



# North Dakota House of Representatives

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



## **Representative Matt Heilman**

District 7  
5501 Flatrock Drive  
Bismarck, ND 58503-8929  
[mheilman@ndlegis.gov](mailto:mheilman@ndlegis.gov)

**COMMITTEES:**  
Education  
Political Subdivisions

February 6th, 2023

Chairman Louser and Members of the Industry Business and Labor Committee,

I am Representative Matt Heilman from district seven in Bismarck. I come before you today on behalf of my bill, House Bill 1527. This piece of legislation will ensure all employers in the state are hiring people who have lawful presence and are authorized to work in our country. The bill will do this by mandating all employers, public and private, to use the federal program E-Verify. I will go through the purpose of me bringing this bill, reasons to support this legislation, the backstory of E-Verify, and explaining what E-Verify entails.

I brought this bill for a number of reasons. We all know the southern border is in terrible condition, but you may not hear much about the northern border. United States Customs and Border Protection (USSCP) reported that in December of 2022 there were over 250,000 encounters which was higher than any other month in 2020, 2021, and 2022.

The Daily Mail reported on January 29<sup>th</sup>, 2023 of a 743% spike increase in illegal encounters and apprehensions on the northern border due to "easier entry than Mexico." This spike increase is compared to the period of the prior year in the Grand Forks sector where there were 90 apprehensions in three months since October 1<sup>st</sup> of 2022. That is more than the whole fiscal year of October 1<sup>st</sup>, 2021 to September 30<sup>th</sup> of 2022.

Here are some 2017 statistics from Federation for American Immigration Reform (FAIR). An estimated more than 6,000 unlawful people live in North Dakota, those people have over 2,000 children, more than 1,000 of those go to local schools. Taxpayers spent \$13,600,000 supporting their education and \$2,500,000 on police and legal corrections. Then adding healthcare, public assistance, general government service expenses, North Dakota taxpayers felt a fiscal burden of \$36,500,000.

There has been bipartisan support for E-Verify from many people across the political spectrum. Former President Obama asked for \$132,000,000 in his 2012 fiscal year budget for E-Verify. Former Democratic Governor of Arizona Janet Napolitano commented on E-Verify "Some of the arguments that are made about how it works or does not work don't carry much water with me. I've already used it for several years. It works." In 2009 Governor Napolitano signed E-Verify into law mandating it for all employers. Governor Napolitano also said "E-Verify is a smart, simple, and effective tool that allows us to work with employers to help them maintain a legal workforce."

January 31<sup>st</sup> of this year, U.S. Senator Chuck Grassley introduced legislation mandating E-Verify for all employers. This bill has been cosponsored by Senators Tommy Tuberville (R-Ala.), Mike Lee (R-Utah), Tom Cotton (R-Ark.), Ted Cruz (R-Texas), Cindy Hyde-Smith (R-Miss.), John Boozman (R-Ark.), James Lankford (R-Okla.), Shelley Moore Capito (R-W.Va.), John Thune (R-S.D.) and Joni Ernst (R-Iowa). There is no question there is support from both parties on this issue.

In the Iowa state legislature, Senator Julian Garrett is introducing E-Verify along with 16 total cosponsors. As of January 1, 2021 E-Verify became mandatory in Florida. To date the following states require E-Verify for some or all employers: Alabama, Arizona, Colorado, Florida, Georgia, Idaho, Indiana, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia and West Virginia. 22 of the 50 states require it on some level.

E-Verify summarizes it well by saying “E-Verify, authorized by Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), is a web-based system through which employers electronically confirm the employment eligibility of their employees.” This is a totally free program for employers to use as well.

In the E-Verify process, employers create cases based on information taken from an employee’s Form I-9, Employment Eligibility Verification. E-Verify then electronically compares that information to records available to the U.S. Department of Homeland Security (DHS) and the Social Security Administration (SSA). The employer usually receives a response within a few seconds either confirming the employee’s employment eligibility or indicating that the employee needs to take further action to complete the case. E-Verify is administered by SSA and U.S. Citizenship and Immigration Services (USCIS). USCIS facilitates compliance with U.S. immigration law by providing E-Verify program support, user support, training and outreach, and developing innovative technological solutions in employment eligibility verification.”

In 2021 E-Verify reported that 998,000 employers use the program. In 2022, there were 48,042,413 cases in the E-Verify system. 98.34% of those were authorized to work either instantly or within 24 hours. 1.61% of those cases were initially system mismatches and 0.12% of those initial system mismatches were later confirmed.

