colorado only require it for state contractors. Certain counties or municipalities in the states of Michigan, New York, Oregon, and Washington have mandated its use. The procedures employers must follow to use E-Verify in all those places are complicated.

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HOW E-VERIFY IS SUPPOSED TO WORK

E-Verify is intended to exclude unauthorized immigrants from gaining employment in the United States, removing their incentive to enter or remain in the country. This simple logic has surface appeal, but understanding how E-Verify functions is essential to understanding its many flaws and high costs. The first step in using E-Verify requires the employer to register with United States Citizenship and Immigration Services (USCIS), a component agency under the DHS. The employer must then agree to follow E-Verify's rules as laid out in a Memorandum of Understanding (MOU) between the employer and USCIS. Once the employer is signed up and submits the MOU online, he or she must complete an online tutorial and examination before being granted access to the system. The examination covers the legal rights, duties, and responsibilities of the employer in relation to the employee, including informing employees of the results of E-Verify queries. Once these tasks are complete, the employer must post a notice of the employer's participation in E-Verify where job applicants can see it.

When a new worker is hired, and not before, the E-Verify–certified employer must record the employee's government identity information, such as Social Security number (SSN), on the standard I-9 form. The employer is then supposed to access E-Verify via the Internet and check the information recorded on the I-9 form against the results produced by the Social Security Administration (SSA) and DHS databases.

If E-Verify recognizes the prospective employee's identity information as valid because the name and Social Security number match, and if the name-and-number pair is not already in use, E-Verify judges the employee as work-authorized and the employer is allowed to employ him or her. However, if the identity information is either suspected of being invalid or already in use, E-Verify flags the employee as a tentative nonconfirmation (TNC). At this point the employer is supposed to notify the employee, who is still "hired" at this point, of the TNC. The employer or employee must then engage in a lengthy process to appeal the TNC. If the appeal is not undertaken within 10 days or if the appeal confirms that the worker is ineligible for employment, E-Verify issues a final nonconfirmation (FNC), which means the employer must terminate the worker immediately. Citizens and legal noncitizens, such as those with lawful permanent residency or a guest-worker visa, face different verification and appeals processes under E-Verify (see Figures 1 and 2).
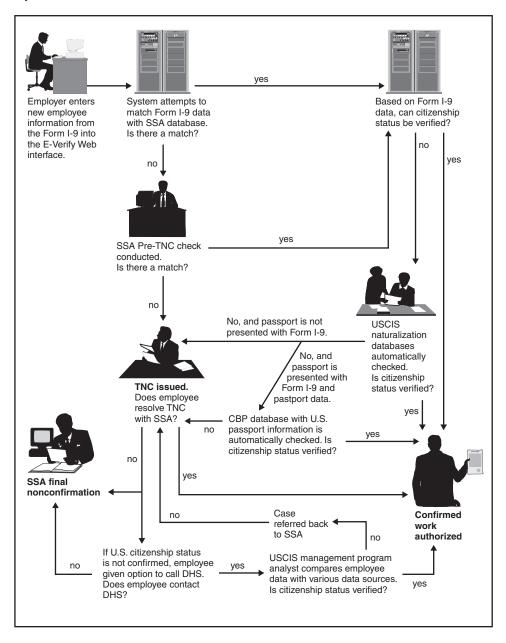
If the worker does appeal the TNC, he or she must begin a tedious bureaucratic review to identify and access the personal identity information that caused the TNC—a task made difficult by E-Verify's lack of a clear process for employees to access their information. Because employees are not informed about which specific records, information, or databases are the sources of the TNC, employees may have to file Privacy Act requests with different subgroups of DHS or SSA, each of which may have been the source of the erroneously recorded information. The average response time to a Privacy Act request was last measured as 104 days in 2009.[16]

The idea of running workers' identity information past government databases sounds simple—but it is not—as experience with E-Verify helps to show. It has not had the effects imagined by the supporters of interior enforcement of immigration law.

HOW INTERIOR ENFORCEMENT THROUGH E-VERIFY HAS FARED SO FAR

The core of the argument in favor of mandatory nationwide E-Verify rests on the theory that such a mandate would significantly decrease the employment of unauthorized immigrants and that wages for those who did work would fall. These dynamics would deter unlawful immigrants from attempting to come to the United States by turning off the so-called jobs magnet. Some of E-Verify's sup-

Figure 1
E-Verify Process for U.S. Citizens

Source: Government Accountability Office, *Employment Verification: Federal Agencies Have Taken Steps to Improve E-Verify, but Significant Challenges Remain* (Washington: GAO, 2010), p. 10.

porters also hope that it will force unauthorized immigrants currently in the United States to leave.[17] For a number of reasons, E-Verify has not produced these results.
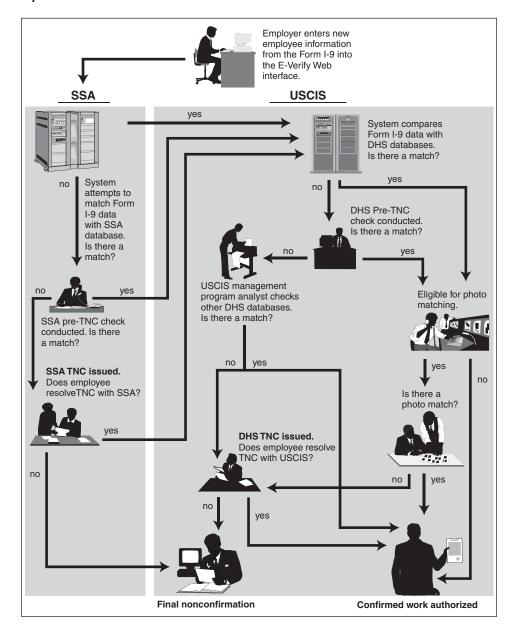
E-Verify has a strikingly high false-negative error rate that undercuts its utility. Because the heart of E-Verify is comparison between a name and Social Security number, it is often unable to detect when unauthorized workers are using false documents obtained via fraud and identity theft.

