

## TALKING POINTS

### Oppose State and Local Proposals to Make Basic Pilot/E-Verify Mandatory

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■ **State and local proposals that require participation in the Basic Pilot/E-Verify program are likely preempted by federal law.\*** Proposals that attempt to regulate the employment and hiring of unauthorized workers may be preempted by federal immigration law. Nothing in federal law requires that an employer use an electronic verification program to determine the immigration status of those who make up its current workforce. Enactment of these proposals could subject states and localities to unnecessary litigation that will waste taxpayers' money, as some localities have already discovered.

■ **Inaccurate federal databases prevent employment-authorized individuals from being approved for work.** The Social Security Administration estimates that 17.8 million of its records contain discrepancies related to name, date of birth, or citizenship status, with 12.7 million of those problem records pertaining to U.S. citizens. According to a 2007 independent evaluation of Basic Pilot/E-Verify, the "the database used for verification is still not sufficiently up to date." Due to database errors, foreign-born workers (including those who have become U.S. citizens) are 30 times more likely than native-born U.S. citizens to be incorrectly identified as not authorized for employment.

■ **Unscrupulous employers use the program to discriminate against workers.** The 2007 independent evaluation also found that unscrupulous employers misused Basic Pilot/E-Verify to unlawfully prescreen potential employees, retaliate against workers, and engage in other unlawful activities. While these practices are prohibited, the U.S. Department of Homeland Security has admitted that its efforts to monitor the program have "been limited by lack of staff available to oversee and examine employer use of the program."

■ **The cost is high for businesses.** According to the U.S. Chamber of Commerce, the costs incurred by employers include: training employees to comply with Basic Pilot/E-Verify's requirements, devoting a great deal of human resources staff time to verifying and reverifying employment eligibility, resolving data errors, and dealing with wrongful denials of eligibility. These costs could be felt more significantly by small employers, despite their having relatively fewer new employees to screen, if they are required to invest in Basic Pilot/E-Verify-related computer equipment, staffing, and training.

■ **Workers' privacy could potentially be compromised because DHS databases do not comply with government and industry-based standards for protecting information.** In 2006, the U.S. House of Representatives Oversight and Government Reform Committee gave DHS a "D" in computer security (up from an "F" for the previous 3 years). Anyone posing as an employer can access Basic Pilot/E-Verify and all its data because DHS does not screen those who enroll in the program to verify that they are bona fide employers. According to The Heritage Foundation, Basic Pilot/E-Verify "would run afoul of legitimate privacy concerns."

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#### FOR MORE INFORMATION, CONTACT

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\* For more information on Basic Pilot/E-Verify, see "Why States and Localities Should Not Require Employer Participation in the Basic Pilot Program" (NILC, Jan. 2008),

[www.nilc.org/immsemplymnt/ircaempverif/basicpilot\\_stateslocalities\\_2008-01-15.pdf](http://www.nilc.org/immsemplymnt/ircaempverif/basicpilot_stateslocalities_2008-01-15.pdf)



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