February 4, 2008

Dear Member of Congress,

On behalf of the Low-Wage Immigrant Worker (LWIW) Coalition, which is co-convened by the National Immigration Law Center, the American Federation of Labor – Congress of Industrial Organizations, Change to Win, Interfaith Worker Justice, Jobs with Justice, the National Council of La Raza, the National Day Laborer Organizing Network, and the National Employment Law Project, we write to express our strong opposition to the "Secure America through Verification and Enforcement Act of 2007" or "SAVE Act" (H.R. 4088/S. 2368) introduced by Representatives Shuler (D-NC) and Tancredo (R-CO) in the House of Representatives and by Senators Pryor (D-AR) and Landrieu (D-LA) in the Senate. The LWIW Coalition is our nation's broadest collaborative of advocates and organizers working to improve the living and working conditions of low-income and low-wage immigrant workers. The mission of the LWIW is to support this community of advocates by sharing strategies and resources at the local, state, and national levels.

Title II — which alters employment verification requirements — is of particular concern to the LWIW Coalition because of the adverse effect it will have on *all* workers. Moreover, it simply builds on the flawed immigration enforcement-only policies of the last 20 years that have allowed unscrupulous employers to violate the nation's labor laws while they threaten workers with deportation for exercising their labor rights. This exploitation harms U.S.-born workers whose job opportunities, wages and working conditions are undermined, and also harms undocumented workers who work in substandard and inhumane conditions. It also undercuts any immigration worksite enforcement system because the economic incentive to exploit immigrant workers far exceeds the cost of complying with immigration, labor, or employment laws. In short, the measures contained in Title II amount to a surge of failed status quo immigration policy.

Our main concerns with the SAVE Act include the following:

- **It massively expands the Basic Pilot/E-Verify program without addressing its well-documented database flaws.** The bill makes no attempt to fix the program's error-ridden databases that cause an unacceptable number of workers to be identified as not having work authorization, when they are in fact authorized. At the Social Security Administration (SSA) alone, 17.8 million (or 4.1 percent) of agency records contain discrepancies that could result in an incorrect finding from Basic Pilot, with 12.7 million of those records belonging to U.S. citizens. SSA estimates that if Basic Pilot/E-Verify were to become mandatory, its database errors alone (not accounting for errors in the Department of Homeland Security (DHS) database) could result in 2.5 million people a year being misidentified as not authorized for employment.

- **It doesn't address the extensive employer misuse of the Basic Pilot/E-Verify program.** Basic Pilot/E-Verify is misused by employers who take adverse employment actions against workers based on incorrect database findings, which penalizes workers while they and the appropriate agency work to resolve database errors. According to a September 2007 independent evaluation of the program commissioned by DHS, 22 percent of employers restricted work assignments, 16 percent delayed job training and two percent reduced pay while workers challenged these errors. This misuse would only be exacerbated by a mandatory program.

- **It punishes low-wage workers who may frequently change jobs or have multiple jobs.** Many low-wage workers need to hold multiple jobs in order to make ends meet given that the minimum wage has not kept pace with inflation. The bill strips workers of credit for their earnings from a second or third job unless they physically go to an SSA office with pay stubs or other documentation to prove that they performed the work. This is an unreasonable and unfair demand on the lowest-paid workers in our economy. Additionally, the requirement will place additional burdens on SSA, which is already challenged in meeting its obligation to administer disability and retirement benefits.

- **It codifies and places further restrictions on a DHS rule on SSA no-match letters even though a federal judge blocked the rule because it could result in serious harm to U.S. workers.** The bill attempts to use SSA "no-match" letters, which are sent to workers and their employers to ensure that workers are getting proper credit for their earnings, as an immigration enforcement tool. No-match letters are not an indicator of immigration status, and many U.S. citizen and lawful workers receive these letters because of errors that SSA admits it has in its database. Moreover, unlike the DHS database, the SSA database does not even contain complete information about every worker's immigration status. Additionally, the bill requires workers to fix any no-match letter in 10 days—even though a federal judge found that the 90 days given under the DHS rule was unreasonable.

- **It doesn't offer a solution for the over 8 million undocumented workers in our economy.** Increased immigration enforcement without legalization is set up to fail because undocumented workers are not going to leave the country. Rather, they and their employers will simply find a way around any immigration worksite enforcement system by not following program rules, seeking out more sophisticated fraudulent documents, or moving into the underground economy — a prospect that has serious consequences for tax revenues at the federal, state and local level. By omitting a legalization program, the bill also ignores the critical contributions that undocumented workers make to the U.S. economy, and the devastation that our economy would experience without them.

Instead of the SAVE Act, we ask Congress to consider an approach to immigration reform that addresses the way in which unscrupulous employers shirk their obligations to comply with our nation's labor laws. Without addressing this problem, an immigration enforcement-only policy will be counter-productive because it will not address the economic incentive that employers have to hire undocumented workers by any means possible, including moving into the underground economy, misclassifying workers as independent contractors, and using sham subcontracting arrangements.

Please contact Tyler Moran at the National Immigration Law Center at 208-333-1424 or Liz Weiss at Interfaith Worker Justice at 202-481-6689 if you have any questions.

Sincerely,

The Low-Wage Immigrant Coalition conveners