An unauthorized worker who uses blatantly false or forged identification documents such as a fake driver's license and an uncorrelated Social Security number will usually be discovered because E-Verify runs name and SSN

Figure 2
E-Verify Process for Non–U.S. Citizens

Source: Government Accountability Office, *Employment Verification: Federal Agencies Have Taken Steps to Improve E-Verify, but Significant Challenges Remain* (Washington: GAO, 2010), p. 13.

correlations by the Social Security Administration. However, documents obtained with a valid but fraudulently used number, such as a number belonging to a recently deceased individual, will usually be returned as verified.[18] In other words, E-Verify can only confirm the correlation of the name and underlying SSN.

E-Verify cannot tell the employer, for instance, that the SSN handed to him by a Hispanic job applicant in 2015 in Texas actually belongs to an 11-year old girl who died in Minnesota decades ago, because the first-level E-Verify check does not match against death records. A recent report by the Social Security Administration found that approximately 6.5 million SSNs that were issued to Americans born 112 years ago or earlier do not have a death date listed in the SSA's com-

puter database.[19] Those SSNs can be entered into E-Verify and it would not recognize that they belong to deceased persons. As the SSA report confirms, individuals using 66,920 of those 6.5 million SSNs had approximately $3.1 billion in wages, tips, and self-employment income for the 2006–2011 tax years.[20] Between fiscal years 2008 and 2011, SSA received 4,024 E-Verify inquiries using the SSNs of 3,873 number holders born before June 16, 1901.[21]

E-Verify's actual accuracy rate is difficult to determine because it just checks the documents and not the worker himself. This leads to the most damning indictment of E-Verify as a tool to force unlawful immigrants out of the labor market: according to a USCIS-ordered audit of E-Verify conducted by the research firm Westat, an estimated 54 percent of unauthorized workers submitted to E-Verify were incorrectly found to be work authorized because of rampant document fraud.[22]

There are only two ways that error could be corrected. The first would be by substantially reducing the supply of forged identity documents—an unrealistic expectation given the enormous costs of doing so and the high prices unauthorized workers are willing to pay for them.[23] The second would be by placing photos of all workers into the E-Verify database and forcing employers to confirm that the photo of the applicant and the E-Verify results are the same person.[24] Photographs stored in some state Department of Motor Vehicles (DMVs) are already being added to E-Verify through the "Records and Information from DMVs for E-Verify (RIDE)" initiative begun by the Verification Division of USCIS.[25] USCIS is also rolling out a photo-matching program to incorporate photographs from some immigration documents and the U.S. passport into E-Verify.[26]

This option is less foolproof than it seems. Many of the identity documents that can be used for the I-9 form and E-Verify do not have photos on them in the first place. A dearth of photos in government databases would also create very large gaps in E-Verify's photo accuracy.

A system that approves a majority of unauthorized workers eligible for employment is clearly ineffective at disincentivizing unlawful immigration. E-Verify's ineffectiveness mercifully limits the economic harm caused by the system because it does not upset the labor market nearly as much as an effective system would. While failing to push unlawful immigrants out of the labor market, though, E-Verify produces problems for employers, law-abiding American-citizen workers, and others. The experience of Arizona illustrates this. Arizona's experiment with mandatory E-Verify has been as ineffective as the federal government's I-9 mandate.

E-Verify in Arizona

For years before the housing market started its decline in 2006, voters in Arizona were worried about the increasing number of unlawful immigrants. In 1995, there were an estimated 160,000 unlawful immigrants in Arizona,[27] whose numbers rose to 330,000 in 2000 and then to 560,000 in 2008 out of a total population of 6.5 million people.[28] In 2007, the Arizona legislature passed the Legal Arizona Workers Act (LAWA), which was the first state-level legislative action intended to reduce unauthorized immigration by denying employment. (Previous measures such as California's Proposition 187 and Arizona's Proposition 200 merely denied public benefits to unlawful immigrants.)

LAWA mandated that all employers run new hires in the state through E-Verify. Arizona intended to enforce the law through what former Arizona governor Janet Napolitano called "the business death penalty."[29] The punishment for a second offense of knowingly or intentionally hiring an unauthorized immigrant is the permanent revocation of the employer's licenses at the location in question—essentially shutting down the business. LAWA went into effect on January 1, 2008.[30]

Prosecutors only charged three businesses with the business death penalty in Arizona. The first was Waterworld Ltd. Partnership (a theme park that had already closed down). The

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Table 1
E-Verify Queries as a Percent of all New Hires

	Alabama	Arizona	Mississippi	South Carolina
2008	3.6	33.4*	11.6	7.6
2009	7.0	43.3	41.2	23.6
2010	13.5	58.8	40.3	57.4
2011	13.3	56.7	40.5	73.0
2012	38.6	56.5	44.9	97.0
2013	55.2	58.5	48.8	54.9

Sources: U.S. Census, "Quarterly Workforce Indicators"; Department of Homeland Security; and authors' calculations.
* The E-Verify mandate went into effect at the beginning of the calendar year, which was the second quarter of the fiscal year.

others were Danny's Subway in West Phoenix and the Scottsdale Art Factory.[31] The courts levied the minimum punishments allowed under LAWA against Waterworld and Danny's Subway and they were only shut down temporarily. The paucity of prosecutions and lenient punishments show a tremendous reluctance on the part of state officials to actually "kill" businesses that violated LAWA. Although the Maricopa County Sheriff's Office (MCSO), run by the controversial Sherriff Joe Arpaio, did raid numerous businesses for violating E-Verify, sometimes shutting their locations (at a cost of $1.3 million dollars in the case of the restaurant chain Pei Wei),[32] enforcement was mostly aimed at the unauthorized workers rather than the employers themselves. A federal judge recently blocked the MCSO from carrying out any more business raids because the state statutes authorizing them are likely unconstitutional and preempted by federal laws.[33]

Even the Arizona government and Sheriff Arpaio's MCSO could not sustain a vigorous E-Verify and workplace immigration enforcement program in the face of business and legal opposition. The costs of enforcing these rules fall disproportionately upon businesses, which have the incentive and ability to lobby against those enforcement efforts. The hypothetical benefits of these raids have no constituency besides the state agencies empowered to carry them out and anti-immigrant agitators, for whom raids and enforcements themselves have attenuated benefits. If Arizona cannot sustain a vigorous worksite enforcement program in the face of opposition, other states or the federal government will likely be unable to as well.

