

The "EEV" of Destruction

With the failure of Congress to reform the immigration laws last year, political leaders are searching for election-year achievements in this area. But the emerging consensus in favor of "electronic employment eligibility verification" will collapse when Americans [learn the details](#) [1] of the technical and regulatory contraption being proposed. By the fall, Congress will decide whether to renew, expand, or perhaps discard such a program. The lines of debate are being drawn now.

Recently, the [New Employee Verification Act](#) [2] joined the [SAVE Act](#) [3] and a dozen other bills in the House of Representatives that would require U.S. employers to submit every new employee to a database system for a background check. The state of Arizona started requiring its employers to do this on January 1, and several more states are considering it. A number of administration initiatives to expand and tighten electronic employment eligibility verification are underway as well.

All of this began with the Immigration Reform and Control Act in 1986. That legislation conscripted U.S. employers into immigration law enforcement by requiring them to collect [I-9 forms](#) [4] from new hires. This succeeded in hiding the cost of immigration law enforcement and bloated human resources departments across the country, but it didn't achieve results. Ten years later, with "internal enforcement" of immigration law failing to make any headway, the "Basic Pilot" program began. Renamed [E-Verify](#) [5] last year, its 52,000 participants—less than 1 percent of all employers—submit worker information to a government website for comparison against Social Security Administration and Department of Homeland Security databases.

When E-Verify cannot confirm a worker's eligibility, it issues the employer a "tentative nonconfirmation." If nonconfirmed workers do not present themselves at federal government offices within eight days for review of their papers, the government issues a "final nonconfirmation," barring them from working at their new jobs.

If E-Verify goes national, get used to hearing that Orwellian term: "nonconfirmation." In December 2006, the SSA's Office of the Inspector General estimated that the agency's "Numident" file—the data against which Basic Pilot checks worker information—has an error rate of 4.1 percent. This means that national employment eligibility verification would cause one in every 25 new hires to receive a tentative nonconfirmation. With 55 million new hires each year (there is churn in low-end jobs), that's about 11,000 tentative nonconfirmations per workday in the United States—a little more than 25 people per congressional district each day of the working week in the first year.

Illegal immigrants would respond dynamically, not passively. More would collude with employers to work under the table, avoiding E-Verify, other employment regulations, and taxes all at the same time. Others would deepen the minor identity frauds they commit today, getting the documents they need to access employment despite the database system.

E-Verify can pick up multiple uses of given identities and "nonconfirm" those identities. This would make it more difficult for illegal immigrants to work, of course, but it would have the same effect on American citizens. Victims of identity fraud today encounter financial difficulties; under national E-Verify, they would be unemployable.

Nonconfirmed citizens begging for the right to work at SSA and DHS offices would be treated as suspected identity thieves and candidates for deportation. They would have experiences like they get at the nation's DMVs, post offices, and dentists—long lines, unfriendly service, and painful procedures. Many citizens would fall through the cracks, either abandoning employment or resorting

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to working under the table themselves.

Shockingly, the current E-Verify program has no process for appealing final nonconfirmations. The [DHS Web page](#) [6] with information "for employees" provides no advice to workers who believe they have been wrongly refused the right to work by DHS. A nationwide EEV system would wrongly give thousands of eligible American workers final nonconfirmations each year, with no apparent appeal process, blatantly depriving them of due process and, of course, their livelihoods.

Even if a national employment eligibility verification system were made workable, it is not a system we should want. Once built, this government monitoring system would soon be extended to housing, financial services, and other essentials to try to get at illegal immigrants. It would also be converted to policy goals well beyond immigration control. Direct regulatory power over American citizens would flow to the federal government. Even more information about Americans' lives would flow into federal government databases. And Americans' sensitive personal data would be exposed to more security threats.

But that's on the horizon. Right now, the Arizona experiment with EEV is starting to hint at results. After a [slow start](#) [7], the E-Verify mandate on employers is combining with other economic factors to [chill growth](#) [8]. Says restaurateur B. J. Hernandez: "I feel the environment in Arizona has become so anti-entrepreneurial. If I could leave here, I would." Others are doing just that, opting for expansion in business- (and immigrant-) friendly climates.

For all its wonders, technology is not something policymakers can sprinkle on deep-seated economic and social problems to make them go away. Electronic employment eligibility verification would immerse America's workers and businesses in Kafkaesque bureaucracy and erode the freedoms of American citizens, even as it failed to stem illegal immigration. Ultimately, there is no alternative but for [Congress to repair the broken immigration system](#) [9] by aligning legal immigration with our nation's economic demand for labor.

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- [7] <http://www.cato-at-liberty.org/2008/01/30/e-verify-slow-and-unsteady-in-arizona/>

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[8] <http://www.azcentral.com/arizonarepublic/news/articles/0303biz-econ-restaurants0303.html>

[9] <http://www.freetrade.org/node/773>

[10] <http://www.cato.org/people/harper.html>

[11] <http://www.cato.org/tech/tk-index.html>

[12] <http://www.immigrationpolicy.org/sites/default/files/docs/EEVofDestruction03-08.pdf>