

2011 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HCR 3045

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee  
Fort Union Room, State Capitol

HCR 3045  
March 17, 2011  
15634

Conference Committee

Committee Clerk Signature

*Carmen Hart*

## Explanation or reason for introduction of bill/resolution:

Directing the Legislative Management to study the feasibility and desirability of requiring private or public employers or both to use the federal E-Verify program for new hires

## Minutes:

**Chairman Bette Grande** opened the hearing on HCR 3045.

**Rep. Corey Mock, District 42**, appeared to introduce at the request of a constituent HCR 3045 related to an e-verify system. He read the correspondence he received from the constituent requesting he introduce that legislation. These were some points stated in that correspondence. You should know that 96.9% of those checks through e-verify are automatically authorized for employment within seconds. Of the remaining 3.1% only .3% needed to clear up errors in their social security administration records. The rest were unauthorized to work in the United States. Already 1 in 4 new hires in the United States are being checked for workplace eligibility under e-verify. Every employer in the union is authorized to use an e-verify system. They can choose to verify the employment status of all potential new hires. However, in 12 states some form of it is required. A handout of information about e-verify was presented to committee members. **Attachment 1**. I do think it is something worth considering for the interim.

**Rep. Lisa Meier:** Do we have any idea of what we are looking at for cost for something like this?

**Rep. Corey Mock:** That is the purpose of the study. I don't know what the cost is. It is to determine the feasibility of it. There are 12 states that in some capacity do require it. In some cases it is all for employers, public and private. The majority is for state contractors or government employees. What I would hope that we would accomplish if we choose it for a study is that we check the cost and we determine the longevity of the program. It is a federal program. It was a trial program. It was originally established to be a trial run and it is now operating on continuing appropriations year after year. It is my understanding that it hasn't been funded to be in existence indefinitely, again, another important part to consider when studying.

**Rep. Karen Rohr:** On Page 2 of the handout, it indicates 14 states that use the e-verify system and of those 14 states, only 2 of them have indicated that the private people use it. Any idea why that would be?

**Rep. Corey Mock:** I stand corrected. Fourteen states have used it. Twelve states are the ones that require it only for government based employment or potential employees paid for by government dollars. I think that is a local issue. Each state when considering a requirement for an e-verify has had to take into consideration whether or not private employers have to use it. It also is my understanding that there have been some challenges when requiring private employers to use it. That may have also been an influence when the other 12 states said only for public sector jobs.

There was no one opposed or neutral to this bill.

The hearing was closed.

Discussion followed a little later on.

**Rep. Glen Froseth:** Being this is a resolution that will be forwarded to the legislative management to study, does this mean that if this passes, it would be a mandate for the legislative management to study in the next interim?

**Chairman Bette Grande:** Good question. I don't know how those wordings work because I don't see anything about shall in here. Since it is a resolution, does that make it a must?

**Rep. Glen Froseth:** I don't know. Most of the studies come in a bill form.

**Chairman Bette Grande:** Do you have the answer to that?

**Rep. Corey Mock:** Not specifically, but Jen Clark from Legislative Council was the one that drafted the language. I would encourage contacting her to verify that. I have no problem with this being an optional, shall consider, and if the wording needs to be changed to reflect that intent that would be more than okay with me.

**Rep. Lonny Winrich:** My recollection is that, not too long ago, virtually all interim studies were proposed through resolutions and they were optional. There were a few that the powers to be did not want to be optional. They wanted to force the study. Those were put into bills and made mandatory because a bill is law. A resolution is sort of an advisory piece.

Steven Podoll, law intern, stated that it was optional.

**Rep. Lonny Winrich:** Since it is a resolution I am pretty sure that is optional.

**Rep. Glen Froseth:** You know the language on Line 18 could be taken either way. To me it would read that it is a mandate that the legislative management study the feasibility. It doesn't say shall or may. We should get a clarification on that.

**Chairman Bette Grande:** It would be good to know because the next bill is worded very similar to the same type of thing. I don't know what e-verify is so I want to read through this.

**Jennifer Clark, Legislative Council,** later stated that if the legislative assembly passes it, legislative management would meet this spring and decide whether to prioritize the study. This is not a mandatory study.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee  
Fort Union Room, State Capitol

HCR 3045  
March 18, 2011  
15696

Conference Committee

Committee Clerk Signature	<i>Carmen Hart</i>
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## Explanation or reason for introduction of bill/resolution:

Directing the Legislative Management to study the feasibility and desirability of requiring private or public employers or both to use the federal E-Verify program for new hires

## Minutes:

**Chairman Bette Grande** opened the discussion on HCR 3045. I am looking at the e-verify handout. It says that it expires September 30, 2012. My concern is if federal funding and everything is going away on 2012, what is the point?