Employers Ignore E-Verify

Four states have mandated E-Verify for all new hires, but employers and employees in these states are widely ignoring the mandate (see Table 1).[34] Importantly, these compliance rates show E-Verify in the best possible light, as we assumed that each new hire's information was only checked through the system once. If each new hire was checked through the system multiple times, as often occurs, then the real percentages of new hires that were run through E-Verify at least once are mere fractions of the percentages reported here.

Since January 1, 2008, all employers in Arizona have been legally required to run all new hires through E-Verify. From 2008 to 2013, only 50.1 percent of all new Arizona hires were run through E-Verify. Excluding 2008 from the analysis—queries occurred in only part of the year the mandate went into effect—E-Verify's compliance rate is a mere 54.8 percent of all new hires from fiscal year 2009 through fiscal year 2013—a dismal performance.

Compliance rates for E-Verify look just as bad in other states that have mandated it for all

new hires. Alabama began mandating universal E-Verify for all new hires on April 1, 2012.[35] The first full fiscal year of E-Verify's mandate was 2013, during which only 55.2 percent of all new hires were run through E-Verify. Mississippi mandated universal E-Verify on July 1, 2011.[36] Fiscal years 2012 and 2013 are the first full fiscal years where E-Verify was mandated for all new hires in Mississippi, but only 46.8 percent of them were actually run through the system. South Carolina mandated universal E-Verify for all new hires on July 1, 2010.[37] For the first three full fiscal years of 2011, 2012, and 2013, 74.8 percent of all new hires in South Carolina were run through E-Verify—by far the highest compliance rate for any state mandating universal checks. However, as Table 1 shows, South Carolina's relatively high compliance rate collapsed to a mere 54.9 percent in 2013—little better than that year's average of 54.4 percent across all E-Verify mandated states. South Carolina's low E-Verify compliance rate puts into perspective claims that the state is the most effective enforcer of the E-Verify mandate.[38] If South Carolina's 54.9 percent E-Verify compliance is "effective," how low must the compliance rate be to count as "ineffective"?

South Carolina performed better than other states in 2011 and 2012 before collapsing to average in 2013. Inexplicably, the number of E-Verify checks in South Carolina was equal to 97 percent of all new hires in 2012. South Carolina's Office of Immigrant Worker Compliance (SCOIWC) conducts random audits of employers to make sure that they are enrolled in E-Verify and that the names of their new hires match those of their E-Verify queries.[39] This auditing process produces a seemingly impressive list of businesses that are placed on probation for hiring workers without using E-Verify. The office conducted 3,214 business audits from July 1, 2013, to June 30, 2014, finding that 4.6 percent of businesses hired workers without running them through E-Verify.[40] However, data is not available to accurately estimate the percentage of South Carolina's businesses that currently have Memoranda of Understanding with USCIS. Since 2008, 34,226

South Carolina businesses have signed MOUs with USCIS, but that does not reveal how many active businesses have MOUs.[41] Furthermore, the data on U.S. businesses collected by the Census lumps all businesses with fewer than five employees together, making it impossible to separate those with zero employees, who do not have to sign MOUs with USCIS, from those with at least one employee, who must be run through E-Verify.[42] This paucity of data makes it impossible to accurately estimate the E-Verify compliance rate of South Carolina businesses. South Carolina's audits identified some firms that did not use E-Verify for some hires, but there were no fines or punishments levied on businesses for actually hiring unauthorized immigrants. South Carolina's audits are incapable of discovering the true rate of illegal hiring outside of E-Verify's mandate, as many unauthorized workers are undoubtedly paid under the table and leave no paper trail to audit. The audits can only identify when firms do not use E-Verify for hires, not when firms hire unauthorized immigrants.

Universal E-Verify mandates do not produce universal compliance—even in states with harsh immigration enforcement reputations such as Arizona or South Carolina. If E-Verify compliance cannot be forced on the state level in Arizona or South Carolina, there is virtually no chance that it will be enforced more effectively across our large nation.

Employers are exploiting four big gaps in the E-Verify mandate that produce such low compliance rates across states. The first is that employers do not have to check the employees of independent contractors through E-Verify. Many workers who would be employees under normal circumstances instead go unnoticed when they become independent contractors and are issued 1099 tax forms instead of the W-2 form for employees.[43] This is a gap similar to that which diminished the effectiveness of IRCA's I-9 mandate.

Self-employment is the second gap in E-Verify. Self-employed people and entrepreneurs do not have to run themselves through E-Verify, so many unauthorized immigrants

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follow that route to employment. The E-Verify gap and the slow pace of economic growth account for part of the 73 percent increase in self-employment and entrepreneurial activity in Arizona from 2006 to 2011.[44] During that time, about 25,000 Hispanic noncitizens in Arizona dropped out of the formal wage economy and became self-employed.[45] Since 2011, the slow-down in Arizona's enforcement of E-Verify mandates, the improving economy, and the shift of unauthorized immigrants out of the state have lowered the rate of self-employment.[46]

The third gap is that employers in South Carolina are not being punished for hiring unauthorized workers but for failing to use E-Verify—an important distinction. A government audit of electronic records based upon the identity information produced by employees and entered into those accounts by employers cannot reveal the actual level of illegal employment. If South Carolina's version of an E-Verify mandate is applied nationally and enforced, it will appear to government auditors that E-Verify is effective at diminishing unlawful immigrant employment. However, all that could be proven is that employers are entering the identity information of legal workers into E-Verify. In Arizona and Alabama, there is no specific punishment for failure to enroll or use E-Verify, except the offending firm cannot receive government contracts. In Mississippi, firms not enrolled in E-Verify or those that fail to use it can lose all of their state contracts and businesses licenses for up to one year.[47] In South Carolina, the punishment is forced enrollment in E-Verify, with mandatory quarterly employment reports filed to the state, or the loss of business licenses.[48]

