

**The Written Testimony of Dominick Mondì, Executive Director
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Before the House Judiciary Subcommittee on Immigration and Border Security

**Hearing on H.R. 1772 the Legal Workforce Act
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Introduction and Background on NJNLA

Chairman Gowdy, Ranking Member Lofgren, and members of the Subcommittee, thank you for the opportunity to come to Washington today to join the discussion on the very important topics of immigration reform, E-Verify, and the "Legal Workforce Act" (H.R. 1772).

The New Jersey Nursery and Landscape Association is comprised of Nursery Producers, Landscape Professionals, Garden Centers, and Greenhouse Growers. First established in 1915, our diverse organization represents an industry that contributes over \$4 billion to New Jersey's economy annually and employs 39,000 people statewide. Nationally, nursery and greenhouse growers produce crops that represent 15% of all farm crop cash receipts. The entire industry contributes in excess of \$70 billion in economic output annually.

Our organization has immigration reform interests in line with those of other state and national organizations, both in the green industry and in other small business and service related industries. We feel the issue of our broken immigration system hurts business and weakens the economy. Well thought-out reform therefore is paramount to the success of small business, especially in the agricultural and service sectors, now and in the future.

With the renewed debate in Congress on the subject of modernizing our immigration system, Congress now has a chance to get it right, with legislation that addresses border security, employment verification, earned legalization, and programs for future legal immigration and worker programs. The bi-partisan S. 744 under consideration now in the Senate Judiciary Committee is an encouraging development. This package takes the broad, comprehensive approach to modernizing our immigration laws that is needed. Within such a comprehensive package, we believe E-Verify or a similar system is an important part of the overall solution on immigration. But, in the stand-alone form proposed in H.R. 1772, mandatory E-Verify threatens to be seriously damaging to small businesses and the economy.

E-Verify's Proper Role: A Component of Comprehensive Immigration Reform

We recognize that E-Verify is sure to play a role as a component in any comprehensive approach to immigration reform. With estimates ranging up to as many as 40% of unauthorized immigrants here having overstayed visas, enhanced border enforcement alone will not achieve the security goals so many want. No one has more to gain from the implementation and enforcement of an improved employment eligibility verification system including E-Verify than the honest small businessmen and women who are trying to compete on a level playing field. Unscrupulous employers who are willing to circumvent good and legal labor practices poison the competitive marketplace, suppress prices and hold down wages. This is a rampant problem in professions like landscaping where the cost of entry is low. Good business owners don't ask for the government to create competitive advantages, but rather to provide a level playing field, and a reformed immigration system complete with workforce legalization, future flow measures, adequate guest worker programs, and workplace security can help achieve that end.

Impact of Stand-Alone E-Verify Legislation on Small Businesses That Rely on Low Skill Labor

I would like to start by offering a brief comment on the question of “skill.” Labor needs in our industry are often described as “low-skilled” or “lesser skilled”. We feel that this distorts the reality. In fact, most workers in our industry develop highly specialized skills, even though most jobs may not require extensive formal education. For example, one New Jersey nursery relies on their seasonal workers to fill a position entitled ‘Order Puller’. This person is not only responsible for understanding plant sizing and quality standards, but must be able to read and understand the botanical names for over 100 different types of plants. In the landscape trade, the proper pruning of plants to minimize insect and disease intrusion opportunities while creating the desired appearance and new growth is a skill that can only be learned with hands on training and experience.

Unfortunately, the implementation of E-Verify as a stand-alone approach to reforming employment eligibility verification would lead to serious negative consequences for our employers and the economy. Mandated in a vacuum, outside the context of a comprehensive immigration package, E-Verify will have the unintended consequence of pushing more labor to the black market, increasing staffing burdens, and ultimately hurting the thousands of small businesses in the nursery, landscape, and like-minded service industries. This is not what we need out of immigration reform.

While we certainly don’t defend the use of unauthorized workers, knowingly or unknowingly, there is a reality that a large part of this workforce has been trained and has advanced, contributing their skills and talents to good employers and businesses who make good faith efforts to follow the law. In agriculture in particular, experts estimate that upwards of 70% of farm workers lack proper immigration status. Industries with significant entry level, manual labor, and seasonal jobs face challenges too.