**Rep. Roscoe Streyle:** I move a do not pass.

**Rep. Karen Rohr** seconded the motion.

**Rep. Vicky Steiner:** I am going to vote against this. We are getting a lot of transient workers out West with the oil boom. My husband and I owned a maid service briefly for a couple years in Big Sky, Montana, and we hired a lot of transient workers through that business. It is really important that there is documentation and that we know where these people are. If a crime is committed, it is very difficult to track them if you have day workers who come in and then there is a problem and there is a crime committed if there isn't an address. The more verification we have on where people are living, where they're from, and that they are citizens and that they should be working in our state is important for the aspects if the crime is committed and you need to find them. In the West we have so many people coming and going. I am going to vote against this because I think the more information we have on our workforce, the better.

**Chairman Bette Grande:** What I think is interesting is the completion of an I-9 form and once completed that form is asking for name, date of birth, social security number, citizen status. You have to furnish all of that to be employed anyway. I don't see where that is adding anything different or changing anything.

**Rep. Vicky Steiner:** When you look at the 14 states who are doing that and the number one is Arizona. I have a real concern about the day workers that we have coming through our state. I didn't see anything that was a boogieman in there in some of these states who have those situations where they have a lot of people coming and going. I don't think it can hurt.

**Rep. Gary Paur:** Whether we approve or disapprove the resolution, employers can still e-verify, right?

**Chairman Bette Grande:** Yes, I believe so.

**Rep. Lonny Winrich:** I think it is voluntary and they could use it. By passing this resolution, we are not going to require them to use it. We are going to study the possibility of doing that and actually the legislative management will decide whether we study or not. This just proposes it to them. Issues like the 2012 sunset and so on whether that might get extended or not are things to determine in the study. I think as Rep. Steiner said that this would be a good thing to look into.

**Rep. Karen Karls:** Rep. Steiner, did you personally use e-verify in your business?

**Rep. Vicky Steiner:** No, it was probably six years ago or so. We had the forms that they list in here but I would have loved to have had some type of national database to double check social security numbers and what not because we had a lot of Mexican workers who were with us. They give you their numbers and you write it down but you don't really have a chance to really verify anything on a national database. I think that is what e-verify is trying to do is match things up to see if you have fraud.

**Rep. Karen Karls:** I guess what I was looking for was how well does this system work? I have heard something somewhere that they weren't getting the help they needed from e-verify, but I don't know that for sure.

**Chairman Bette Grande:** As Rep. Winrich pointed out, that is what we would find out by studying this. Maybe the study would be looking at these 14 states, why and how you are doing it, and if it is working and what have you found as the pros and cons. I don't agree with the principle of national databases. I have a real issue with those. That could be addressed in the study.

**Rep. Vicky Steiner:** I just happened to see a report last week where there were day workers and there was a murder in a complex in Florida. There were a lot of day workers who they just need employment for that day and they could not track.

**Rep. Roscoe Streyle** withdrew his motion.

**Rep. Karen Rohr** withdrew her second.

**Rep. Lonny Winrich** moved for a do pass.

**Rep. Lisa Meier** seconded the motion.

**DO PASS, 9 YEAS, 4 NAYS. Rep. Ron Guggisberg is the carrier of this bill.**

Date: 3-18-11  
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 3045

House GOVERNMENT AND VETERAN AFFAIRS Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do Pass  Do Not Pass  Amended  Adopt Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Streyle Seconded By Rohr

Representatives	Yes	No	Representatives	Yes	No
Chairman Bette Grande			Bill Amerman		
Vice Chairman Randy Boehning			Ron Guggisberg		
Glen Froseth			Lonny Winrich		
Karen Karls					
Lisa Meier					
Gary Paur					
Karen Rohr					
Mark Sanford					
Vicky Steiner					
Roscoe Streyle					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*Later  
both  
withdrew  
motions*

Date: 3-18-11  
 Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 3045

House GOVERNMENT AND VETERAN AFFAIRS Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do Pass  Do Not Pass  Amended  Adopt Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Winrich Seconded By Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Bette Grande	✓		Bill Amerman	✓	
Vice Chairman Randy Boehning	✓		Ron Guggisberg	✓	
Glen Froseth	✓		Lonny Winrich	✓	
Karen Karls		✓			
Lisa Meier	✓				
Gary Paur		✓			
Karen Rohr		✓			
Mark Sanford	✓				
Vicky Steiner	✓				
Roscoe Streyle		✓			

Total (Yes) 9 No 4

Absent 0

Floor Assignment Guggisberg

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HCR 3045: Government and Veterans Affairs Committee (Rep. Grande, Chairman)**  
recommends **DO PASS** (9 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING).  
HCR 3045 was placed on the Eleventh order on the calendar.