The fourth gap in E-Verify is that it cannot regulate illegal or informal employment. Since the E-Verify mandate in Arizona began, off-the-books and illegal hiring of unauthorized immigrant workers has become more widespread and sophisticated. Many unauthorized workers moved deeper into the informal economy where they are paid cash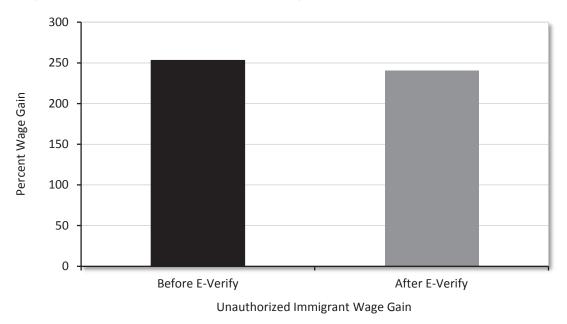, do not receive a W-2, and do not have taxes taken out of their paychecks.[49] A larger informal economy makes contract enforcement more difficult, increases information asymmetries, and generally produces a less-efficient market.

E-Verify Does Not Turn Off the Jobs Magnet

E-Verify's goal is to raise the costs of hiring unauthorized workers in order to incentivize employers to hire fewer of them and hire more citizens and authorized immigrants. The result that is supposed to follow is lower illegal immigration and even "self-deportation" of unauthorized immigrants to their home countries. If E-Verify was effective at excluding unauthorized immigrants from the labor market, decreasing demand for their services, there should be wage and employment declines for this group.

Arizona's mandate of E-Verify for all hires in 2008 provides an experimental case to study the effectiveness of E-Verify through the end of 2012. In Arizona, hourly earnings for unauthorized Mexican men and women declined by 7.8 percent and 1.2 percent, respectively. However, the employment rate for unauthorized Mexican men and women rose by 1.8 percent and 3.5 percent, respectively.[50] The failure of E-Verify to reduce employment, from 2008 to 2012, is explained by the wage gains for a Mexican immigrant to the United States, for whom working in the United States produces an increase in income estimated at 253 percent.[51] In Arizona, combining the wage decreases with the employment increases and comparing them to unauthorized immigrant wages by gender,[52] E-Verify lowered that wage gain to 240 percent—barely diminishing the powerful incentive to immigrate unlawfully (see Figure 3).[53] For many immigrants, a 240 percent wage increase is sufficient to justify illegally working in the United States and enduring the hardships and barriers that may come with it. To turn off the jobs magnet, E-Verify would have to bring the wage differential down to the point where the costs of immigrating illegally are greater than the anticipated benefits. Mandatory E-Verify in Ari-

Figure 3
Wage Gain for Mexican Unauthorized Immigrant to the United States

Sources: Center for Global Development; Pew Hispanic Center; Pia M. Orrenius and Madeline Zavodny, "How Do E-Verify Mandates Affect Unauthorized Immigrant Workers?" Dallas Fed Working Paper no. 1403 (2014); and authors' calculations.

> "E-Verify may very slightly weaken the job magnet in some places, but it does not weaken it enough to halt unlawful immigration from very poor countries to the United States."

zona failed to do that. Surely, any reduction in the net economic benefits of immigrating illegally will decrease the incentive to do so, but E-Verify does a very poor job of cutting those benefits.

Employment effects differ across other states that mandated universal E-Verify. Although wages in Arizona declined slightly while employment increased, the opposite occurred across the entire range of states that mandated E-Verify. Across those states, the employment rate for men declined by 3 percent and for women it declined by 7 percent after the enactment of E-Verify.[54] However, that decrease in worker supply also raised the wages of unauthorized workers by a net 3.5 percent after the enactment of E-Verify.[55] If E-Verify pushes some unauthorized immigrants out of the labor market, the nominal wages for those remaining increase slightly, thus boosting the strength of the jobs magnet. E-Verify must decrease both the wages and the quantity of unauthorized immigrants working to weaken the jobs magnet. E-Verify may very slightly weaken the job magnet in some places,

but it does not weaken it enough to halt unlawful immigration from very poor countries to the United States. More economic research is required to discover the specific economic effects of E-Verify on unauthorized immigrants.

The implementation of E-Verify typically affects the wages of men more than it affects the wages of women, implying that E-Verify principally decreases labor demand for male workers. This could be because female unauthorized workers are more likely to work in private households as cleaners or child-care providers, or in small retail trade or food-services businesses that are often exempt from E-Verify or less likely to enforce it. By contrast, male unauthorized immigrants are more likely to work in construction or other sectors of the economy that cannot avoid E-Verify so easily—so they are most likely to change occupations.[56]

Within states where E-Verify has been mandated, one of the biggest effects is the shift of unauthorized workers into different sectors of the economy. For instance, the share of unauthorized immigrant workers in agriculture and

food services increased in states that mandated E-Verify. At the same time, the employment of unauthorized workers in the construction sector dropped dramatically. In Arizona, the population of unauthorized immigrant men began to recover a year after universal E-Verify initially lowered their numbers.[57]

The movement of unlawful immigrants out of states with mandatory E-Verify is an important effect. Between 86,800 and 93,000 unauthorized immigrants left Arizona because of E-Verify, a likely product of the negative wage and employment effects caused by E-Verify in the short run.[58] Roughly 19 percent of likely unlawful Hispanic immigrants left states with mandated E-Verify. In comparison, only 8.2 percent of all noncitizens, a group less likely to include unlawful immigrants, left those same states.[59]

Supporters of mandated E-Verify claim that jobs vacated by unauthorized workers would be filled by native-born Americans.[60] However, the data show that native-born workers did not flow into states that shed workers due to E-Verify, and the total native population did not increase as a result, nor did employment figures shift much.[61] In Arizona, the construction and agricultural sectors of the economy shed more jobs more rapidly under E-Verify than did neighboring states that did not implement E-Verify, and those vacant jobs were not filled.[62] Agriculture did not suffer a steep drop in prices like the housing sector, but employment in agriculture collapsed in Arizona after the passage of mandatory E-Verify while employment remained steady or increased in neighboring states. After accounting for the housing collapse and Great Recession, Arizona saw an unusual degree of job and population losses compared to neighboring states with similar economies. When the unauthorized immigrants left those jobs, the jobs did not transfer to natives. They were destroyed.