I ran the numbers. E-Verify has a 98.37% rate of authorizing cases sent in. U.S. Bureau of Labor Statistics says roughly our private sector gains about 20,000-25,000 jobs every three months. 98.37% of 25,000 is 24,593 people confirmed within seconds. That leaves 407 people not authorized to work instantly (1.63% of 25,000). 30 people (.12% of 25,000) will later be authorized within 24 hours to work which leaves us at 377 (1.51% of 25,000)

Now we are at 377 (1.51% of 25,000) who are not authorized to work. Of the 377 who are not authorized, 162 (.43% of 25,000) will select “not contest” on the E-Verify website, which leaves us at 215 (.86% of 25,000) Of the 215 (.86% of 25,000), .011% (2 cases) will contest the mismatch and fail. For the ones leftover, the employer will have it “self determined.” Which could mean they took no action on the E-Verify website after they were not authorized initially or within 24 hours.

Summarized, running these numbers only two in a three month period based on 25,000 would contest the results. In theory, 377 of the 25,000 could all be unable to work in the country. In a total year, 1508 unlawful people could potentially be stopped from being employed in our state.

Opponents of E-Verify will say that there is no need for E-Verify because over 98% of the people entered into the system pass within 10 seconds. This is not a credible argument because E-Verify serves as a deterrent for employers to would potentially employ unlawful individuals. An employer is not going to even consider hiring someone who is unlawful knowing full well they will have to use E-Verify. A good analogy would be “How many terrorist attacks were prevented because of TSA and generally tougher security after 9/11?” There is no true number that I can give the committee because it is not possible. However, I can assure that this program will prevent and deter employers from employing unlawful individuals.

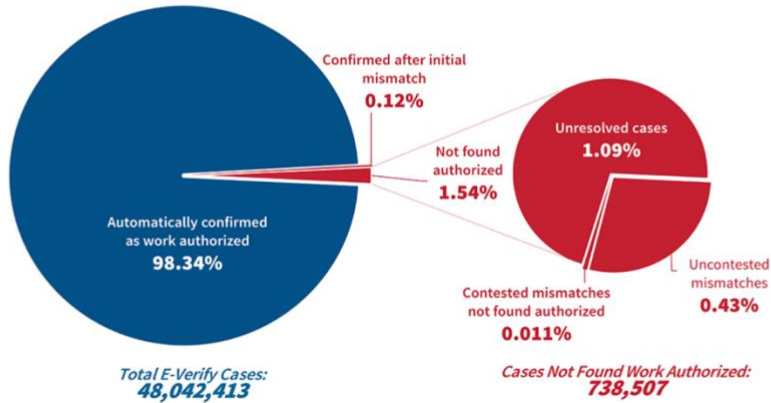
Other opponents of this bill will complain about the fiscal note attached to the bill. I question how necessary it is to have two new FTE’s from the data provided previously. To quote the fiscal note: “There is also a potential that very few complaints or violations will occur.” Seeing this on the fiscal note, it may not be necessary for two new FTE’s. The Labor Commissioner also has provided amendments where the FTE’s might not be needed. I completely support the amendments from the Labor Commissioner.

The other part of the fiscal note states there is about \$75,000 for mailing notices to employers. The Labor Commissioner has provided an amendment to the bill to eliminate this cost. I also completely support this amendment and all amendments provided by the Labor Commissioner.

As you can see, there is a problem on our northern border with this issue. There has been bipartisan support for years on the program. E-Verify is proven to be effective and a way to protect our own citizens. It is a simple, trusted, and an easy program that will benefit our state. We must take a proactive approach to this issue and do what we can. Chairman Louser and members of the committee, I respectfully ask for a due pass recommendation and I will gladly stand for any questions.

How to use E-Verify: <https://www.youtube.com/watch?v=NyqZOegUGEs>

**E-Verify Performance**



The statistics in the above chart report E-Verify case processing results through Quarter 4 of Fiscal Year 2022. All figures are expressed as a percentage of the total number of cases submitted and percentages are rounded. Total E-Verify Cases: 48,042,413. Cases Not Found Work Authorized: 524,693.

**Most employees are automatically confirmed as work authorized.**

- 98.34 percent of employees are automatically confirmed as authorized to work ("work authorized") either instantly or within 24 hours, requiring no employee or employer action.
- 1.61 percent of employees receive initial system mismatches.

**Of the 1.66 % of employees who receive initial system mismatches:**

- 0.12 percent are later confirmed as work authorized after contesting and resolving the mismatch.
- 1.54 percent are not found work authorized.