2011 SENATE GOVERNMENT AND VETERANS AFFAIRS

HCR 3045

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee  
Missouri River Room, State Capitol

HCR3045  
March 31, 2011  
16213

Conference Committee

Committee Clerk Signature

## Explanation or reason for introduction of bill/resolution:

A concurrent resolution directing the Legislative Management to study the feasibility and desirability of requiring private or public employers or both to use the federal E-Verify program for new hires

## Minutes:

*Testimony attached*

**Corey Mock:** District 42, Grand Forks. See attached testimony #1. This is a pilot program; one that that we would need to look at as a state is if it is going to exist in the long run, that would be one of the tasks of the interim committee reviewing it.

**Senator Berry:** What will this do to help North Dakotans?

**Corey Mock:** Currently it is optional for employers to participate in it. I am not sure if there are a large number of people who use it, the study would take a look at the questions you are asking. It would serve a valuable purpose.

**Senator Berry:** But what is it checking?

**Corey Mock:** To ensure all employed peoples is eligible to work in North Dakota. It is an effort to cut down on the number of new hires that may not be able to be work in this area.

**Vice Chairman Sorvaag:** My understanding is that the E-9 is the form that we have our employees fills out. This is just a national database?

**Corey Mock:** It is a data base that is used through the Social Security Administration. The employer would collect the information, check the database to ensure that there is compliance.

**Chairman Dever:** I think that regarding the liability that the employer faces would be cut down with the implementation of this program. .

**Senator Nelson:** If E Verify is set to expire in 2012 why is there an expiration date on a database?

**Corey Mock:** It is a pilot program, and the program has continued as its usage has continued.

**Senator Nelson:** How is this supposed to prevent you from hiring an illegal resident?

**Vice Chairman Sorvaag:** Usually the day you hire them is not the day you start.

**Dave Kemnitz:** President of ND AFL/CIO. See attached testimony #2.

**Chairman Dever:** Does AFL/CIO screen applicants?

**Dave Kemnitz:** No.

**Senator Berry:** What you are saying is that the I-9 requires the notification and by adding the E Verify to the I-9 you are going to be able to come up with who is available to work.

**Dave Kemnitz:** Yes and to safeguard the existing workers we have.

**Senator Berry:** Just for new hires?

**Dave Kemnitz:** There is a gray area. You may have to begin to put into the database all the employees and that is their basic search tool as to if they are legit or not. Under today's law a person who fills out the I-9 form is not required to put a social security number on it. Once it is used it goes in the database.

**Senator Nelson:** Is the I-9 an IRS requirement?

**Chairman Dever:** The form comes from homeland security in partnership with the Social Security Administration.

**Dave Kemnitz:** If there is an issue with the social security has and then they need to update their.

**Laurie Sterioti-Hammeren:** Head of Human Resources. We are cautioned about this because if there is information that is put into the database that has to do with identity theft they won't catch that. Currently if you are working on a government contract you are required to use E Verify. The state does have the requirement to fill out the I-9. I hear from the payroll people that it works and it is effective.

**Senator Nelson:** You wouldn't have a problem with the study to see what this is all about?

**Laurie Sterioti-Hammeren:** I wouldn't but I am concerned if you have wrong information going in.

**Senator Berry:** Doesn't catch fraudulent information, can you expand?

**Laurie Sterioti-Hammeren:** If someone is using someone else's information it wouldn't catch it.

There was no further testimony in support, opposition, or a neutral position. Chairman Dever closed the public hearing on HCR 3045.

## 2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee  
Missouri River Room, State Capitol

HCR 3045  
March 31, 2011  
16258

Conference Committee

Committee Clerk Signature

### Explanation or reason for introduction of bill/resolution:

A concurrent resolution directing the Legislative Management to study the feasibility and desirability of requiring private or public employers or both to use the federal E-Verify program for new hires

### Minutes:

*No testimony attached*

A motion was made for a do pass by Senator Berry with a second by Vice Chairman Sorvaag, there was no further discussion, roll was taken and the motion passed 7-0 with Senator Berry carrying the bill to the floor.

Date: \_\_\_\_\_  
Roll Call Vote # \_\_\_\_\_

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 3045

Senate SGA Committee \_\_\_\_\_

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Benny Seconded By Sorvaag

Senators	Yes	No	Senators	Yes	No
Chairman Dever	X		Senator Marcellais	X	
Vice Chairman Sorvaag	X		Senator Nelson	X	
Senator Barry	X				
Senator Cook	X				
Senator Schaible	X				

Total (Yes) 7 No 0

Absent \_\_\_\_\_

Floor Assignment Benny

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HCR 3045: Government and Veterans Affairs Committee (Sen. Dever, Chairman)**  
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
HCR 3045 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

HCR 3045

### **What is E-Verify**

The E-Verify program was created as a voluntary Internet-based pilot program to help employers verify the work authorization of new hires. It applies to U.S. citizens and noncitizens. Originally known as the Basic Pilot/Employment Eligibility Verification Program, the program was renamed E-Verify in 2007. The program is administered by the U.S. Department of Homeland Security in partnership with the Social Security Administration.

