Republicans are trying to exchange a minimum wage hike for a crackdown on undocumented workers

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Their proposal would mandate E-Verify nationwide — but it would likely just drive more undocumented immigrants to work off the books.

Democrats will likely have to resort to compromising with Republicans if they intend to make progress toward a $15 minimum wage. The House version of President Joe Biden's Covid-19 relief package includes a minimum wage increase to $15 over the next five years, but that provision appears **doomed in the closely divided Senate**. To get a minimum wage increase, Democrats may need to find a proposal that can muster a filibuster-proof 60 votes — a tall order.

The most viable among the GOP's counterproposals so far is legislation from **Sens. Mitt Romney (UT) and Tom Cotton (AR)** that five Republicans have backed. Their bill would raise the federal minimum wage to $10 over four years, indexing it to inflation every two years thereafter.

Beyond the smaller hike, the provision in the bill that might give Democrats pause is one that targets the undocumented workforce: The Romney-Cotton bill mandates that all employers nationwide enroll in E-Verify, a federal employment eligibility verification program. It also increases penalties for employers that hire undocumented workers and requires workers to provide a photo ID to their employer for verification.

Romney and Cotton have argued that the bill would protect American workers and their wages by preventing employers from hiring undocumented workers. "[O]ur bill would protect American jobs by requiring employers to use E-Verify to ensure that businesses cannot hire illegal immigrants," Romney said in a statement. "We must create opportunities for American workers and protect their jobs, while also eliminating one of the key drivers of illegal immigration."

But it's also plainly a political play to squeeze Democrats on competing priorities — boosting the minimum wage versus protecting the undocumented population.

That said, it might not be as effective a play as Romney and Cotton think. The fact is that expanding E-Verify won't actually achieve Romney's and Cotton's goals, according to experts.

That's because making E-Verify mandatory won't meaningfully reduce the undocumented workforce — rather, it would likely push more undocumented people to work off the books with no labor law enforcement, or use someone else's identification information to pass the

employment verification process. And it would create perverse incentives for employers, who might be more inclined to hire undocumented workers under the table for lower wages, effectively displacing more US workers.

"There's really not a solution, a silver bullet in the E-Verify program," David Bier, an immigration policy analyst at the Cato Institute, said. "I think it's costly to workers, costly to employers, and mostly ineffective on its face."

If E-Verify becomes a subject for negotiation on immigration policy in the months ahead, policymakers and the public should be clear about its actual effects.

How E-Verify works

Within the first three days of starting a job, all new hires have to complete an I-9 form, which asks for their Social Security number and other evidence (employment authorization documents; documents confirming their identity, such as a state-issued photo ID) that they are eligible to work in the US.

Employers enrolled in E-Verify input the information on the I-9 into an online system that compares it against available records from the Department of Homeland Security to determine whether the individual is, in fact, eligible to work. If the system identifies an error and if the worker cannot fix the error, then the employer is required to fire them.

But in practice, it's not hard to pass E-Verify if a worker has a valid Social Security number — even if it isn't theirs.

"The E-Verify program is a failure on its own terms. The vast majority of illegal workers make it through the program. The best evidence we have is more than 80 percent of all attempted illegal hires are approved," Bier said.

Typically, undocumented workers borrow Social Security numbers from a family member or friend, who might give it to them in exchange for some nominal fee. The owner of the documents is often **outside the country or too young to work**. While it's difficult to estimate how many people are engaging in these consensual so-called "identity loans," a 2016 **survey** found that 50 to 70 percent of immigrant farmworkers had relied on loaned documents.

Undocumented workers could also resort to identity theft, buying someone else's personal information on an online black market where even the most sought-after profiles with good credit scores **only sell for $60 to $80**. After Congress passed legislation in 1986 that required all employees to fill out an I-9, the value of these fraudulently obtained documents **shot up**.

But the subset of workers who do steal identities is relatively small compared to those who rely on identity loans, Bier said.

While the vast majority of employers don't want to risk potential penalties and investigations for hiring undocumented workers, they have little incentive to question a worker's immigration status or the validity of their identification documents because it could make them vulnerable to discrimination claims. In their case, it's easier to plead ignorance.

Expanding E-Verify won't reduce the undocumented workforce

Enrollment in E-Verify is currently voluntary in most states. Eight states — Alabama, Arizona, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Utah — currently require most or all employers to enroll, and others have just mandated it for state employees or contractors.

Arizona was the first state to mandate E-Verify in 2008, just as then-Maricopa County Sheriff Joe Arpaio became known as "America's toughest sheriff" for **rounding up undocumented immigrants** en masse in neighborhood sweeps and traffic stops. Republicans saw E-Verify as the solution to the state's immigration challenges, and, indeed, about 17 percent of the undocumented workforce **fled the state** thereafter.

But the deterrent effect of E-Verify was short-lived as undocumented workers quickly found that using other people's identification information would allow them to pass an employment verification check.

Expanding the program nationwide therefore would likely do little to decrease the population of undocumented workers in the US or prevent them from competing with Americans for jobs. And it would impose an additional burden on the more than 160 million workers and 6 million employers in the US who would have to adopt the system.

Bier said it could even harm many legal workers, whose employment has been put on hold because of errors in the E-Verify system or in government records in the past. Expanding the program across the entire US workforce means that even a tiny error rate will translate into ten of thousands of people having to rectify errors with the Social Security Administration and Homeland Security Department in a process that, in more than a third of cases, takes **more than eight days** to complete, preventing them from working.

Mandating E-Verify nationwide would also increase the number of cases of identity loans and theft, as well as force more undocumented people to work off the books. That's why Democrats have not typically considered reforms to E-Verify unless paired with some kind of legalization program for the 10.5 million undocumented immigrants living in the US, as it was in the 2013 "Gang of Eight" comprehensive immigration reform bill.

"We cannot solve the problem of the unauthorized or make E-Verify meaningful unless we address the other aspects of immigration reform," Muzaffar Chishti, director of the Migration Policy Institute's office at New York University School of Law, said. "To me, E-Verify has always been the linchpin for understanding why you need to deal with this stuff comprehensively. If the goal is that we want to stop unauthorized people from working, which is a perfectly laudable goal, it cannot be successful as long as there are 7 million of them in the workplace."