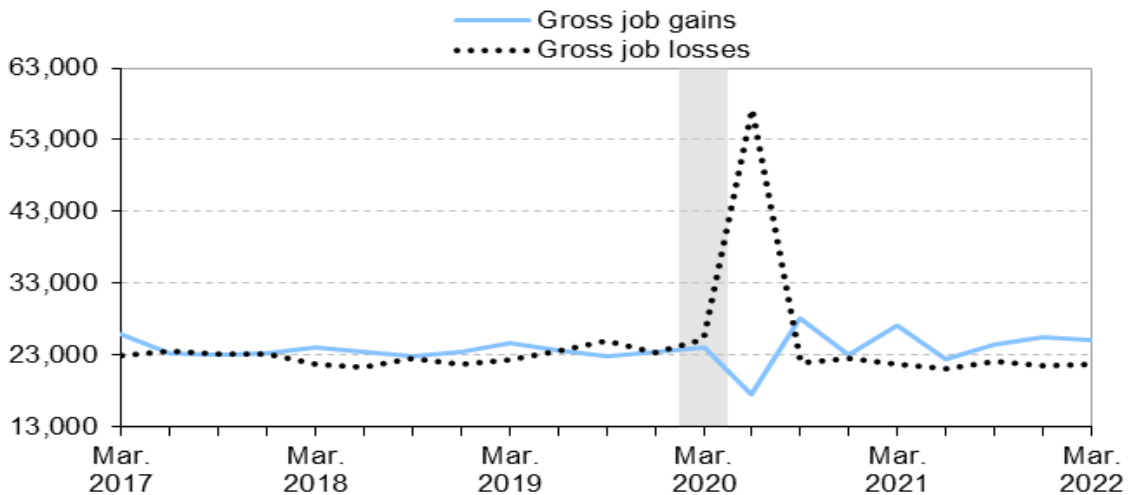
**Of the 1.54% of employees not found to be work authorized:**

- 0.43 percent do not contest the mismatch either because they do not choose to or are unaware of the opportunity to contest and as a result are not found work authorized.
- 0.011 percent contest the mismatch and are not found work authorized.
- 1.09 percent are unresolved either because the employer closed the case as "self-terminated" or because the case was awaiting further action by either the employer or employee at the end of FY22 Q4.

Percentage may not appear to sum based on rounding.

Data Source: Verification Information System (VIS) Transaction Data.

**Chart 1. Private-sector gross job gains and losses in North Dakota, March 2017–March 2022, seasonally adjusted**



Source: U.S. Bureau of Labor Statistics.

Note: Shaded area represents National Bureau of Economic Research (NBER) defined recession period.



**Employment Eligibility Verification**  
**Department of Homeland Security**  
 U.S. Citizenship and Immigration Services

**USCIS**  
**Form I-9**  
 OMB No. 1615-0047  
 Expires 10/31/2022

► **START HERE: Read instructions carefully before completing this form. The instructions must be available, either in paper or electronically, during completion of this form. Employers are liable for errors in the completion of this form.**

**ANTI-DISCRIMINATION NOTICE:** It is illegal to discriminate against work-authorized individuals. Employers **CANNOT** specify which document(s) an employee may present to establish employment authorization and identity. The refusal to hire or continue to employ an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.

**Section 1. Employee Information and Attestation** *(Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)*

Last Name (Family Name)		First Name (Given Name)		Middle Initial	Other Last Names Used (if any)	
Address (Street Number and Name)			Apt. Number	City or Town		State ZIP Code
Date of Birth (mm/dd/yyyy)	U.S. Social Security Number □□□□ - □□ - □□□□		Employee's E-mail Address		Employee's Telephone Number	

**I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.**

**I attest, under penalty of perjury, that I am (check one of the following boxes):**

<input type="checkbox"/> 1. A citizen of the United States		
<input type="checkbox"/> 2. A noncitizen national of the United States <i>(See instructions)</i>		
<input type="checkbox"/> 3. A lawful permanent resident (Alien Registration Number/USCIS Number): _____		
<input type="checkbox"/> 4. An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy): _____ Some aliens may write "N/A" in the expiration date field. <i>(See instructions)</i>	QR Code - Section 1 Do Not Write In This Space	
<i>Aliens authorized to work must provide only one of the following document numbers to complete Form I-9: An Alien Registration Number/USCIS Number OR Form I-94 Admission Number OR Foreign Passport Number.</i>		
1. Alien Registration Number/USCIS Number: _____ <b>OR</b>		
2. Form I-94 Admission Number: _____ <b>OR</b>		
3. Foreign Passport Number: _____ Country of Issuance: _____		

Signature of Employee	Today's Date (mm/dd/yyyy)
-----------------------	---------------------------

