The "New Employee Verification Act"
Questions and Answers

Fundamental Principles

Question: Is the "New Employee Verification Act" a comprehensive immigration proposal?

Answer: The bill is comprehensive in terms of its impact by creating an effective employment verification system that will prevent unauthorized work in the United States – an essential component to securing our borders. However, the bill does not address other immigration issues outside of worksite enforcement, such as fences, border control agent, visas, or how to address those unauthorized workers still in this country.

Question: Seems like everyone supports mandatory employment verification, so what is new about the bill's approach?

Answer: Mandatory verification involves an unprecedented effort affecting citizens and noncitizens and needs to be done right. The bill creates a workable verification system by building on the successes of the past but making needed adjustments to ensure successful implementation. For example, the bill builds on an existing new hire reporting process employers already used by 90% of employers, includes database accuracy standards that Congress will closely oversee, and adds an optional identity authentication and security feature to further prevent identity theft.

Question: Does the bill help to detect forged documents and deter identity fraud?

Answer: Yes – the bill requires mandatory verification of all newly hired employees, mandates the use of fewer, more secure identity documents (driver's license with picture, U.S. passport, approved work authorization document) and also includes an optional system for employers to authenticate and safeguard the identity of their employees using government-certified private sector experts. The legislation also allows individuals to update their Social Security records as well as block the use of the Social Security number within the verification system.

Basic Facts

Question: What is the Electronic Employment Verification System (EEVS)?

Answer: The EEVS is a new mandatory program whereby employers will electronically verify the employment eligibility of all newly hired employees. Employers will verify fewer, more secure documents and receive employment verification for U.S. citizens through the Social Security Administration (SSA) and for non-citizens through the Department of Homeland Security (DHS). Information is entered into the system through each State's new hire reporting process, a process already mandated by federal law to enhance child support enforcement.

Question: What is the Secure Electronic Employment Verification System (SEEVS)?

Answer: The SEEVS is a new voluntary system whereby employers would receive work authorization for their newly hired employees and employees would receive identity protection through the use of cutting-edge biometric technology provided by a government-certified private sector expert.

Question: Who will administer the SEEVS program?

Answer: Private sector experts that will be certified by the government. These experts will verify the identity of an individual, safeguard the identity through biometrics, and confirm through the EEVS program the individual's work authorization.

Question: When are employers required to submit a request for work authorization?

Answer: Employers must submit a request for work authorization for new employees no sooner than the date of hire and no later than the third business day after they have reported for work.

Question: How long will it take before employers and employees receive a response?

Answer: It is anticipated that the response will be almost instantaneous, but must be sent no later than within 3 days of receiving the request. Then employers have 3 days to notify the employee of the response.

Question: Are there any restrictions on the use of data stored in the EEVS or SEEVS?

Answer: Yes – the bill requires that the system only be used for verifying employment eligibility unless the employee consents otherwise or a federal court requires it. Employees also are given an option of blocking their Social Security number so that it cannot be used by an imposter to gain work authorization. Also, any biometric data must be stored separately from the individual's identifying information. The employee also has the option of having all biometric records deleted after the job application process is complete or retaining these records to ease the process of changing jobs in the future.

Question: DHS has added a photo screening tool to E-Verify – which they describe as the beginning of biometric verification – and isn't this enough security to fix the problem?

Answer: The photo tool is not a biometric system. It involves subjective comparisons of pictures. Further, these are only comparisons between documents and do not verify the identity of the person presenting them. Finally, as has been the case previously, an imposter's photo and identity may already be in the data bases that are being accessed by the photo screening tool.

Protecting Employers and Employees

Question: Will U.S. citizens receive work authorization from a law enforcement agency?

Answer: No – U.S. citizens will have their work authorization confirmed by the SSA, an agency they have always trusted. Only non-citizens will have their work authorization confirmed by the DHS.

Question: What can a worker do if they are initially denied work authorization?

Answer: Workers have the right to contest any system response within 10 days of receiving the response. Workers may also request an administrative review within 30 days, followed by a judicial review, of any decision that they believe wrongly denies them the opportunity to work.

Question: What happens to an employee who receives work disapproval or fails to contest the initial disapproval within the time allowed?

Answer: The employer must terminate employment.

Question: Are employees compensated if they are wrongly denied an opportunity to work?

Answer: Yes - an employee may be compensated for lost wages by the federal Government for a work disapproval that was incorrect and that was not based on an act or omission of the employee.

Question: Are safeguards provided to protect an employee's personal information?

Answer: Yes - not only does the bill provide strong penalties for those found guilty of misusing the information, but an advisory panel of experts is created to provide guidance on the best means of continuing to secure the privacy of employees.

Question: Do employees pay the cost of enrolling in the SEEVS?

Answer: No – employers who have voluntarily chosen to use the SEEVS program must pay all the costs associated with enrolling employees in the program.

Question: Are employees protected from discrimination?

Answer: Yes – employers are prohibited from taken any adverse employment action unless required to do so or from screening an employee prior to extending an offer of employment or screening current employees.

Question: Does the bill contain any protections for employers?

Answer: Yes – the bill provides a safe-harbor for employers who use subcontractors without knowing that the subcontractor hires or continues to employ unauthorized workers. The bill also exempts employers who commit a violation of the law if it is the first violation and the employer properly used the EEVS. Finally, reliance on a government approval of employment authorization through either system absolves the employer of liability if the government approval later turns out to be erroneous.

Question: Does the bill create more paperwork and administrative burdens on employers?

Answer: No – employers are required to attest electronically, by using either an Internet or a telephone connection, that they have obtained and reviewed the documents. Employers enter data through a system – the States' new hire reporting process – already required by federal law to enhance child support enforcement, and used by approximately 90% of employers. Records are stored electronically and paper forms are not required.

Question: How does the bill address identity theft?

Answer: Under EEVS, workers are required to produce fewer, more secure identity documents and are required to be verified. Under the SEEVS program, individuals will be able to verify their identities and then "lock" those identities through cutting-edge biometric technology. Also, the bill allows an individual to block the use of their Social Security number in the EEVS program.

Protecting the Social Security Administration

Question: Does the bill create an unsustainable burden upon the SSA's resources?

Answer: No – most of the functions of the system are completely automated, electronic, and already exist. Employers would register in the program through a process 90% of employers already use, the State new hire reporting process. Also, as data base accuracy is improved to reach required standards, less visits to Social Security offices will be required.

Question: Will money from the Social Security trust funds be used to verify employment eligibility?

Answer: No – the bill specifically prohibits using money in the trust funds for verifying employment eligibility and only allows the SSA to carry out its responsibilities through advanced appropriated funds.

Question: May illegal aliens receive Social Security benefits under the bill?

Answer: No – the bill prohibits quarters of credit towards Social Security benefits for any year if on the last day of the year the individual was not authorized to work in the United States.

Rep. Sam Johnson (R-TX), Ranking Member   *2/28/2008*
Subcommittee on Social Security
Committee on Ways and Means

<u>*Public Opinion*</u>

Question: Do you think the public will tolerate a biometric employment verification requirement?

Answer: The HR Initiative for a Legal Workforce commissioned a national poll to explore the public's opinions on the issue. The results showed that nearly 8 in 10 people would endorse using biometrics in the employment verification process and that many Americans are very familiar with this technology and already use biometrics in a current job, when traveling, or to ensure security in financial transactions or to purchase groceries.