

May 14, 2013

The Honorable Patrick J. Leahy
Chairman
United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Support for Senator Franken's "Good Cause" E-Verify Amendment (**Franken 6; ARM13527**)

Dear Chairman Leahy, Ranking Member Grassley, and Members of the Committee:

We, the undersigned organizations, urge you to support Senator Franken's "Good Cause" E-Verify amendment, Franken 6, to the Border Security, Economic Opportunity, and Immigration Modernization Act (S. 744). The amendment is vital to ensure that no U.S. citizens and work-authorized individuals lose their jobs as a result of an error in a government database.

S.744 requires the phased-in, mandatory use of an electronic employment verification system (E-Verify) for all newly-hired employees. In addition, the bill contains critical due process protections aimed at ensuring that U.S. citizens and work-authorized employees do not lose their jobs due to E-Verify errors. The bill provides a process by which workers who receive a "further action notice" (an indication that a worker's information does not match the information contained E-Verify's databases) can contest an error through an administrative appeal and, ultimately, through judicial review. However, as currently drafted, a worker's ability to access these due process protections is contingent on his timely contest of a further action notice. To preserve his right to appeal the system's determination, a worker must contact the appropriate federal agency within 10 business days of receiving the further action notice. The bill currently contains no exceptions to this deadline. As written, if the worker does not contact the federal agency within 10 business days—for any reason whatsoever, including a lack of notice—a worker loses his right to appeal.

This is problematic for several reasons. Under the E-Verify system the worker's notice goes to the employer, not to the employee. If an employer does not give a worker a further action notice, or waits to give him the notice, the worker will likely miss the 10 business day window to contest the error and will lose his job. Additionally, because there are no exceptions in the bill to

the 10 day deadline to contest, workers experiencing a sudden injury or acute illness that impairs their ability to contest could lose their rights to appeal a further action notice. This could result in thousands of workers losing their jobs with no recourse available.

No citizen or work-authorized individual should lose his job as a result of an error. By creating a good cause provision in the bill, Franken 6 helps ensure these workers have a meaningful way to correct errors and stay employed. Please do not hesitate to contact Emily Tulli (tulli@nilc.org) with any questions or concerns.

Sincerely,

The American Civil Liberties Union (ACLU)
The American Immigration Lawyers Association (AILA)
The American Federation of Labor and Congress of Industrial Organizations (AFL–CIO)
The Center for Community Change (CCC)
The National Council of La Raza (NCLR)
The National Employment Law Project (NELP)
The National Immigration Law Center (NILC)
The Service Employees International Union (SEIU)