



## E-Verify Mandate Bills Likely to See Debate, but Not Action

By Jennifer Scholtes  
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Lawmakers have yet to reach the point where they're discussing comprehensive changes to the immigration system, but a sort of precursor debate has emerged early this session: a proposal to require U.S. employers to check the immigration status of new hires using the E-Verify system.

A federal E-Verify mandate, which has already made it into two House bills, could be the beginning of a Republican strategy to break immigration out of the model of a single sweeping measure. Or it could be used by Democrats as a bargaining chip in exchange for a citizenship process for some illegal immigrants.

However lawmakers approach it, though, the odds are stacked against passage this year, experts say. Interest groups from the Catholic Church to the U.S. Chamber of Commerce oppose expanding E-Verify beyond its current, largely mandatory form. Democrats have voiced concerns about the program. And the Department of Homeland Security, which operates the system, says it still needs work before it could absorb a massive influx of users.

### **A Deconstructed Approach**

Republicans John Carter of Texas and Phil Gingrey of Georgia are promoting several different pieces of immigration legislation in addition to the mandatory E-Verify bills (HR 693, HR 800).

Gingrey has produced a bill (HR 692) aimed at reducing family-sponsored immigration. Carter plans to unveil one that would use federal money to pay for state law enforcement near U.S. borders and another that would provide resources to border sheriffs to crack down on gun smuggling.

The measures are part of a deconstructed approach the Republicans are taking to overhauling immigration, according to Mark Krikorian, director of the Center for Immigration Studies, a group that works to stop illegal immigration and slow legal immigration. Instead of offering a single comprehensive bill, the two lawmakers are opting for smaller-scale measures focusing on specific parts of the system.

For Republicans who oppose President Obama's immigration plans, it's a strategy born of necessity, Krikorian said. Outnumbered by those who favor providing a path to citizenship

for those who are already in the country, lawmakers who hold an enforcement-first perspective have been forced to adapt.

“If you’re an underdog, you’re not shooting for everything you want,” Krikorian said. “You’re sort of the mammal running between the legs of the dinosaurs, trying to get what you can because the other side had all the juice.”

Republicans aren’t alone in using the tactic. Krikorian said Democrats attempted to narrow their focus in 2010, take up a limited measure that would have provided a path to citizenship for the children of illegal immigrants. Senate Republicans blocked the bill in the lame-duck session.

Krikorian argues that Democrats can’t possibly muster the support to push a comprehensive bill. “They need to realize that there is no possibility of an amnesty until there’s real enforcement,” he said. Mandatory E-Verify’s chances for success could depend on whether congressional leadership agrees with that assessment. If so, he said, Democrats might be willing to allow legislation to go through, justifying it to their constituents as a down payment for future work on a path to citizenship for illegal immigrants already in the country.

“If they were to commit to real enforcement and keep it up over a period of years, they could then make a case for just amnesty, as sort of the closing act after the enforcement that has already taken place,” he said.

But that kind of dealmaking would be more likely in President Obama’s second term, he said — and lawmakers aren’t thinking that far ahead.

### **Planning for the Future**

Several experts say that even if a mandatory E-Verify bill makes it out of the House, it would flounder in the Senate. Activist groups would “go bananas” if Senate Majority Leader Harry Reid, D-Nev., allowed the mandatory E-Verify legislation to hit the floor of his chamber for a vote, Krikorian said.

Julie Myers Wood, who was assistant secretary for Immigration and Customs Enforcement in 2006 through 2008, said any major actions on immigration — including mandatory E-Verify and a path to citizenship — are unlikely today, but will see their day in the coming years.

“It’s more likely than not that none of these reforms would move forward,” said Myers Wood, who is now the president of Immigration and Customs Solutions, a consulting group. “However, I think every year the opposition to E-Verify grows weaker. And every year, the individuals who are supporting mandatory E-Verify are more.”

A wild card that could sway more support for a federal mandate of E-Verify, Myers Wood said, is what the Supreme Court decides in the case of Arizona, the only state with a blanket requirement for all employers to participate in E-Verify. The Chamber of Commerce and other plaintiffs have challenged Arizona’s law, and the case is seen as having potential implications about whether states can impose stricter immigration standards than the federal government. If the court upholds the law, other states could follow Arizona’s lead. In that case, Myers Wood said, federal lawmakers previously opposed to mandatory E-Verify

could decide that a federal requirement would be better than trying to manage different laws in each state.

"I think it's more likely that people who generally opposed it would need some sort of sweetener, but I do think the Supreme Court's decision, whatever it is, could affect that," she said.

Short of allowing citizenship for illegal immigrants already in the country, there's no "sweetener" that could get Democrats to approve the E-Verify plan, said Mary Giovagnoli, director of the Immigration Policy Center, a think tank that supports comprehensive immigration overhaul.

"Deep down, people get that there's a problem to setting up a mandatory system when you don't have a mechanism for dealing with all of the people who are suddenly going to come up as undocumented, or who are going to be driven further underground," she said.

She predicted that both sides will be unwilling to make the concessions necessary for a deal, though, Republicans will instead continue to push for enforcement without offering up legalization. Democrats and others who support of a path to citizenship will hold out for a political climate more favorable to their cause. And the stalemate will continue for this session, she said.

"If you think of E-Verify as one side of a Rubik's Cube, if you only do that, and you try to get that picture-perfect, and you're not paying attention to any of the other sides, they're probably going to be continued to be messed up and continue to cause problems," Giovagnoli said.

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