



**The Honorable Sam Johnson (R-TX)**  
**Testimony before the Committee on the Judiciary,**  
**Subcommittee on Immigration, Citizenship, Refugees, Border Security, and**  
**International Law**  
**Hearing on Electronic Employment Verification Systems:**  
**Needed Safeguards to Protect Privacy and Prevent Misuse**  
**June 10, 2008**

Chairman Lofgren, Ranking Member King, and Members of the Subcommittee, thank you for holding this hearing on the crucial employee verification component of the immigration reform debate. Protecting the privacy of American citizens is a great concern to me.

Over the last several years, the Committee on Ways and Means and the Ways and Means Subcommittee on Social Security, on which I serve as Ranking Member, have held a number of hearings on employment verification and its impact on citizens and workers. After years of studying this issue, I believe there are certain guiding principles that we must respect in order to craft a truly effective, secure, reliable, electronic employment verification system. These are:

1) prohibit unlawful employment, 2) protect workers, 3) partner with employers, 4) reduce the risk of identity theft, and 5) protect Social Security.

This past February I, along with several of my Republican Social Security Subcommittee colleagues, introduced H.R. 5515, the New Employee Verification Act, or NEVA which now has bipartisan support, including my distinguished colleague Congresswoman Giffords from Arizona. NEVA represents an innovative and comprehensive approach to worksite enforcement and I would like to take a few minutes to explain how NEVA represents those key principles.

First, NEVA prohibits unlawful employment by eliminating the paper-based and error-prone I-9 process with an electronic verification system that builds upon the lessons learned from E-Verify. The employee's name, Social Security number and date of birth would be instantaneously checked against the Social Security database in much the same way that E-Verify does currently. The critical difference is the entry of data using a platform already used by employers which I will discuss shortly.

Second, NEVA protects workers by ensuring that no U.S. citizen seeks permission to work from a federal law enforcement agency. The Social Security Administration (SSA) has always had the responsibility to track the earnings history of every worker to ensure they receive the correct amount of disability or retirement benefits. Americans trust the Social Security Administration and they believe the agency does a good job – I do too. I believe that these earnings should be accurate and a mandatory electronic employee verification system would help increase accuracy sooner and maintain accuracy through workers' lifetimes.

An agency responsible for tracking terrorists and securing our borders should not be keeping tabs on when and where U.S. citizens work. Yet the Department of Homeland Security (DHS) is building databases and maintaining data on the work history of American citizens and American employers.

Over two weeks ago, Social Security Subcommittee Chairman Mike McNulty and I sent a letter to Secretary Chertoff asking about privacy protections provided by Homeland Security in its E-Verify system. I ask that a copy of that letter be inserted in the record. This letter resulted from an incident that occurred during a May Subcommittee hearing where the Customs and Immigration Service provided to Representative Heath Shuler (D-NC), who then shared with each member of our

Subcommittee, the employers in our Congressional Districts that are registered to participate in E-Verify. The questions we posed to Secretary Chertoff are important and must be answered before this E-Verify program is extended when it expires in November.

NEVA puts the Social Security Administration in charge of employee verification because it is their fundamental job to track earnings and because the vast majority of those who work in this country are American citizens who should not be tracked by DHS. Under NEVA, Social Security verifies U.S. citizens and the DHS verifies non-citizens. Also, DHS maintains its essential role in worksite enforcement, bolstered by increased penalties for those employers who do not comply.

To further protect workers, NEVA also provides extensive administration and judicial reviews so workers can challenge any decision they believe is in error, creates penalties for unauthorized use of information, and establishes an advisory panel of public and private experts to ensure the highest degree of efficiency, accuracy, and privacy.

Third, NEVA makes employers part of the solution. NEVA partners with employers and creates an easy-to-use system. Employers would transmit their newly hired employee's information through a system 90 percent of employers already use to help states track down dead beat dads, each State's new hire reporting system. The information would be routed to the SSA and would provide nearly instantaneous work authorization. NEVA also provides liability protection to employers who unknowingly hire illegal workers through a subcontractor and provides an exemption from penalties for an initial good faith violation.

Fourth, NEVA will reduce identity theft. As the highly publicized raids in the meat packing industry have illustrated, we know that a simple check of name, number of date of birth would still be subject to document fraud and identity theft.

NEVA allows employers to voluntarily take the additional step of using government certified private sector experts to authenticate the identity of the new employee and to then harden the identity to a biometric, such as a finger print. After the employer verifies that the same person who went through the screening is the same person who shows up to work, the employee may then ask that their personal information be erased.

Finally, NEVA would protect Social Security by requiring that employers use the system for newly hired employees only. From what we know about the illegal immigrant population, where they work, and the annual rate of new hires in key industries, this will minimize the additional burden placed upon an already strained agency, while preventing unlawful employment. Also, NEVA would require the Congress to provide the SSA with the financial resources needed before the agency can perform employment verification.

Proponents of a mandatory E-Verify system rarely acknowledge the need to properly fund this expanded mission of the Social Security Administration. In fact, the DHS has not even paid the SSA for their cost of E-Verify for two recent years of their efforts for that pilot program. The SSA is integral to employment verification and I will be working to ensure that it is not relegated to the status of an afterthought.

Today, thousands of immigrants enter the country seeking the life a job in the country has to offer, but too many do so by breaking the law. And we cannot enforce the law with the broken enforcement system we currently have. After years of inaction by the Congress, the American people are fed up with broken laws and broken promises. It is time for a new direction.

I am confident, after looking at this issue a great deal during my time in Congress, I and my bipartisan cosponsors, have created a workable solution to a critical component of immigration reform. The large and diverse group of employers who agree with us include: the National Association of Manufacturers; the Society for Human Resource Management; the National Association of Home Builders; and the National Federation of Independent Business.

Thank you and I look forward to answering any questions you may have.