

THE LEGAL WORKFORCE ACT

Too Costly for Employers, Workers, and Taxpayers

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The Legal Workforce Act (H.R. 1772), which the House Judiciary Committee approved on June 26, 2013,¹ would require every employer in the U.S. to use an electronic employment eligibility verification system (EEVS) patterned on E-Verify.² Rather than offering a comprehensive approach to immigration reform, this bill focuses only on immigration enforcement, failing to provide a road to citizenship for any of the 11 million aspiring citizens living in the U.S. Unfortunately, the bill is an expensive nonsolution. If passed, it would burden employers, workers, and taxpayers.

H.R. 1772 is too costly for employers.

- The Congressional Budget Office (CBO) found that the Legal Workforce Act will cost private sector employers over **\$600 million** over three years.³ But employers *should* be using their revenue to grow their businesses, hire workers, and help build our economy—not to pay costs imposed by a flawed enforcement program.
- According to data compiled by Bloomberg, requiring all employers to use E-Verify could cost small businesses **\$2.6 billion**.⁴ Bloomberg estimates that small business owners who used E-Verify in fiscal year 2010 had to spend **\$81 million** on it.⁵
- Requiring employers to use E-Verify will **devastate agricultural employers**. Over half of the U.S. agricultural labor force is unauthorized.⁶ The U.S. Department of Agriculture reports that for every on-farm job there are about 3.1 “upstream” and “downstream” jobs in the U.S., the vast majority of which are held by U.S. workers.⁷ For every undocumented farm worker who loses his or her job, three American jobs are lost.

The **\$1 billion** that would have to be spent to implement the E-Verify nonsolution *would be better spent*

- providing **341,296,928** free *meals* to school children
- helping build **26,411** units for low-income *housing*
- helping *keep* **10,000,000** low-income *families warm*
- providing three months of *counseling* to **1,000,000** *abused children*

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H.R. 1772 puts workers' jobs at risk.

- Simply put, **E-Verify errors will cause people to lose jobs**. If the Legal Workforce Act becomes law, approximately 150,000 to 500,000 U.S. citizens, lawful permanent residents, and work-authorized noncitizens would either have to contact a government agency to correct an E-Verify–related error or risk losing their jobs.⁸

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- When workers are notified that the information they've provided doesn't match the information in E-Verify's databases, they face significant burdens trying to correct their records. A government-commissioned study found that **almost half** of such workers **lost partial or complete days of work**, and **14 percent lost more than two days of work**.⁹ Many such workers must make multiple trips to a Social Security Administration (SSA) office and wait in long lines to correct their records.¹⁰
 - *Money out of workers' pockets.* If a worker is paid the federal minimum wage, losing half a day of work due to an **E-Verify error would cost her \$29**. A full day of work **would cost her \$58**. And if it took her two full days to correct the error, as it does many workers, the unpaid days off would cost her **\$116 in lost earnings**.¹¹
 - *Extra expenses for workers.* Some workers have to **travel a long distance to an SSA office** to correct an E-Verify error. If the closest SSA office is 25 miles from where the worker lives and he has to drive there, he will spend, just on gas, about \$8.80 per trip.¹² Considering that workers usually **have to make multiple trips** to an SSA office to fix an error, these costs will be doubled, tripled, or more, depending on how many times he must visit the office.
 - *Low-wage workers.* Many workers are trying to scrape by on the minimum wage, or, in some cases, even subminimum wages.¹³ Having to pay E-Verify-related costs would be an **added burden** that they should not have to bear.

H.R. 1772 is too expensive for taxpayers.

- According to the CBO, enacting the Legal Workforce Act would increase federal budget deficits by **\$30 billion**¹⁴ and cost the federal government—and U.S. taxpayers—over \$1 billion to implement.¹⁵
- The \$1 billion that would have to be spent to implement the E-Verify nonsolution would be better spent:
 - providing **341,296,928 free meals** to school children¹⁶
 - helping build **26,411 units** for low-income **housing**¹⁷
 - helping **keep 10,000,000 low-income families warm**¹⁸
 - providing three months of **counseling to 1,000,000 abused children**¹⁹

IN SHORT, THE LEGAL WORKFORCE ACT is too costly for U.S. employers, workers, and taxpayers. Instead of expensive proposals that would make our broken immigration system worse, Congress should offer real solutions, including commonsense immigration reform that provides a road to citizenship for the 11 million aspiring Americans in our communities.

