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New way pushed to verify workers' legal status

By Daniel González
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A bipartisan group of U.S. lawmakers led by Arizona Democrat Gabrielle Giffords is pushing for a new federal system to verify who is legally allowed to work in this country.

The proposed system promises to do a better job of preventing illegal immigrants from getting jobs than the current online system, known as E-Verify. A recent report found flaws in the existing system.

First introduced two years ago by Reps. Giffords and Sam Johnson, a Texas Republican, the proposed system is only now gaining attention following the publication of the government-commissioned report, which estimated that more than half of the illegal immigrants run through the E-Verify system are wrongly being deemed authorized to work because they use stolen identities.

Giffords' proposal, known as the New Employee Verification Act, or NEVA, would require employers to run new hires through more federal databases and encourage background checks. Her plan is supported by 10 U.S. lawmakers - three Democrats and seven Republicans. It also has the backing of numerous business groups.

But some analysts question whether the system proposed by Giffords would actually be more reliable than E-Verify at preventing illegal workers using stolen identities from getting jobs. The system also raises privacy concerns because it calls for employers to conduct background checks and collect biometric information on new employees that could be deemed too intrusive.

Giffords and Johnson introduced NEVA in February 2008 partly in response to Arizona's employer-sanctions law, which took effect on Jan. 1 of that year. The sanctions law requires all businesses in Arizona to screen new employees through E-Verify to make sure they are authorized to work in the U.S. The law can force employers out of business for knowingly hiring illegal workers.

Eleven other states also require some or all businesses to use E-Verify. The program is voluntary in other states, but momentum is building in Congress to make E-Verify mandatory nationwide.

Giffords, a former small-business owner, said that in the wake of the sanctions law, she heard many complaints from businesses that E-Verify was not reliable, yet they were being forced to use it.

The problem with E-Verify, she said, is that the system sometimes falsely rejects U.S. citizens and legal workers and wrongly approves illegal workers using stolen identities, putting employers at risk of firing legal workers and hiring unauthorized workers in violation of the law.

The complaints about E-Verify were confirmed in a report by a research company, Westat, hired by the Department of Homeland Security to evaluate the system.

The Westat report found that E-Verify does an excellent job of verifying U.S. citizens and legal workers. The system runs names, birth dates and Social Security numbers against the Social Security Administration's database and Homeland Security's immigration database.

Ninety-three percent of the cases checked were legal workers or U.S. citizens who were accurately identified on the first try.

The Westat report, which surfaced last week, found that E-Verify does falsely reject some U.S. citizens and legal workers but only 0.7 percent of the time.

E-Verify, however, does a poor job of preventing illegal immigrants using stolen identities from getting jobs, the report found. Westat estimated that 54 percent of the illegal immigrants run through E-Verify are wrongly deemed authorized to work, or about 3.3 percent of the total, because of identity theft.

Giffords believes NEVA would do a better job at preventing illegal workers from getting jobs and protecting U.S. citizens and legal workers from being wrongly denied jobs by creating a two-tiered system for verifying whether people are eligible to work in the U.S.

The first step would be mandatory for all employers nationwide. It would require employers to check the information of new employees against the Social Security Administration's database using the National Directory of New Hires, a program initially

created to ensure parents are complying with child-support laws. The information could then be checked, if needed, against the Homeland Security immigration database.

The second step would be voluntary. It would encourage employers to hire private contractors certified by the government to conduct background checks on new employees to authenticate their identities and then tie that information to biometric technology, such as thumbprints. Employers who followed those steps in good faith would be granted "safe harbor" or immunity from prosecution should the system fail to prevent them from hiring illegal workers.

In addition to those two steps, the NEVA system would create a program that lets an employee "lock" his or her Social Security number by notifying the government when not looking for work to prevent others from stealing it to get jobs, Giffords said.

"We believe NEVA provides a substantial improvement to the current system, which all employers in Arizona are required to use," Giffords said.

NEVA has been endorsed by several business groups, including the Society for Human Resource Management, National Federation of Independent Business, the Tucson Metropolitan Chamber of Commerce and the Arizona Chamber of Commerce and Industry.

Glenn Hamer, president and CEO of the Arizona Chamber of Commerce, said he favors NEVA because it is more foolproof than E-Verify and protects employers from prosecution if they use it.

"We want to make sure that companies who are playing by the rules are not targeted just because the system is flawed," Hamer said.

Some analysts, however, question whether NEVA would be more reliable than E-Verify because illegal immigrants using stolen identities would not be detected by the National Directory of New Hires.

"It does not do anything different from protecting against identify theft than what E-Verify does," said Marc Rosenblum, a researcher at the Migration Policy Institute, a nonpartisan think tank in Washington, D.C.

Jim Harper, a policy analyst at the free-market Cato Institute in Washington, D.C., opposes NEVA because it would force many U.S. citizens to give up their privacy in order to prevent a small number of illegal workers from getting jobs. He said the

provision calling on employers to conduct background checks on employees is a step toward creating a national ID, which amounts to more government intrusion into private lives.

"I believe the intention of the people who created NEVA was to come up with a better system than E-Verify. It may be better, but it's still not good," Harper said. The institute favors increasing legal immigration to reduce illegal immigration.

Steven Camarota, a researcher at the Center for Immigration Studies, said it doesn't make sense to get rid of E-Verify and start over from scratch. The center in Washington favors more enforcement to reduce illegal immigration.

E-Verify is "already up and running, and it seems better to build on that," Camarota said.

He also says NEVA is a political maneuver by lawmakers who oppose immigration enforcement.

"Why would you want to start over unless your real goal was to delay?" Camarota said.

Giffords, who is up for re-election this November, said that is not true.

She is pushing to have NEVA voted on as a stand-alone bill or included as part of a comprehensive immigration-reform bill expected to be introduced this spring.

"There is no member of Congress that wants a mandatory employment-verification system more than I," Giffords said.