A nationwide E-Verify mandate may prevent unauthorized immigrants from avoiding the system by moving among states as they are currently able to do. Their choice would be to stay in the United States and find a way to work around E-Verify, even at a diminished wage, or return to their home countries and face a far greater wage cut. Future unauthorized immigrants would face smaller wage gains and, as a result, some of them would choose not to come. But unless E-Verify becomes far more effective than it currently is, mandating the system will not fundamentally alter the outcome of these calculations.

State-level immigration enforcement laws have not incentivized Mexican unauthorized immigrants to return to Mexico.[63] Because of the high costs of returning to their home countries and the permanent decrease in incomes that they would face in doing so, nationally mandated E-Verify is unlikely to produce return-migration. These strong economic dynamics have not, however, dissuaded E-Verify supporters in Congress from advancing proposals for more-aggressive interior enforcement, such as a nationwide E-Verify mandate.

CONGRESSIONAL PROPOSALS FOR NATIONWIDE E-VERIFY

Congress has debated bills to mandate E-Verify nationwide four times in recent years—including a recent markup of the Legal Workforce Act.[64] Although the Legal Workforce Act is unlikely to become law this Congress, any future bill to mandate E-Verify will likely be very similar to it or other previous bills that sought to do the same.

The Legal Workforce Act

In 2011, Representative Lamar Smith (R-TX), then chair of the House Judiciary Committee, introduced the Legal Workforce Act.[65] The bill would have mandated universal E-Verify for all new hires in the United States. The Legal Workforce Act would have allowed employers to make employment offers conditional upon successful verification through E-Verify. Under this bill, the employer would not legally be allowed to terminate an employee for a TNC. Instead, the employee would have to either go through the process of appealing the TNC or withdraw his or her application voluntarily.

The Legal Workforce Act mandated verification of legal status no later than three business days after a new hire began his or her job. To complement that requirement, the bill tried to shorten the length of the appeals process. Additionally, the bill mandated a "Social Security number notification system" and a lockdown protocol that would notify workers of multiple, suspicious uses of their SSNs and allow the government to prevent these numbers' use for employment verification while the usage was investigated. This last feature has already been partly implemented by USCIS.

The Legal Workforce Act set a two-year, multi-stage rollout for universally mandated E-Verify. All federal, state, and local governments, and government contractors, would be required to begin using E-Verify almost immediately, followed by the largest private employers, medium-sized employers six months later, and so forth. All current government employees, all existing federal contractors with a security clearance, and all existing federal contractors working on projects valued over $100,000 would have to be verified or reverified no later than six months after the enactment of the bill. The 2011 version of the Legal Workforce Act failed to become law. It was reintroduced in 2013[66] and has been reintroduced again in 2015.[67]

Senate Immigration Reform Bill

The Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 was introduced by eight senators in April 2013.[68] The bill was a broad reform of the immigration system that included an E-Verify-style mandate.

The immigration reform bill would have revamped and replaced the current E-Verify system with a new, similar program called the Employment Verification System (EVS). The EVS's structure duplicated that of the current E-Verify system, with a rollout designed to take place over five years. The federal government would have been required to immediately put the system into use for all of its employees and federal contractors. Private employers with more than 5,000 employees would have had two years to comply with the EVS mandate, those with between 500 and 5000 employees would have had three years, and all agricultural and other employers would have had four years to comply.

Employers would have been required to submit an employee for confirmation no later than three days after the start of employment—and employment offers could not be conditional upon verification. The statute required the verification system to provide a confirmation or TNC within three days of submission of a query. In case of a TNC, an employee would have to be notified within three days after receipt, and they would then have had 10 business days to file an appeal. A final confirmation or nonconfirmation would have to be issued by the appeal board within 10 days after receipt of the notice to contest, with the option for an extension for a further 10 days for further consideration. The Secretary of the DHS could issue an indefinite extension.

The Senate bill also created a formal judicial appeal process for final nonconfirmations (FNCs), requiring the immediate termination of the hire, something long lacking in E-Verify. An employee who received an FNC could file a complaint with the Department of Justice no later than 30 days after FNC receipt and receive a hearing before an administrative law judge. The judge would have the power to stay the FNC and hear evidence to overturn EVS's ruling. The judge could find that the FNC was issued due to identify theft, negligence, or "gross error" on the part of DHS. In all three cases, the judge could force the government to pay up to 120 days' worth of lost wages to the employee. A final appeal could be made, following the administrative judge's ruling, to the federal circuit court in the area of the employee's employment.

Comparing the Legal Workforce Act and the Senate Immigration Reform Bill

The Senate immigration reform bill's universal E-Verify mandate is the least harmful

> "The Senate immigration reform bill's universal E-Verify mandate is the least harmful proposal in recent years."

> "E-Verify's failure in its basic mission to exclude unauthorized workers cuts apart any justification for the economic costs imposed by the system."

proposal in recent years. For employees, the system is more streamlined, has a quicker verification process, and has clearly defined time-tables for submission and appeal. In practice those timelines may be held up by unforeseen administrative bottlenecks and inefficiencies, but at least any statute would recognize the need for rapid verification and the correction of errors. It also provided a better appeals process for employees who received FNCs by bringing in the Department of Justice and, if necessary, the federal courts. This is an improvement over the Legal Workforce Act, which gave the DHS and the Social Security Administration the final say in whether to overturn FNCs. The Legal Workforce Act leaves the final say in the hands of DHS, with only a vague provision allowing for an employee who thinks they were wrongly fired due to a FNC to "seek redress" under the Federal Tort Claims Act. In essence, under the Legal Workforce Act, an employee receiving a false FNC would have to file an expensive lawsuit against the federal government in the hopes of receiving some sort of compensation.