FOR MORE INFORMATION, CONTACT

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¹ H.R. 1772, as introduced, is available at www.gpo.gov/fdsys/pkg/BILLS-113hr1772ih/pdf/BILLS-113hr1772ih.pdf.

² For more information about the Legal Workforce Act, see *Legal Workforce Act (H.R. 1772): Summary of Its Main Provisions* (NILC, June 2013) and *Lamar Smith's Employment Eligibility Verification System: Harmful to the Economy and Dangerous to U.S. Workers* (NILC, May 2013), both available at www.nilc.org/irhouse2013.html#lwa.

³ *Congressional Budget Office Cost Estimate: H.R. 1772: Legal Workforce Act* (Congressional Budget Office, Dec. 17, 2013), <http://cbo.gov/sites/default/files/cbofiles/attachments/hr1772.pdf>, p. 7.

⁴ Jason Arvelo, "Insight: 'Free' E-Verify May Cost Small Businesses \$2.6 Billion," *Bloomberg*, Jan. 28, 2011.

⁵ *Id.* Employers have to spend money on E-Verify training and staff time. According to Bloomberg, "Small businesses estimated they spent a total of \$36 million on E-Verify in fiscal 2008," which "equates to \$81 million in fiscal 2010, adjusting for inflation and usage that more than doubled in those two years." *Id.*

⁶ See "Who Are Farmworkers?," www.splcenter.org/sexual-violence-against-farmworkers-a-guidebook-for-criminal-justice-professionals/who-are-farmworker, a section of *Sexual Violence Against Farmworkers: A Guidebook for Criminal Justice Professionals* (Southern Poverty Law Center, April 2010), www.splcenter.org/get-informed/publications/sexual-violence-against-farmworkers-a-guidebook-for-criminal-justice-professionals.

⁷ Dan Griswold, *ICE Worksite Enforcement – Up to the Job?: Testimony Before the Subcommittee on Immigration Policy and Enforcement, Committee on the Judiciary, U.S. House of Representatives* (Cato Institute, Jan. 26, 2011), www.cato.org/pub_display.php?pub_id=12730.

⁸ The Legal Workforce Act requires all employers to use E-Verify for newly hired employees. The bill would also allow employers to reverify their current workforce using E-Verify. Over the 12 months ending in March 2013, total U.S. hires were 51.8 million. See "Job Openings and Labor Turnover—March 2013," a Bureau of Labor Statistics News Release, May 7, 2013, www.bls.gov/news.release/pdf/jolts.pdf, p. 3. The most recent government study of E-Verify found that 0.3 percent of workers were erroneously issued an initial system mismatch. *Evaluation of the Accuracy of E-Verify Findings* (Westat, 2012), www.uscis.gov/sites/default/files/USCIS/Verification/E-Verify/E-Verify_Native_Documents/EVerify%20Studies/Evaluation%20of%20the%20Accuracy%20of%20EVerify%20Findings.pdf, pp. x, 23. Fifty-one point eight million multiplied by 0.3 percent equals 155,400 (about 150,000) workers who would experience an initial mismatch. Because the Legal Workforce Act allows employers to reverify all workers, this could result in E-Verify being applied to the entire workforce. As of March 2014, the U.S. workforce was 156,227,000. See "Table A-1: Employment Status of the Civilian Population by Sex and Age" (Bureau of Labor Statistics, U.S. Dept. of Labor, April 4, 2014), www.bls.gov/news.release/empsit.t01.htm. 156,227,000 multiplied by 0.3 percent is 468,681 (about 500,000) workers who would receive an initial system mismatch if E-Verify were used on the entire workforce.