### **When and how was it created?**

The Basic Pilot program was established by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), P.L. 104-208, signed September 30, 1996, citation: 8 U.S.C. 1324a. The program started in California, Florida, Illinois, New York and Texas (1997) with Nebraska joining in 1999. Congress authorized the expansion of the pilot program to employers in all 50 states in 2003.

### **When will E-Verify expire?**

September 30, 2012. IIRIRA required the termination of the pilot program after four years (allowing for a one-year implementation). It was extended for two years in 2002 and five more years in 2003 (until November 30, 2008). See the Basic Pilot Program Extension and Expansion Act of 2003, Public Law 108-156. Congress passed a continuing resolution extending budgets of certain federal agencies until March 2009, including E-Verify (HR 2638). Congress then passed the Omnibus Appropriations Act of 2009 in March, extending the budget of E-Verify until September 2009 (Public Law 111-8). Another three-year extension was approved in the Department of Homeland Security appropriations in October 2009, P.L. 111-83.

### **How does E-Verify work?**

All employers must first complete an I-9 form for every new hire, within three business days of the date the employee starts work. Employers may not begin the I-9 process until after the individual is hired. The employer and newly-hired employee jointly complete the I-9 Employment Eligibility Verification form. The form asks for employee's name and date of birth; social security number; citizenship status; an A number or I-94 number if applicable; documentation to establish work authorization; and proof of identity and expiration date, if applicable. Employees may choose from several documents to prove identity and authorization to work, such as a U.S. passport or unexpired employment authorization card, or a combination of a driver's license and social security card. Documents must appear genuine. <http://www.uscis.gov/files/native/documents/m-274.pdf>

An employer then enters information from the I-9 form into the E-Verify system, where it is compared against 455 million records in the Social Security Administration (SSA) database and 80 million records in the Department of Homeland Security's (DHS) immigration databases. Most inquiries are resolved within 72 hours. Some inquiries can't be confirmed instantly by DHS ("tentative nonconfirmation notices") due to changes in citizenship status, name changes (e.g., marriage/divorce), or typographical errors.

To resolve a nonconfirmation notice, the employee must visit an SSA office or call DHS toll-free. The employee has eight federal workdays to start resolving the case. About one-half of those who receive a nonconfirmation notice contest the notice. Of these, about half of the employees will follow up.

### **What is the current usage and capacity?**

The U.S. Citizenship and Immigration Services (USCIS) reports that as of December 11, 2010 more than 238,000 employers have registered with the program, with 16 million inquiries in FY2010. In FY2009, there were 8.7 million inquiries, in FY 2008, 6.6 million, and 3.27 million in FY2007. There are an estimated 7 million employers in the United States and 60 million new hires per year. The 2007 Westat evaluation estimated that 4 percent of newly hired workers are verified using the system.

### **How well does E-Verify work?**

A December 2010 GAO report found that USCIS has improved the accuracy of E-Verify, immediately confirming 97.4 percent of 8.2 million new hires in 2009, up from 92 percent in 2007. The report notes that E-Verify remains vulnerable to identity theft and employer fraud. Name mismatches (multiple or hyphenated names) can still lead to tentative nonconfirmation notices. GAO recommends that USCIS disseminate information to employees to consistently record names and to develop procedures to help employees correct inaccurate information. GAO also recommended that USCIS develop reliable cost estimates for E-Verify. The 81-page report, "Employment Verification: Federal Agencies Have Taken Steps to Improve E-Verify, but Significant Challenges Remain" can be found at <http://www.gao.gov/new.items/d11146.pdf>.

Previous study: An evaluation conducted by Westat in 2007 for DHS found that the accuracy of the USCIS database had improved substantially. However, the error percentage was still too high for it to become a mandated program. The report finds that "the database used for verification is still not sufficiently up to date to meet the IIRIRA requirement for accurate verification." SSA estimated that 4.1 percent, or 17.8 million records, contained discrepancies related to name, date of birth or citizenship status; 12.7 million of these pertained to U.S. citizens. Westat reported that for the July-September 2008 quarter, 96.9 percent of employees attesting to be U.S. citizens were automatically confirmed as authorized to work instantly or within 24 hours (up from 96.1 percent in the previous quarter). Westat's 2007 study noted significantly different rates between citizen and noncitizen cases. Only 72 percent of lawful permanent residents and 63 percent of immigrants authorized to work were confirmed automatically.

