

The “Secure America with Immigration and Enforcement” (“SAVE Act”) of 2007 (H.R. 4088) Summary and Analysis of Provisions

The “SAVE Act” was introduced in November 2007 by Reps. Heath Shuler (D-NC) and Brian Bilbray (R-CA). A companion bill (S. 2368) has been introduced in the Senate by Sens. Mark Pryor (D-AR) and Mary Landrieu (D-LA). The “SAVE Act” is an immigration enforcement-only package that would dramatically expand the error-ridden Basic Pilot electronic employment verification system and make a number of harsh and unnecessary changes to current law. The Basic Pilot system is currently used by only 30,000 employers, but would expand to cover over 6 million employers in just four years – roughly a 20,000 percent increase. Beyond that, the bill seeks to increase the Border Patrol and spend more resources on the southern border, codify recently withdrawn DHS regulations related to the Social Security Administration “no match” letters, expand local police responsibilities to include immigration enforcement, and a number of other enforcement measures. Absent from the bill are any provisions that would address the more than 12 million people in the US without status.

The “SAVE Act” would:

- **Require mandatory use and rapid expansion of the Basic Pilot/E-Verify Electronic Employment Verification system for all employers.** The “SAVE Act” would require that within 4 years, all employers – approximately 6 million – use Basic Pilot/E-Verify to verify the work authorization of ALL workers – immigrant and U.S. citizen, new hires and the current workforce. Approximately 30,000 employers currently voluntarily use Basic Pilot for new hires – ½ of one percent of all employers; only 4 percent of all new hires are currently verified through Basic Pilot.

A recent independent evaluation of Basic Pilot/E-Verify concluded that employers currently using the system often misuse it, and that the system requires significant improvements before further expansion. The Basic Pilot/E-Verify system relies heavily on the Social Security Administration (SSA) database that, according to government sponsored studies, contains unacceptably high error rates. SSA estimates that 17.8 million of its records contain errors related to name, date of birth, or citizenship status, and 12.7 million of those records relate to U.S. citizens. DHS databases contain similarly high error rates. If the databases are not dramatically improved, the errors in the SSA database alone could result in 2.5 million workers a year being misidentified as unauthorized for employment or as no-matches. Workers, including U.S. citizens, will get caught in this faulty system and will lose their jobs.

The “SAVE Act” contains no assurances that government databases will be accurate and updated, no privacy protections for the vast amounts of personal information to be handled by employers, and no recourse for workers who are wrongfully denied employment. Most importantly, the “SAVE Act” will not prevent unscrupulous employers from avoiding the system by hiring undocumented workers under the table, thereby growing the informal economy.

- **Greatly expand the SSA “no-match letter” program – a program that was recently halted by a federal judge.** A no-match occurs when the information in the SSA database does not match the information submitted by an employer on the W-2 form. There are many reasons that workers receive a no-match letter that have nothing to do with immigration, including name changes and employer error in entering data. The “SAVE Act” taps the SSA to play an unprecedented role of reporting and cooperating with the DHS by requiring the SSA to notify employers of ALL no-matches and to notify DHS of all unresolved no-matches. Workers who wrongfully receive a no-match letter will have 10 days to resolve the problem, or be fired. A judge recently found that the

DHS no-match rule, which gave employers and workers 90 days to fix errors, placed a large burden on employers, and may result in tremendous harm – including loss of employment – for U.S. workers.

- **Link the Social Security Administration and Department of Homeland Security to enforce immigration laws.** The “SAVE Act” requires SSA to notify all employees in cases where their social security number (SSN) has been reported by two or more employers and requires those workers to prove they are using a valid SSN and are employed by multiple employers simultaneously. This would be tremendously burdensome for the many workers who hold multiple jobs, and would place additional burdens on the already overstretched and underfunded SSA, resulting in delays providing Social Security benefits to the retired and disabled.

The “SAVE Act” also requires SSA to report all unresolved no-matches and multiple use SSNs to the Department of Homeland Security, increasing the amount of personal taxpayer information about workers (including U.S. citizens) that is shared between government agencies, overriding current laws protecting the privacy of taxpayer information.

- **Put Police on Track to Become Immigration Agents.** The bill creates a mandatory expansion of the 287(g) program, which empowers local police to enforce federal immigration laws. This policy is likely to lead to costly mistakes and civil rights violations, puts a further burden on already overstretched local police departments, and is harmful to public safety because it erodes the trust between police and the immigrant communities they serve.
- **Remove “Good Samaritan” Exceptions to the Harboring Statute.** Current law on harboring undocumented immigrants contains exceptions for aid that is provided for humanitarian reasons. The “SAVE Act” expands the scope of activity considered to be “alien smuggling” and simultaneously narrows the Good Samaritan exceptions in law. Modifying the statute in this way may leave *bona fide* providers of humanitarian assistance vulnerable to prosecution.
- **Add Detention Beds That Have Not Been Requested by DHS.** In August 2007, the White House sought an increase in detention beds of 4,000 — from 27,500 to 31,500. The “SAVE Act” adds double that — 8,000 beds — an expense that the Administration has not requested and that taxpayers should not be asked to absorb.
- **Expand the amount of expensive enforcement-only resources along the border and in the interior.** The “SAVE Act” would increase the number of Immigration and Customs Enforcement (ICE) agents, detention beds, and Federal District Court judges. It would also increase the number of Border Patrol agents, provide incentives to recruit additional Border Patrol agents, and authorize more technology and more infrastructure along the U.S. – Mexico border. These are the same measures that have been tried over and over again for the past 20 years, with little effectiveness. In that time, border deaths have increased and smuggling and trafficking rings have proliferated, while the number of undocumented immigrants in the U.S. has increased significantly.

The “SAVE Act” of 2007, like H.R. 4437 (the “Sensenbrenner bill”) passed by the House in December 2005, is an “enforcement only” measure--ineffective at resolving the pressing problems associated with our nation’s broken immigration system. There are 12 million undocumented immigrants living in the U.S. comprising 5% of the workforce. It is impractical to deport these workers and their families. The answer to our nation’s immigration challenges rests with those policy-makers who embrace a tough enforcement scheme in combination with practical and realistic solutions for undocumented workers and their families.

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