⁹ Letter to Rep. John Conyers, Chair, Committee on the Judiciary, U.S. House of Representatives, from Peter Orszag, Director, Congressional Budget Office, Apr. 4, 2008, www.cbo.gov/ftpdocs/91xx/doc9100/hr4088ltr.pdf. The letter provides a cost estimate for H.R. 4088, the Secure America Through Verification and Enforcement Act of 2007.

¹⁰ *Id.*

¹¹ The federal minimum wage is \$7.25, and an average workday is 8 hours. These numbers were arrived at by multiplying the hours lost by the minimum wage. See *Minimum Wage* (Wage and Hour Div., U.S. Dept. of Labor), www.dol.gov/whd/minimumwage.htm.

¹² The average price per gallon of gasoline was \$3.53 on Mar. 26, 2014, and the average car uses about 20 miles per gallon (MPG). See AAA's *Daily Fuel Gauge Report*, <http://fuelgauge.aaa.com/index.asp> (since the website is updated daily, the average prices cited will vary depending on the date it is accessed).

The trip-expense figure was arrived at by dividing the roundtrip distance (to the SSA office and back) by the average MPG, then multiplying that result by the average gasoline price.

¹³ Not all workers have a legal right to the minimum wage. See Jeanne Sahadi, “Many Low-Wage Workers Not Protected by Minimum Wage,” *CNNMoney*, Apr. 23, 2014, <http://money.cnn.com/2014/04/23/smallbusiness/minimum-wage-exemptions/>. And many workers who have the legal right to receive the minimum wage are paid subminimum wages illegally. See Annette Bernhardt, et al., *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America’s Cities* (Center for Urban Economic Development, National Employment Law Project, and UCLA Institute for Research on Labor and Employment, 2009), http://nelp.3cdn.net/59719b5a36109ab7d8_5xm6bc9ap.pdf.

¹⁴ *Congressional Budget Office Cost Estimate: H.R. 1772: Legal Workforce Act*, *supra* note 3, p. 1. These costs are calculated over 10 years.

¹⁵ *Id.*

¹⁶ The costs of E-Verify, both in terms of increases to federal deficits and implementation, are calculated by the CBO over a 10-year term. To achieve the 341,296,928 estimate, NILC used 2013 data provided by the National School Lunch Program. The National School Lunch Program reimburses schools \$2.93 per free lunch they provide. *National School Lunch Program* (Food and Nutrition Service, U.S. Dept. of Agriculture, Sept. 2013), www.fns.usda.gov/sites/default/files/NSLPFactSheet.pdf, p. 2.

¹⁷ The costs of E-Verify, both in terms of increases to federal deficits and implementation, are calculated by the CBO over a 10-year term. To achieve the 26,411 estimate, NILC used the tax credit allocated to build each low-income unit: \$37,863. Jean L. Cummings and Denise DiPasquale, *Building Affordable Rental Housing: An Analysis of the Low-Income Housing Tax Credit* (City Research, Feb. 1998), www.cityresearch.com/lihtc/cr_lihtc.pdf, p. 9.

¹⁸ The costs of E-Verify, both in terms of increases to federal deficits and implementation, are calculated by the CBO over a 10-year term. The 10,000,000 estimate was calculated based on the benefit an average low-income family (in Pennsylvania) can receive to help offset heating costs. A low-income family of three can receive \$100 to help pay its gas bills. *LIHEAP Benefit Amount Table* (Pennsylvania Dept. of Public Welfare, webpage last modified Jan. 23, 2014), www.dpw.state.pa.us/foradults/heatingassistanceliheap/liheapbenefitamounttable/index.htm.

¹⁹ The costs of E-Verify, both in terms of increases to federal deficits and implementation, are calculated by the CBO over a 10-year term. The 1,000,000 estimate was calculated based on the fact that three months of counseling costs \$1,000. *How You Can Help* (Child Abuse Prevention Association), www.childabuseprevention.org/content/how-you-can-help.