Statement of

The Honorable Russ Feingold

United States Senator
Wisconsin
July 21, 2009

Statement of U.S. Senator Russ Feingold
Hearing on "Ensuring a Legal Workforce: What Changes Should be Made to Our Current
Employment Verification System?"
Senate Judiciary Committee
July 21, 2009

Thank you, Mr. Chairman. I am pleased that the Committee is once again taking up the critical
issue of immigration reform. You have been working tirelessly to draw attention to a number of
changes that we need to make to the current employer verification system, E-Verify, and I
applaud your efforts to create a tough, but reliable mechanism to ensure that we have a legal
workforce.

I have been concerned about recent efforts to make E-Verify mandatory and to expand its use to
federal contractors without first fixing the current problems with the system. Employment
verification is a very promising idea--and it has tremendous potential to ensure that U.S. jobs
only go to U.S. citizens and those who are legally authorized to work in the U.S.--but we need to
get it right before we expand our reliance on electronic verification. Our current system, E-
Verify, remains riddled with errors and other inaccuracies. According to a 2006 report of the
Social Security Administration's Inspector General, the data set on which E-Verify relied
contains errors in 17.8 million records, affecting 12.7 million U.S. citizens. If E-Verify becomes
mandatory before these errors are fixed, millions of Americans could be misidentified as
unauthorized to work. That is simply an unacceptable result.

I understand that U.S. Citizenship and Immigration Services has been working to improve the
accuracy of E-Verify, but we still have a long way to go. According to recent reports, if E-Verify
becomes mandatory for all U.S. employers, roughly 600,000 workers--most of whom are U.S.
citizens--would be deemed ineligible to work. That is a very large number. It is equal to the
entire population of the city of Milwaukee. I recognize that no employer verification system will
be completely error-free, but that kind of error rate, in my opinion, makes this system
unworkable.

In 2008, Intel Corporation, a very large employer, reported that 12% of the workers that they ran
through E-Verify came up as "tentatively non-confirmed." All of these workers were eventually
cleared as work-authorized, but Intel had to invest significant time and money to correct these
errors, which is something that many smaller businesses would be unwilling or unable to do for
their staff.

I am particularly concerned about these error reports, because almost half of all businesses that use E-Verify report that they use E-Verify to pre-screen job applicants. This means that employers are making hiring decisions based on erroneous information, and they are never notifying applicants of this information so the applicants can contest and correct it.

Any permanent, mandatory employment verification system must contain sufficient procedural protections for workers who are initially deemed unauthorized to work. Workers must be given a simple, straightforward means to appeal any data errors.

Employment verification proposals should also contain sufficient provisions to ensure that any personally identifiable information that is collected by the government is kept completely confidential. We must be very careful to establish safe, secure systems that will protect the electronic transmission of any personal information.

I strongly believe that we need to secure our borders, we need to fix our broken immigration laws, and we need to deal with the fact that there are millions of undocumented individuals in this country. And we need to do it now. But we also need to be very conscious that thousands of American citizens and legal immigrants could lose their jobs if we mandate use of an electronic verification system before these errors are fixed. This would cause massive disruption, not just in the lives of these workers, but also to the already-fragile U.S. economy.