### **How is it enforced?**

The Immigration Reform and Control Act of 1986 established a prohibition on employers from hiring unauthorized workers and established criminal and civil sanctions. Citation: 8 USC 1324a(h)(2). USCIS is responsible for verification of documents and Immigration and Customs Enforcement (ICE) is responsible for enforcement. Both USCIS and ICE are part of DHS. To participate in E-Verify, employers sign a Memorandum of Understanding that sets out responsibilities for USCIS, SSA and the employer. The law also created civil rights protections against unfair immigration-related employment practices. The Office of Special Counsel in the U.S. Department of Justice is the law enforcement agency charged with enforcement against discrimination on the basis of citizenship, immigration status or national origin discrimination. See section 274(b) INA. <http://www.justice.gov/crt/osc/htm/article.htm>

### **What is required of federal contractors?**

As of September 8, 2009, federal contractors or subcontractors are required to use E-verify to determine employment eligibility of employees performing direct work on the contract and new hires. It applies to federal contracts that contain the Federal Acquisition Regulation E-Verify Clause. It exempts contracts of less than 120 days and valued at less than \$100,000 and subcontracts valued at less than \$3,000.

Background: President Bush amended Executive Order 12989 on June 6, 2008, requiring all federal contractors to verify the employment eligibility of all persons hired during the contract term and all persons performing work within the United States on the federal contract by using the employment eligibility verification system (E-Verify). It was scheduled to go into effect on January 15, 2009, but implementation was delayed subsequent to a lawsuit. The lawsuit filed by multiple parties, including the U.S. Chamber of Commerce, challenged the use of the Executive Order on the grounds that it circumvented the Congressional prohibition in mandating the use of E-Verify for federal contracts through IIRIRA.

### **What states currently address the use of E-Verify?**

Fourteen states require the use of E-Verify for public and/or private employers, eleven through legislation and three through executive orders. One state, Illinois, enacted legislation to limit the use of E-Verify until the database accuracy is improved and also created privacy and antidiscrimination protections. At least two states, Pennsylvania and Tennessee, encourage its use through providing a safe harbor from state penalties for employers enrolled in E-Verify.

**Table: States Requiring E-Verify**

	<b>State</b>	<b>Citation</b>	<b>Year</b>	<b>Applies to:</b>
1	Arizona	HB 2779 HB 2745	2007 2008	all employers, public and private
2	Colorado	HB 1343 SB139, SB193	2006 2008	state contractors
3	Georgia	SB 529 HB 2 SB 447	2006 2009 2010	state agencies, contractors, and subcontractors
4	Idaho	Executive Order	2006	state agencies, contractors
5	Minnesota	Executive Order	2008	state agencies, state contracts
6	Mississippi	SB 2988	2008	all employers, public and private
7	Missouri	HB 1549 HB3	2008 2009	public employers, contractors and subcontractors
8	Nebraska	L403	2009	Public employers, public contractors
9	North Carolina	SB 1523	2006	state agencies
10	Oklahoma	HB 1804	2007	public employers, contractors, subcontractors
11	Rhode Island	Executive Order	2008	state agencies, grantees, contractors, subcontractors
12	South Carolina	HB 4400	2008	all employers, public and private, phased in by 2010
13	Utah	SB 81 SB 39	2008 2009	public employers, contractors, subcontractors
14	Virginia	H 737	2010	state agencies

## Require Use of E-Verify (14 states)

**Arizona.** The Arizona Fair and Legal Employment Act (**HB 2779**), enacted in 2007, prohibits employers from knowingly hiring unauthorized workers and requires all employers to use the Basic Pilot Program to verify employment eligibility. It establishes substantial penalties and threatens noncompliant employers with suspension and potential revocation of their business licenses. Effective date Jan. 1, 2008. **Arizona HB 2745**, enacted in 2008, prohibits government contracts to any contractor and subcontractor that fails to use E-Verify. It provides that companies can be punished only for unauthorized workers they hired after January 1, 2008 and that a violation at one location of a company shuts down only that location, not the entire corporation. The Arizona Attorney General is required to establish a Voluntary Employer Enhanced Compliance Program. Effective May 1, 2008.

**Colorado. HB 1343** (signed 6/6/2006) prohibits state agencies from entering into contract agreements with contractors who knowingly employ illegal immigrants and requires prospective contractors to verify legal work status of all employees. The contractor must confirm that the Basic Pilot Program has been used to verify the status of all employees. If the contractor discovers that an illegal alien is employed, the contractor must alert the state agency within 3 days. Colorado SB 139 (Signed 5/20/2008) requires that employers be notified of the prohibition against hiring an unauthorized alien and the availability of and participation requirements for the federal E-Verify program. The Act requires the Department of Labor and Employment's website to provide this information. Effective August 6, 2008. Colorado SB 193 (Signed 5/13/2008) creates a program to allow a contractor to verify employment eligibility of all employees under a public contract and requires future participation in the Federal Electronic Employment Eligibility Program or the department program to verify the employment eligibility of certain employees. Effective August 6, 2008.