The Senate immigration reform bill also improved the system from the employer's perspective. A longer rollout period would allow more time to prepare for implementation. Importantly, in the case of a wrongful termination due to the government issuing an incorrect FNC, the bill would have shifted potential damages from the employer to the federal government. In the event of an incorrect FNC, the federal government would have to pay lost wages to the employee and the employer would then be able to hire the confirmed employee. Despite these relative improvements over the Legal Workforce Act, the Senate's version of E-Verify would still have burdened American workers and businesses with an unreasonable amount of regulation without much improvement to the immigration enforcement system.

Reforming E-Verify— The "Credit Report" Proposal

Some employers have proposed amending the current E-Verify system by adding a detailed self-check option similar to a credit check, which would supposedly make identity errors or omissions more easily detectable by employers.[69] Although there is currently a simple self-check option, it merely lets the checker know whether he or she would be issued a TNC. A more detailed self-check option would inform the checker which set of government records conflicts with the identity information entered into E-Verify. Such a system would make the information available to employees immediately. However, such a system would also increase the number of data points held in the E-Verify query process, which would also increase the chance that identity information would be inaccurately recorded. A self-check of this variety could also make individual identity information more easily accessible and cheaper for identity thieves to obtain. Turning E-Verify into a credit-report-style system will not fix the system's fundamental problems and it may exacerbate them. Under any approach, a universal E-Verify mandate has costs that make it an undesirable policy option.

HOW E-VERIFY HURTS AMERICANS

E-Verify's problems are manifold and endemic to its design. The first set of problems goes to its core justification: E-Verify is ineffective at its intended goal of discouraging the employment of unauthorized immigrants. E-Verify is easily circumvented through identity fraud, which has mushroomed since the government first started requiring immigration checks as part of employment. E-Verify does not turn off the jobs magnet nor does it much affect the wages earned by unauthorized immigrants where it has been implemented. E-Verify's failure in its basic mission to exclude unauthorized workers cuts apart any justification for the economic costs imposed by the system.

A second set of problems springs from inaccuracies in government databases that falsely flag some legal workers as illegal. If E-Verify were nationally mandated, many legal workers

would struggle with the system, and identity fraud would increase. Efforts to combat these dynamics almost certainly lead to a national identity system and tracking of all American workers, a step at odds with core American freedoms.

E-Verify's False Positive Problem

As discussed above, E-Verify's lack of accuracy undercuts its effectiveness at catching unauthorized workers. Its inaccuracy is also a serious problem for American workers wrongly accused of being unauthorized. E-Verify produces erroneous TNCs—falsely indicating that authorized workers are unauthorized—at a startlingly high rate. An independent audit of E-Verify in 2012 found that 0.3 percent of all workers run through the system returned an erroneous TNC in 2010. Fortunately, E-Verify's total accuracy has improved over time and fewer work-authorized workers have been forced to go through the tedious process of having to prove their identities after receiving an erroneous TNC. However, the percentages of false TNCs would likely increase if E-Verify was mandated nationwide.

If the roughly 122 million native-born employees in the United States at the end of 2014 were all run through E-Verify, between 370,000 and 1.2 million of them would be initially granted an erroneous TNC if the error rates stayed the same.[70] Since E-Verify has been concentrated on small populations of American workers that are less likely to have identity errors in the government databases, a universal mandate would likely result in higher erroneous TNC and FNC rates.[71]

The decline in erroneous TNCs is not uniform across all groups of hires. Although the erroneous TNC rate for American citizens declined from 0.6 percent in 2005 to 0.2 percent in 2010, it rose to 2 percent for lawful permanent residents and visa holders in 2010, up from 1.5 percent in 2005. E-Verify is even more likely to issue erroneous TNCs to lawful immigrants than it was in the past.[72]

The error rate for FNCs—final nonconfirmations—is also alarming. According to a 2012 audit of E-Verify, 0.15 percent of all E-Verify queries analyzed were granted an erroneous FNC. Which means that an estimated 6.3 percent of all FNCs were granted to those who should have been work authorized.[73] If E-Verify were mandated nationwide and all employees had to run their information through the system, that seemingly small error rate would issue around 180,000 FNCs, keeping eligible American workers from working. A universal E-Verify mandate would likely bump up that erroneous FNC rate by exposing new populations of workers to the requirement, leading to even more job losses for Americans and lawful immigrants.

These erroneous results arise from numerous sources, such as the inability of some workers to produce documents, clerical errors, and poorly transcribed handwritten documents that skew either the E-Verify query or government database entries. While employers who use E-Verify are obligated to inform the employee of TNCs, many fail to do so because of their ignorance of the requirement: E-Verify's manual for employers is 88 pages long, poorly written, and confusing.[74] Regardless of the legal requirement for employers to inform employees of identity errors and E-Verify results, many are not doing so. This is unlikely to change if E-Verify were mandated nationwide.

A particularly vexing challenge for administering E-Verify is the likelihood that employers operating under universal E-Verify mandates will prescreen job applicants to guarantee that they will not waste time or resources interviewing those who are unqualified for employment.[75] Although such behavior is not allowed under E-Verify, policing against it would be difficult, costly, and intrusive. Thus, a job applicant with poorly recorded information could continually get rejected by employers who prescreen his information and find him to be tentatively nonconfirmed for employment. Crucially, this deserving worker would not know that his erroneous identity information is the cause of his inability to find a job.

