

## TALKING POINTS

### Oppose State and Local Proposals to Make Basic Pilot Mandatory

February 2007

■ **State and local proposals that would require participation in the Basic Pilot program are preempted by federal law.\*** Proposals that attempt to regulate the employment and hiring of unauthorized workers are expressly preempted by federal immigration law. Nothing in federal law requires that employers use an electronic verification program to determine the immigration status of its current workforce. Enactment of these proposals will subject states and localities to unnecessary litigation that will waste taxpayers' money, as some localities have already discovered.

■ **Inaccurate federal databases prevent employment-authorized individuals from being approved for work.** The Social Security Administration estimates that 17.8 million of its records contain discrepancies related to name, date of birth, or citizenship status. According to a 2002 independent evaluation of the Basic Pilot program, the program's greatest shortcoming is that it lacks access to timely data, which results in "delayed verification in almost one-third of the cases." These database errors could result in workers — immigrants and U.S. citizens — being unjustly denied employment.

■ **Unscrupulous employers use the program to discriminate against workers.** The 2002 independent evaluation also found that unscrupulous employers misused the Basic Pilot to unlawfully prescreen potential employees, retaliate against workers, and engage in other unlawful activities. While these practices are prohibited, the U.S. Department of Homeland Security has admitted that its efforts to monitor the program have "been limited by lack of staff available to oversee and examine employer use of the program."

■ **The cost is high for businesses.** According to the U.S. Chamber of Commerce, the costs incurred by employers include: training employees to comply with the Basic Pilot program's requirements, devoting a great deal of human resources staff time to verifying and reverifying employment eligibility, resolving data errors, and dealing with wrongful denials of eligibility. These costs could be felt more significantly by small employers if they are required to invest in Basic Pilot-related computer equipment, staffing, and training despite having fewer new employees to screen.

■ **Congress is currently working to fix our broken immigration system.** Many states and localities have introduced employment eligibility verification proposals because they are frustrated by the federal government's inability to fix our broken immigration system. The U.S. Senate and House of Representatives both plan to introduce bills this year that would create a new electronic employment eligibility verification system for all workers in the U.S. and increase penalties for employers that hire undocumented workers. State legislatures should focus their efforts on calling on Congress to reform our immigration system.

#### FOR MORE INFORMATION, CONTACT

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\* For more information on the Basic Pilot, see "Why States and Localities Should Not Require Employer Participation in the Basic Pilot Program" (NILC, Jan. 2007), [www.nilc.org/immseplymnt/ircaempverif/basicpilot\\_stateslocalities\\_2007-01-31.pdf](http://www.nilc.org/immseplymnt/ircaempverif/basicpilot_stateslocalities_2007-01-31.pdf).



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