**Georgia.** The Georgia Security and Immigration Compliance Act, **SB 529**, covered employment, enforcement, and benefits and was signed by the Governor on April 17, 2006. The law requires public employers, contractors and subcontractors with 500 or more employees to participate in E-Verify for all new employees beginning July 1, 2007. The law is phased in for public employers, contractors and subcontractors with 100 or more employees effective July 1, 2008; and for all employers by July 1, 2009. **Georgia HB 2** (signed 5/11/2009) requires every public employer, (including municipalities and counties), contractors and subcontractors to verify employment eligibility of all newly-hired employees with the federal work authorization program, effective January 1, 2010. No employer or agency or political subdivision shall be subject to lawsuit or liability arising from any act to comply with these requirements. **Georgia SB 447** (signed 5/20/2010) requires public employers to retain, for five years, affidavits submitted by state contractors affirming their participation in the federal work authorization program. The law requires contractors to notify public employers of new subcontractors. SB447 requires the Commissioner to conduct 100 random audits annually of public employers and contractors and to seek funding from the U.S. Secretary of Labor. Violations convicted for false statements on affidavits shall be prohibited from public contracts for 12 months.

**Idaho Executive Order.** On December 13, 2006, Governor Jim Risch issued an executive order requiring that state agencies participate in the E-Verify system. Also, all workers employed to the state through contractors must also be from companies that have been verified to have eligible employees.

**Minnesota Executive Order.** Governor Tim Pawlenty issued an executive order on Jan. 7, 2008, stating that all hiring authorities within the executive branch of state government as well as any employer seeking to enter into a state contract worth in excess of \$50,000 must participate in the E-Verify program. The Executive Order's effective date is January 29, 2008.

**Mississippi. SB2988** (signed 3/17/08) requires public and private employers to participate in E-Verify. The phase-in period is: all government agencies and businesses with more than 250 employees by July 1, 2008; companies with 100 to 250 employees by July 1, 2009; those with 30 to 100 employees by July 1, 2010; and all remaining companies by July 1, 2011. An employer violating the law is subject to the cancellation of public contracts, ineligibility for contracts for up to three years, and loss of business license for up to one year. The law also makes it a felony to accept or perform employment knowing or in reckless disregard of the immigrant's ineligibility to work, with penalties from one to five years of imprisonment and/or \$1,000 to \$10,000 in fines.

**Missouri. HB1549** (Signed 7/7/2008) requires E-Verify for public employers. All public employers must enroll and participate in a federal work authorization program. Any public contractor or subcontractor must, by sworn affidavit, affirm its enrollment and participation in a federal work authorization program. If a court finds that a business knowingly employed someone not authorized to work, the company's business permit and licenses shall be suspended for 14 days. Upon the first violation, the state may terminate contracts and bar the company from doing business with the state for 3 years. Upon the second violation, the state may permanently debar the company from doing business with the state. **H390** (signed July 7, 2009) specifies that the requirement for certain businesses to participate in a federal work authorization program will not apply after the federal government discontinues or fails to authorize or implement the program. Public contractors are required to provide affidavits of participation in the federal work authorization program annually. Onsite employees of a contractor or subcontractor on a public works project must complete a 10-hour Occupational Safety and Health Administration construction safety program or similar program.

**Nebraska (L403** signed April 8, 2009) requires every public employer and every public contractor to use a federal immigration verification system.

**North Carolina.** All state agencies, offices, and universities must use E-Verify, required by SB 1523 in 2006. This applies to employees hired on or after January 1, 2007, except for employees of local education agencies hired on or after March 1, 2007.

**Oklahoma.** The Oklahoma Taxpayer and Citizen Protection Act of 2007 (HB 1804) addressed multiple issues: transporting and harboring, driver's licenses, public benefits, law enforcement and employment. It made it a felony to transport or harbor unauthorized immigrants, with exceptions for health or benefits guaranteed by federal law. It requires public employers, contractors and subcontractors to participate in a federal electronic employment verification system and requires income tax withholding for independent contractors who do not have valid Social Security numbers. The law became effective Nov. 1, 2007.

**Rhode Island Executive Order.** On March 27, 2008, Governor Carcieri issued an executive order requiring executive agencies to use E-Verify; and for all persons and businesses, including grantees, contractors and their subcontractors and vendors to use E-Verify.

**South Carolina. HB 4400** (Signed 6/4/2008) requires public employers and public contractors to register and participate in the federal work authorization program E-Verify to verify all new employees. All public employers, private employers with more than 100 employees and public contractors with more than 500 employees must comply with the law's provisions on or after January 1, 2009; contractors with more than 100 employees on July 1, 2009; and all other contractors on January 1, 2010. The penalty for knowingly hiring unauthorized immigrants is a felony and punishable with up to five years in prison. The law provides for a private cause of action for an authorized employee, if he or she is discharged and replaced with an unauthorized employee.