> **"Under universal E-Verify mandates, employers might prescreen job applicants to guarantee they will not waste time or resources interviewing those who are unqualified for employment."**

Table 2

Number of Tentative Nonconfirmation Cases Resolved by Time to Resolution, 2008–2012

Fiscal Year	≤ 1 Day	1 to 2 Days	2 to 3 Days	3 to 8 Days	≥ 8 Days
2008	9,992	2,391	1,482	4,050	17,842
2009	9,157	1,815	1,115	2,928	17,093
2010	17,974	4,146	2,433	6,493	22,439
2011	21,719	5,231	3,106	8,140	23,075
2012	24,024	5,957	3,781	10,346	24,667

Source: U.S. Citizenship and Immigration Services response to Cato Institute Freedom of Information Act request sent on August 19, 2013.

Table 3

Number of Tentative Nonconfirmation Cases Resolved by Agency and Time to Resolution, 2008–2012

Fiscal Year	≤ 1 Day		1 to 2 Days		2 to 3 Days		3 to 8 Days		≥ 8 Days	
	SSA	DHS	SSA	DHS	SSA	DHS	SSA	DHS	SSA	DHS
2008	4,708	5,284	1,536	855	952	530	2,932	1,118	918	16,924
2009	3,180	5,977	987	828	577	538	1,800	1,128	748	16,345
2010	6,094	11,880	2,093	2,053	1,261	1,172	3,906	2,587	1,503	20,936
2011	6,274	15,445	2,221	3,010	1,344	1,762	4,503	3,637	1,695	21,380
2012	7,778	16,246	2,791	3,166	1,853	1,928	6,122	4,224	2,463	22,204

Source: U.S. Citizenship and Immigration Services response to Cato Institute Freedom of Information Act request sent on August 19, 2013.

Costs of Implementing E-Verify

The dollar costs of implementing E-Verify are borne by taxpayers, workers, and businesses. A conservative estimate of taxpayer costs of implementing nationwide mandatory E-Verify was $765 million for fiscal years 2009–2012—if the system only screened newly hired employees. Verification of existing employees, as well as new hires, during the same period would have cost an estimated $838 million.[76] Specific proposals, such as those in the Senate immigration reform bill of 2013, likely would have cost far more. The Senate bill included $1.37 billion for initial enforcement staff, technology, and overhead. The bill also specifically called for the hiring of 5,000 new DHS agents to administer E-Verify and to enforce compliance. This comes to more than $227 million per year in new salaries just to administer E-Verify, based on a baseline federal average for pay for current immigration enforcement agents of $45,416 per year. That is roughly $2.27 billion over a decade.[77]

The direct government expenditures are relatively easy to estimate. The costs for Amer-

Table 4
Distribution of Days to Resolve Tentative Nonconfirmations by Agency, 2012 (percent)

Agency	≤ 1 Day	1 to 2 Days	2 to 3 Days	3 to 8 Days	≥ 8 Days
DHS	34.00	6.60	4.00	8.80	46.50
SSA	37.00	13.30	8.80	29.10	11.70

Source: U.S. Citizenship and Immigration Services response to Cato Institute Freedom of Information Act request sent on August 19, 2013.

ican workers are likely much higher and more difficult to estimate. Mandated E-Verify is estimated to produce 1.6 million hiring delays *per year* due to TNCs, impacting wages and earnings potential.[78] The length of the hiring delay determines how harmful it is. A Cato Institute Freedom of Information Act request found significant hiring delays for workers with contested TNCs (see Table 2 and Table 3).[79] The DHS was the slowest agency at resolving TNCs, with nearly half of its cases taking eight days or more to resolve (see Table 4). The SSA took less time to resolve cases, but it also dealt with fewer than half as many as DHS did.

The 68,775 contested TNCs in 2012 came from a pool of about 21.1 million E-Verify queries nationwide, which is about 0.33 percent of all queries. Importantly, that is the percentage of *contested* TNCs to actual queries. Firms likely ran the same hires through E-Verify more than once, especially if there was an initial problem with verification, thus increasing the denominator relative to the actual number of hires. The number of TNCs that should have been contested is more than those that were actually contested, suggesting a higher number of wrongful TNCs.[80] The figures that were gathered under the Freedom of Information Act *underestimate* E-Verify's rate of inaccuracy—perhaps significantly.

This is a big economic problem for employees because firms are loath to invest training resources in employees who have not been checked by E-Verify or who have a contested TNC pending, as the employer would lose its entire investment if the worker is issued a FNC.

Firm productivity is diminished by delays in hiring, the forced termination of unauthorized employees, and increased labor force turnover. The Small Business Association estimates that federal regulations impose an average of $5,633 in compliance costs per employee for businesses.[81] However, those marginal costs increase as the firm decreases in size. A small firm with 20 or fewer employees pays an average of $7,647 per employee in compliance costs.[82] Regulatory compliance greatly favors an economy of scale because larger firms can afford large legal and human resources departments while smaller firms cannot. E-Verify would bump up these regulatory costs, with the greatest burden falling on small businesses.

For all businesses, the cost of replacing a worker can range from hundreds of dollars for a lower-skilled employee to hundreds of thousands of dollars for a more highly skilled worker in a management position.[83] A 2010 study by the Institute for Research on Labor and Employment at Berkeley found that for California businesses it cost an average of $4,000 to replace a worker: $2,000 for a blue-collar worker and as much as $7,000 for a white-collar worker.[84] According to those numbers, replacing the roughly 1.7 million employed unauthorized immigrants in the state of California would cost businesses roughly $6.8 billion.[85] Nationwide, the loss of manpower hours from a universally mandated E-Verify requirement is difficult to quantify, but 14 million work-days of productivity could be lost every year due to such a requirement.[86] That is far more than the estimated 13.48 million

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work-hours spent per year complying with the I-9 form.[87]

Currently, each E-Verify check is estimated to cost an average of $147 when the employer follows all of the legally mandated notification requirements.[88] While the majority of E-Verify queries cost very little because there is no upfront government fee and the worker is immediately verified, a small percentage can cost a great deal to resolve, which explains the high average of $147.[89]

E-Verify's aforementioned problems with accuracy and fraud will undoubtedly increase the costs associated with mandatory verification. If potential employees are delayed in being verified or are terminated because they are unable to prove their legal status, their wages will suffer and their former employers will incur the costs and lost hours of work that the process caused, as well as having to find a new employee and begin the process anew. Firms could face many such bottlenecks caused by E-Verify, which will raise the cost of hiring workers and thus reduce employment.