**Preparer and/or Translator Certification (check one):**

I did not use a preparer or translator.  A preparer(s) and/or translator(s) assisted the employee in completing Section 1.  
*(Fields below must be completed and signed when preparers and/or translators assist an employee in completing Section 1.)*

**I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.**

Signature of Preparer or Translator		Today's Date (mm/dd/yyyy)	
Last Name (Family Name)		First Name (Given Name)	
Address (Street Number and Name)		City or Town	State ZIP Code



*Employer Completes Next Page*





**Employment Eligibility Verification**  
**Department of Homeland Security**  
 U.S. Citizenship and Immigration Services

**USCIS**  
**Form I-9**  
 OMB No. 1615-0047  
 Expires 10/31/2022

**Section 2. Employer or Authorized Representative Review and Verification**

*(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents.")*

<b>Employee Info from Section 1</b>	Last Name (Family Name)	First Name (Given Name)	M.I.	Citizenship/Immigration Status
-------------------------------------	-------------------------	-------------------------	------	--------------------------------

List A Identity and Employment Authorization	OR	List B Identity	AND	List C Employment Authorization
Document Title		Document Title		Document Title
Issuing Authority		Issuing Authority		Issuing Authority
Document Number		Document Number		Document Number
Expiration Date (if any) (mm/dd/yyyy)		Expiration Date (if any) (mm/dd/yyyy)		Expiration Date (if any) (mm/dd/yyyy)
Document Title		Additional Information		QR Code - Sections 2 & 3 Do Not Write In This Space
Issuing Authority				
Document Number				
Expiration Date (if any) (mm/dd/yyyy)				
Document Title				
Issuing Authority				
Document Number				
Expiration Date (if any) (mm/dd/yyyy)				

**Certification:** I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.

The employee's first day of employment (mm/dd/yyyy): \_\_\_\_\_ (See instructions for exemptions)

Signature of Employer or Authorized Representative	Today's Date (mm/dd/yyyy)	Title of Employer or Authorized Representative		
Last Name of Employer or Authorized Representative	First Name of Employer or Authorized Representative	Employer's Business or Organization Name		
Employer's Business or Organization Address (Street Number and Name)		City or Town	State	ZIP Code

**Section 3. Reverification and Rehires** (To be completed and signed by employer or authorized representative.)

A. New Name (if applicable)			B. Date of Rehire (if applicable)
Last Name (Family Name)	First Name (Given Name)	Middle Initial	Date (mm/dd/yyyy)

**C.** If the employee's previous grant of employment authorization has expired, provide the information for the document or receipt that establishes continuing employment authorization in the space provided below.

Document Title	Document Number	Expiration Date (if any) (mm/dd/yyyy)
----------------	-----------------	---------------------------------------

I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative	Today's Date (mm/dd/yyyy)	Name of Employer or Authorized Representative
--	---------------------------	---



**LISTS OF ACCEPTABLE DOCUMENTS**  
**All documents must be UNEXPIRED**

Employees may present one selection from List A  
or a combination of one selection from List B and one selection from List C.

<b>LIST A</b> Documents that Establish Both Identity and Employment Authorization	<b>OR</b>	<b>LIST B</b> Documents that Establish Identity	<b>AND</b>	<b>LIST C</b> Documents that Establish Employment Authorization
1. U.S. Passport or U.S. Passport Card		1. Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address		1. A Social Security Account Number card, unless the card includes one of the following restrictions: (1) NOT VALID FOR EMPLOYMENT (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION (3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)		2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address		2. Certification of report of birth issued by the Department of State (Forms DS-1350, FS-545, FS-240)
3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa		3. School ID card with a photograph		3. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal
4. Employment Authorization Document that contains a photograph (Form I-766)		4. Voter's registration card		4. Native American tribal document
5. For a nonimmigrant alien authorized to work for a specific employer because of his or her status: a. Foreign passport; and b. Form I-94 or Form I-94A that has the following: (1) The same name as the passport; and (2) An endorsement of the alien's nonimmigrant status as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.		5. U.S. Military card or draft record		5. U.S. Citizen ID Card (Form I-197)
		6. Military dependent's ID card		6. Identification Card for Use of Resident Citizen in the United States (Form I-179)
		7. U.S. Coast Guard Merchant Mariner Card		7. Employment authorization document issued by the Department of Homeland Security
		8. Native American tribal document		
		9. Driver's license issued by a Canadian government authority		
		<b>For persons under age 18 who are unable to present a document listed above:</b>		
		10. School record or report card		
		11. Clinic, doctor, or hospital record		
		12. Day-care or nursery school record		
6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI				

**Examples of many of these documents appear in the Handbook for Employers (M-274).**

**Refer to the instructions for more information about acceptable receipts.**