**Utah. SB 81** (signed 3/13/08) requires public employers, public contractors and subcontractors to register and use the federal work authorization program. It is unlawful to discharge a lawful employee while retaining an unauthorized alien in the same job category. Effective July 1, 2009. **SB 39** (signed 3/23/2009) redefines a contract to mean an agreement for the procurement of goods or services that is awarded through a request for proposals process with a public employer, and includes a sole source contract. **Utah S.251** (signed March 31, 2010) requires private employers with more than 15 employees to verify the legal status of new employees via a federally approved employment verification system.

**Virginia H737** requires state agencies of the Commonwealth to enroll in the E-Verify program by December 1, 2012, and to use the program for each newly hired employee who will work in Virginia.

### Encourages the Use of E-Verify (2)

**Pennsylvania. HB 2319** (signed 5/11/2006) prohibits the use of illegal immigrant labor on projects and provides an affirmative defense if the contractor certifies compliance with Section 274A of the Immigration Reform and Control Act of 1986.

**Tennessee. HB 729**, signed into law on June 26, 2007 and effective January 1, 2008 states that employers who "knowingly employ, recruit or refer for a fee for employment an illegal alien" are subject to a temporary suspension of their business license; repeat

**Jeffrey Clouatre**  
**207 North 18th St • Grand Forks, ND 58203**

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February 6, 2011

State Rep. Corey Mock  
State Capitol, 600 East Boulevard Avenue  
Bismarck, 58505

Dear State Rep. Mock:

I would appreciate your assistance in sponsoring legislation that requires state and local governments, as well as private sector employers, to use the E-Verify system. Far too many in our state are unemployed and mandating E-Verify would help these unemployed Americans get jobs.

Workers in our state should not have to compete with illegal aliens for jobs, particularly during a recession.

If you are not familiar with E-Verify, you should know that 96.9 percent of those checked through E-Verify are automatically authorized for employment within seconds. Of the remaining 3.1 percent, only 0.3 percent needed to clear up errors in their Social Security Administration records. The rest are not authorized to work in the U.S.

Already, one in four new hires in the U.S. are being checked for workplace eligibility under E-Verify. The program has an extraordinarily high satisfaction rate and, contrary to what critics claim, is not a burden on employers and cannot be used selectively for verification based on foreign appearance.

Please help your unemployed constituents by sponsoring an E-Verify bill today.

Sincerely,

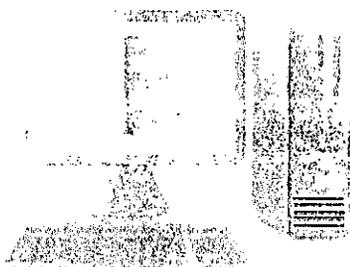
Jeffrey Clouatre  
Ph. (701) 772-7092

Compliments of  
North Dakota AFL-CIO



## U.S. Citizenship and Immigration Services

# What is E-Verify?



E-Verify is an Internet-based system that compares information from an employee's Form I-9, Employment Eligibility Verification, to data from U.S. Department of Homeland Security and Social Security Administration records to confirm employment eligibility.

### Why E-Verify?

Why do people come to the United States illegally? They come here to work. The public can, and should, choose to reward companies that follow the law and employ a legal workforce.

The U.S. Department of Homeland Security is working to stop unauthorized employment. By using E-Verify to determine the employment eligibility of their employees, companies become part of the solution in addressing this problem.

Employment eligibility verification is good business and it's the law.

### Who Uses E-Verify?

More than 225,000 employers, large and small, across the United States use E-Verify to check the employment eligibility of their employees, with about 1,000 new businesses signing up each week.

While participation in E-Verify is voluntary for most businesses, some companies may be required by state law or federal regulation to use E-Verify. For example, most employers in Arizona and Mississippi are required to use E-Verify. E-Verify is also mandatory for employers with federal contracts or subcontracts that contain the Federal Acquisition Regulation E-Verify clause.

*This page provides general information about E-Verify and is meant to provide an overview of the program. For instructions and policy guidance, visit the For Employers and For Employees sections of the website.*

Last updated: 09/30/2010

Plug-ins



## U.S. Citizenship and Immigration Services

*Compliments of  
North Dakota AFL-CIO*

# About the Program

E-Verify is an electronic program through which employers verify the employment eligibility of their employees after hire. The program was authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). In short, employers submit information taken from a new hire's Form I-9 (Employment Eligibility Verification Form) through E-Verify to the Social Security Administration and U.S. Citizenship and Immigration Services (USCIS) to determine whether the information matches government records and whether the new hire is authorized to work in the United States.