Should mandatory E-Verify force much of this workforce 'off the books' with no avenue to legal work status, the loser is the honest business, and the winner is the dishonest company driving down prices and wages by taking up this skilled labor 'under the table'. There are over 90,000 landscape companies in the country, and most average under 20 employees throughout the year. Over 75% of our members report employing 25 employees or less. These are truly small businesses that rely heavily on labor. These thousands of small businesses need, and desperately want, a safe, legal, and available labor pool to meet their year round and seasonal needs. Many of these businesses would refuse to work with black market labor, and the competitive disadvantage would hurt them, if not force them out of business. If a piecemeal enforcement-only policy is pursued instead of a real comprehensive fix, and the existing workforce is displaced, where will the labor come from?

Why Sufficient Labor is Not Available Without Immigration Reform

It would be wrong to state that there are 'no' native born Americans who are willing or able to do this work. I myself have worked in the landscape industry my entire life, starting at age 16, hand grading lots for new homes. Our nation's demographics, educational and employment opportunities, however, have changed over the last 50 years. There are certainly some willing to do the work – I meet them all the time – but the pool to pull from is smaller than it has ever been and does not meet the overall needs of our economy.

According to the US Census bureau, in 1960 roughly 10% of Americans had a college degree and only about 40% had graduated high school. By 2010 those numbers will have swelled to 30% with college degrees and over 85% with high school diplomas. The increased education of our population should be a net benefit to our economy, but does not help fill more entry-level positions on which many ambitious and educated Americans build their businesses, and subsequently their lives. Consider as well the increasing age of our population. The median age of our population has grown from 29.5 in 1960 to

37.2 in 2010. The population is also not growing at the same rate as it did a half century ago. An older, slower growing, better educated society is a key contributing factor to the difficulties that many businesses in our industry and others like it have in finding qualified, hard-working labor. We need proactive, forward-thinking, and comprehensive immigration reform to address these challenges for the next generation of business owners and workers in our industry.

Despite New Jersey's unemployment rate being higher than the national average, many employers I speak with talk about their difficulty finding qualified and hard-working employees. One member firm I spoke with recently told me that despite advertising online and in local print publications, she is still struggling to meet her peak seasonal labor needs. Based on my conversations with others in the landscape industry, her experiences are not uncommon. It has been reported recently that there is only one major landscape company in the country that is utilizing E-Verify. This one industry accounts for over 90,000 small businesses across the country who are already struggling to meet their annual and peak seasonal labor needs, even with an available, albeit unauthorized, labor pool in place. Mandatory E-Verify alone, without some corresponding legal options for businesses to replace the lost labor, could severely undermine this industry and create a large 'black market' for lesser skilled labor.

Our growers face daunting challenges as well. New Jersey agriculture is among the nation's most labor-intensive; the state ranks 5th in terms of percentage of farm income spent on hired labor. Farm Credit East has analyzed the potential impacts of an enforcement-only (as in, stand-alone E-Verify) policy on the farm sector in the states of New Jersey, New York, Connecticut, Massachusetts, and New Hampshire. The analysis found that 1,664 farms with annual production of \$1.6 billion, nearly 20,000 on-farm jobs and nearly 55,000 off-farm but farm-dependent jobs in just these five states would be jeopardized by an enforcement-only approach, such as mandating E-Verify without comprehensive immigration reform.

Moving Forward with Comprehensive Reform Efforts

Our businesses need leadership from Congress to advance a common sense, comprehensive immigration reform package that modernizes our immigration laws and meets the needs of businesses across all sectors of the economy. We recognize that some form of E-Verify is likely to be a part of that package. We thank Congressman Smith, bill sponsors, and this committee for taking this step in advancing the immigration reform conversation, but we remain seriously concerned that a piecemeal approach to reform will only distract from the needed focus on a comprehensive solution.

In previous testimony before this committee, it has been encouraging to hear about the improvements in the E-Verify system, including the reduction in error rates, future plans to make the program more accessible, and minimizing unintended consequences on the smallest businesses. Despite these recent and forthcoming improvements, many of our employers will face special challenges using a system like E-Verify due to factors like limited access to high-speed internet, high seasonal hiring and turnover, remote or non-office hiring, and lack of dedicated human resources professional staff. We believe it is essential that the program is simplified for users, that error rates are minimized, and that identity theft concerns are addressed if E-Verify is to be phased in for all employers, and that phase in must coincide with a broad reform package.

In conclusion, our organization supports the use of E-Verify, but only as part of a comprehensive approach to modernizing our immigration laws that simultaneously addresses the other needs of the many small businesses who rely on an immigrant workforce. If enacted as an isolated measure, however, we believe mandatory E-Verify will be a clear net negative to our industry, will harm small businesses across a range of sectors, and will do serious damage to the U.S. economy.