



March 27, 2019

Testimony in opposition to
LD 1077: An Act To Ensure Fair Employment Opportunity for Maine Citizens and Legal Residents by Requiring the Use of a Federal Immigration Verification System

Senator Bellows, Representative Sylvester, and honorable Members of the Committee on Labor and Housing, thank you for the opportunity to testify today in opposition to LD 1077.

My name is Beth Stickney. I am an immigration lawyer with over thirty years of experience and am the director of the Maine Business Immigration Coalition, Maine's only resource dedicated to providing information, education and advocacy on immigration and related issues from and for the business and economic perspective.

LD 1077 would require all employers in Maine to use the federal E-Verify system or face misdemeanor criminal penalties. This bill should not pass for the following reasons.

Mandating the use E-Verify in Maine is a solution in search of a problem. There is no allegation or evidence that Maine employers are not complying with federal employment verification laws, using the USCIS I-9 form, or that there have been more than isolated instances of individuals working with fake documents in Maine.

E-Verify is costly for businesses. While E-Verify enrollment is free, it is costly to use. In addition to the usual I-9 process, employers must accurately input every new hire's name, email address, birthdate, Social Security number, and document(s) type and number into the E-Verify web-interface. Often employers must also compare the photo on the new hire's ID to the photo in USCIS's database, which may be up to 10 years out of date. Maine employers who have used E-Verify, especially small businesses and those with sizeable seasonal hires, have found it much more time consuming than the I-9 process, and that is if all goes *well*. If the system reports a "tentative non-confirmation" (TNC) of work authorization, which can happen with native born U.S. citizens and work-authorized noncitizens alike, the employer must double check for data entry errors, and if none, must notify the employee of the TNC. The employee then has to go within 8 working days to the nearest Social Security office or to Maine's only USCIS office in South Portland to try to fix the

error, sometimes repeatedly. The Congressional Budget Office (CBO) found that nearly half of those with TNCs lost part or all of a day of work, and 14% lost more than two days of work correcting the TNC. In 2013, the CBO estimated that mandated use of E-Verify nationwide would cost **over \$600 million** in three years¹, just for private sector employers. *Bloomberg* found that in 2010, use of E-Verify actually cost small business owners \$81 million.

E-Verify has too many flaws for its use to be mandated by Maine law. Congress launched E-Verify as a pilot project. Many problems quickly surfaced, including U.S. citizens and others legally allowed to work in the U.S. being ruled unauthorized to work, in error. Over time, E-Verify errors have greatly decreased, but they have not been eliminated. An analysis of government data by the *Cato Institute* found that in 2018, over 11,000 individuals were unable to work due to erroneous final non-confirmations. Of nearly 60,000 individuals who were able to overturn their erroneous TNCs, the process took longer than 8 days for over a third of them.² Every attempt in Congress to mandate E-Verify for all employers nationally has failed, including as recently as last session.

E-Verify state mandates have a poor track record. Twenty states mandate E-Verify for some sectors, with only 4 mandating it for all employers. Studies have shown that states do a poor job of enforcing their mandates. Moreover, a study in Arizona, which was the first state to mandate E-Verify, found no increase the employment rate of low-income working age males. Instead, the mandate drove unauthorized workers underground, rather than out of the workforce.³

Under Federal law, use of E-Verify is voluntary, with some exceptions, such as for certain federal contractors. Due to its burdensome and sometimes inaccurate nature, Maine law should not require employers to use E-Verify when the Federal government does not.

I urge this committee to vote against LD 1077.

Thank you.

¹ <https://www.cbo.gov/sites/default/files/113th-congress-2013-2014/costestimate/hr17721.pdf> . See p. 7, estimating that

² <https://www.cato.org/blog/facts-about-e-verify-use-rates-errors-effects-illegal-employment>

³ <http://money.cnn.com/2017/02/28/news/economy/e-verify-immigration/>