Even a false confirmation, where a worker is unauthorized to work but falsely confirmed, could impact an employer down the line. A mandatory E-Verify proposal, as part of the 2013 immigration reform bill, would have imposed larger fines and prison terms on employers actively aware of the fraud—a major downside of that proposal. More analysis needs to be done on how a false confirmation based on fraudulently acquired identity documents could prevent the real owner of the documents from getting a job.

There are many flaws and challenges in E-Verify, which cast doubts on the wisdom of mandating its use by every business across the nation. False-negative errors allow unauthorized working. Document fraud is a path some unauthorized workers take to defeat the system, while others avoid E-Verify by working under the table. False-positive errors may deny natural-born U.S. citizens and legal immigrants the right to work, and employers might not notify them that the system is the source of their employment woes. Operating

E-Verify costs hundreds of millions of dollars per year, and it would cost more as a national mandate.

THE SLIPPERY SLOPE TO A NATIONAL ID

The dogged defender of E-Verify will push for improvements meant to strengthen federal worker background checks, closing loopholes that allow some of these problems to materialize. Unfortunately, many improvements to E-Verify are steps to a national ID system, which is anathema to American freedom.

It is a weakness of E-Verify that it checks only the correlation between an employee name and the Social Security number associated with that name. That weakness can be mitigated by attaching a biometric, such as a picture, to the process. This is already underway in the program, as E-Verify now calls for a photo check of workers presenting a Permanent Resident Card, Employment Authorization Document, U.S. passport, or passport card as the verification document with their I-9.[90] The federal government already has photos of the people who hold these federally issued documents.

The "Records and Information from DMVs for E-Verify (RIDE)" program goes beyond federal records, seeking driver's license photos from cooperative states.[91] Currently, Mississippi, Florida, Idaho, Iowa, Nebraska, and North Dakota turn state records over to DHS for use in E-Verify. If more states participate, and as the biometrics they use strengthen—shifting from analog photos to digital, for example, then on to stronger biometrics such as iris scans, fingerprints, and so on—E-Verify will be the knitting together of a national ID system.

Once in place, a national ID would very likely be extended to uses beyond controlling access to employment. Should there be a viable national ID, it may be used to administer a national health care system; to control access to pharmaceuticals; to control gun and ammunition purchases; to determine who can access financial services and credit, or housing; and

many other activities for which national-level controls have already been proposed. Many insistent advocates of E-Verify, imagining how it might control illegal immigration, would chafe at the other uses that could be made of the system once the national ID system required to implement it is in place.

CONCLUSION

Enforcing the federal government's I-9 requirements imposes concentrated costs on employers and workers while creating dispersed benefits (if any at all) in the rest of the economy. As experience with the I-9 shows, this creates a sturdy coalition of interests opposing the enforcement of employer sanctions without mobilizing interest groups to support them. Immigration and Customs Enforcement ramped up I-9 inspections and audits in 2009, but the Obama administration's targeting of employer I-9 violators was minute compared to the total number of employers.[92]

Any future immigration enforcement efforts targeted at the workplace will be similarly weak because the same incentives will exist, regardless of the law. This conundrum is not unique to interior immigration enforcement, but affects all areas of regulatory enforcement, including lax border security when the U.S. economy is growing.[93] The political economy of E-Verify enforcement suggests that the current program will never be successfully implemented for that purpose. E-Verify may be a way to respond to popular sentiment against immigrants, but it is not a way to prevent illegal immigration. In its current form, E-Verify imposes a high economic cost while being ineffective at enforcing immigration laws. Its success relies on a national ID system, which could not only facilitate immigration enforcement but also direct federal regulations of firearm purchases, access to health care, and much more.

E-Verify has been touted as a low-cost way to enforce our immigration laws, disincentivize future unlawful immigration, and force those who are here unlawfully to return home. However, E-Verify's ineffectiveness undercuts the claims made by E-Verify proponents. While the number of unauthorized immigrants in Arizona likely decreased due to E-Verify, the effect was small and difficult to distinguish from the collapse of Arizona's economy. Crucially, the downward pressure E-Verify placed on wages was not enough to overcome the substantial benefits immigrants enjoy in the United States compared to working in their home countries. Illegal workers who stayed in Arizona moved deeper into the informal labor market and maintained their employment. A mere 54.4 percent of all new hires in 2013 were checked through E-Verify in the states of Alabama, Arizona, Mississippi, and South Carolina, even though the law in those states mandated verification of 100 percent of all new hires there. If those states, known for their harsh enforcement of immigration restriction, cannot effectively enforce an E-Verify mandate, then there is little hope it could be successfully done nationwide.

Systemic accuracy problems with E-Verify, especially the system's flagging of legal workers as unauthorized to work and its work approval for most unauthorized immigrant workers currently run through the system, will be virtually impossible to resolve. Without resolving those accuracy issues, E-Verify cannot hope to even weed out the majority of unlawful immigrants seeking work. It is unrealistic to expect all employers and employees to follow the law to the letter, given the experience in states that have already mandated E-Verify use for all new hires. E-Verify is not a magic bullet that will suddenly make our immigration laws enforceable. Universally mandated E-Verify would not turn off the jobs magnet but instead would impose another unfunded regulatory mandate on American businesses while putting our privacy at serious risk.

NOTES

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> **"Many insistent advocates of E-Verify would chafe at other potential uses of the system once the national identification system required to implement it is in place."**

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14. See generally, *Employment Verification: Challenges Exist in Implementing a Mandatory Electronic Verification System, Before the Subcommittee on Social Security, Committee on Ways and Means, House of Representatives*, 110th Cong., 1st sess. (2007) (statement of Richard M. Stana, director, Homeland Security and Justice Issues, U.S. Government Accountability Office), http://www.gao.gov/products/GAO-08-895T.

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