Chairman Wilkin, Vice Chairman Reineke, Ranking Member DeMora, and distinguished members of this committee. Thank you for the opportunity to present testimony, on behalf of NumbersUSA, regarding HB 327 relating to E-Verify.

My expertise in immigration law and policy dates back to 2008. I spent the first 6 and a half years of my federal career as an attorney for U.S. Immigration and Customs Enforcement handling all manner of deportation cases before the Immigration Court in Baltimore. In 2015, I left the Department of Homeland Security to serve as counsel to Congressman Raul Labrador of Idaho. In that role, I worked on the entire Judiciary Committee portfolio but focused primarily on immigration. In 2017, I was hired by the House Judiciary Committee itself and then-Chairman Bob Goodlatte, to serve as counsel in the Immigration and Border Security Subcommittee. During that time, I focused on immigration enforcement policy and criminal immigration matters.

I joined the Trump Administration in 2018 when I accepted an appointment in the Department of Justice to serve as a Deputy Assistant Attorney General in the Office of Legal Policy where I was tasked with moving the Administration's immigration regulatory agenda. During that time, I was detailed to the White House for a special immigration project. In July of 2019, I was hired by then U.S. Citizenship and Immigration Services Acting Director Ken Cuccinelli to serve as USCIS's Chief Counsel. In that role I oversaw the agency's legal department of approximately 320 attorneys and staff handling all facets of immigration and administrative law. The following February, as Mr. Cuccinelli was elevated to Deputy Secretary of Homeland Security, I was appointed USCIS Deputy Director for Policy.[1] In that role, I oversaw all day-to-day operational and policy matters for an agency of over 20,000 employees and contractors worldwide.

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[1] I am often referred to as Acting Director of USCIS (and served in that role) but could not officially use that title due to complexities affecting other appointments pursuant to the Federal Vacancies Reform Act.

At issue today is HB 327, a bill that mandates E-Verify enrollment and usage for employers who employ 75 or more individuals and contractors engaged in nonresidential construction. It further empowers the State's Attorney general to investigate and bring a civil complaint against a noncompliant employer. Employers who are adjudged to be liable will be fined and may not be eligible for state-based contracts for a period of a year. Lastly, the bill requires that any state or local government contracts must include provisions requiring E-Verify.

We are very proud to rise today in strong support of HB327.

Federal law requires that every employer in the United States verify the employment eligibility of each employee hired. All employers have become intimately familiar with the I-9 Form, with the attached document schedules, and the penalties, both civil and criminal for failing to properly comply.

E-Verify is a signature enforcement program, administered by USCIS, designed to act as a force multiplier for an employer in ensuring compliance with federal immigration and employment law. The tool, which is completely free, permits an employer to register and then verify employment eligibility using the documents already provided via the I-9 process.

E-Verify takes just seconds[2] to respond and provide the employer with the peace of mind knowing that their new hire is authorized to accept employment in the United States. Many companies already utilize the program, and more are registering each day. As of the end of 2023, Ohio has over 18,000 companies with memoranda of understanding with E-Verify, using the system at over 93,000 hiring sites. During that fiscal year, Ohio companies opened more than 427,000 cases through the E-Verify system.[3] Estimates for FY 2023 suggest that nearly 43 million employees were checked for employment eligibility during the fiscal year.[4]

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[2] E-Verify, https://www.e-verify.gov/about-e-verify/what-is-e-verify (last visited April 14, 2024).
[3] E-Verify, *E-Verify Usage Statistics*, https://www.e-verify.gov/about-e-verify/e-verify-data/e-verify-usage-statistics (last visited April 14, 2024).
[4] E-Verify, *E-Verify Performance*, https://www.e-verify.gov/about-e-verify/e-verify-data/e-verify-performance (last visited April 14, 2024).

Any concerns about the accuracy of the data are allayed by performance statistics published quarterly by USCIS. For the first two quarters of FY2024, E-Verify boasted a success rate of automatically confirming work authorization for 98.14% of employees queried.[5] Of those not automatically confirmed, .20% were confirmed after an initial mismatch, .62% remained unconfirmed following an uncontested mismatch, 1.03% remained unresolved or in process, and only .02% remained unconfirmed as work authorized following a contested mismatch.[6] Put into numerical terms, the .02% reflects 3,498 cases out of the 20,535,217cases that were opened during those two quarters.

Furthermore, E-Verify acts as a deterrent for an illegal population. Research conducted on the effect of E-Verify found that illegal immigration in a state fell more than 50% when a state implemented a mandatory E-Verify law.[7] When E-Verify was originally created, its birth was heralded by opponents of illegal immigration as well as proponents of the American worker. This system is the single most important addition to the immigration toolkit by disincentivizing illegal immigration and removing the competitive disadvantage burdening employers following the law in an economy with employers who willfully skirt it.

I would be remiss if I did not address one of the common misperceptions of the program. To be very clear, E-Verify is not a national database. It stores no data after usage. E-Verify is a tool that queries information that exists within the confines of the Department of Homeland Security and the Social Security Administration. When information is inputted, E-Verify instantly culls the departmental tools to provide an accurate response. Subsequently, the employer may print out the results, but E-Verify keeps no database of queried employees.

HB 327 is the right solution for Ohio, and we certainly hope that more states follow suit to mandate E-Verify at some level. While we would prefer that the bill not include a 75-employee floor, this is a minor detractor compared to the positives within the bill.

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[5] *Id*.
[6] *Id*.
[7] Preston Huennekens, *Study Shows E-Verify's Effectiveness* (Dec. 8, 2017), https://cis.org/Huennekens/Study-Shows-EVerifys-Effectiveness.

HB327 is simple and does not require much analysis for an employer to determine whether they are complying and how to comply with it. The terms are well-defined, and the penalties are well within the parameters of the federal penalties. Additionally, HB327 removes any political gamesmanship or any argument that it could be weaponized as the executive branch, to wit, the Office of Attorney General, cannot levy any penalty absent court order. This ensures that any violation is properly investigated and that any allegations may be contested in a proper litigation setting which will invariably allow an alleged violator to provide evidence and testimony to the contrary.

Furthermore, the bill prohibition on investigations based solely on race, color, or national origin is exceptional. E-Verify is a race-blind, color-blind, and nationality-blind system. An employer who only utilizes it for cases where they suspect foreign nationality is in violation of its terms. All prospective employees must be run, and an employer cannot, solely based on an initial non-confirmation, refuse to hire an employee. Just as employers may not discriminate, it is very good policy to see the Attorney General's Office precluded from instituting investigations based on discriminatory factors alone.

NumbersUSA is excited to support HB327. This is a strong bill, and I look forward to your questions on its practical application as well as E-Verify more generally.