E-Verify is administered by the U.S. Department of Homeland Security, USCIS, Verification Division, and the Social Security Administration. The USCIS Verification Division is dedicated to providing program support, administering unparalleled customer service to both employers and workers, developing innovative technological solutions, and performing community outreach to further the mission of E-Verify. By extension, we facilitate federal agency and employer compliance with U.S. immigration law.

Throughout this section you can find more in-depth information on the E-Verify Program including news, statistics, usage guidelines and other useful information, including information about how to use the program appropriately and in a non-discriminatory manner.

- [What's New](#)
- [E-Verify Pressroom](#)
- [Statistics and Reports](#)
- [History and Milestones](#)
- [E-Verify Logo Usage Guidelines](#)
- [Our Commitment to Privacy](#)
- [Information for Employees](#)
- [Information for Employers and other E-Verify participants](#)

Last updated: 05/25/2010

Plug-ins

Department of Homeland Security  
U.S. Citizenship and Immigration Services

**Form I-9, Employment  
Eligibility Verification**

Read instructions carefully before completing this form. The instructions must be available during completion of this form.

**ANTI-DISCRIMINATION NOTICE:** It is illegal to discriminate against work-authorized individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because the documents have a future expiration date may also constitute illegal discrimination.

**Section 1. Employee Information and Verification** (To be completed and signed by employee at the time employment begins.)

Print Name: Last	First	Middle Initial	Maiden Name
Address (Street Name and Number)		Apt. #	Date of Birth (month/day/year)
City	State	Zip Code	Social Security #

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.	I attest, under penalty of perjury, that I am (check one of the following):
	<input type="checkbox"/> A citizen of the United States <input type="checkbox"/> A noncitizen national of the United States (see instructions) <input type="checkbox"/> A lawful permanent resident (Alien #) _____ <input type="checkbox"/> An alien authorized to work (Alien # or Admission #) _____ until (expiration date, if applicable - month/day/year)
Employee's Signature	Date (month/day/year)

**Preparer and/or Translator Certification** (To be completed and signed if Section 1 is prepared by a person other than the employee.) I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

Preparer's/Translator's Signature	Print Name
Address (Street Name and Number, City, State, Zip Code)	
Date (month/day/year)	

**Section 2. Employer Review and Verification** (To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number, and expiration date, if any, of the document(s).)

List A	OR	List B	AND	List C
Document title: _____	OR	_____	AND	_____
Issuing authority: _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____	_____	_____	_____	_____

**CERTIFICATION:** I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) \_\_\_\_\_ and that to the best of my knowledge the employee is authorized to work in the United States. (State employment agencies may omit the date the employee began employment.)

Signature of Employer or Authorized Representative	Print Name	Title
Business or Organization Name and Address (Street Name and Number, City, State, Zip Code)		Date (month/day/year)

**Section 3. Updating and Reverification** (To be completed and signed by employer.)

A. New Name (if applicable)	B. Date of Rehire (month/day/year) (if applicable)
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C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment authorization.

Document Title: _____	Document #: _____	Expiration Date (if any): _____
I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.		
Signature of Employer or Authorized Representative	Date (month/day/year)	

**LISTS OF ACCEPTABLE DOCUMENTS**

All documents must be unexpired

**LIST A**

Documents that Establish Both  
Identity and Employment  
Authorization

**LIST B**

Documents that Establish  
Identity

**LIST C**

Documents that Establish  
Employment Authorization

OR

AND

1. U.S. Passport or U.S. Passport Card	1. Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address	1. Social Security Account Number card other than one that specifies on the face that the issuance of the card does not authorize employment in the United States
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)		
3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa	2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address	2. Certification of Birth Abroad issued by the Department of State (Form FS-545)
4. Employment Authorization Document that contains a photograph (Form I-766)	3. School ID card with a photograph	3. Certification of Report of Birth issued by the Department of State (Form DS-1350)
	4. Voter's registration card	
5. In the case of a nonimmigrant alien authorized to work for a specific employer incident to status, a foreign passport with Form I-94 or Form I-94A bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, as long as the period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form	5. U.S. Military card or draft record	4. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal
	6. Military dependent's ID card	
	7. U.S. Coast Guard Merchant Mariner Card	5. Native American tribal document
	8. Native American tribal document	6. U.S. Citizen ID Card (Form I-197)
	9. Driver's license issued by a Canadian government authority	
6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI	For persons under age 18 who are unable to present a document listed above:	7. Identification Card for Use of Resident Citizen in the United States (Form I-179)
	10. School record or report card	8. Employment authorization document issued by the Department of Homeland Security
	11. Clinic, doctor, or hospital record	
	12. Day-care or nursery school record	

Illustrations of many of these documents appear in Part 8 of the Handbook for Employers (M-274)