

**Senator John W. Hickman** proposes the following substitute bill:

**ILLEGAL IMMIGRATION**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John W. Hickman**

House Sponsor: Michael E. Noel

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**LONG TITLE**

**General Description:**

This bill deals with provisions related to the immigration status of individuals within the state.

**Highlighted Provisions:**

This bill:

- ▶ requires a county sheriff to make a reasonable effort to determine the citizenship status of a person confined to a county jail for a period of time and to verify the immigration status of a confined foreign national, and makes it a rebuttable presumption, for the purpose of determining the grant or issuance of a bond, that a person verified by the sheriff's efforts as a foreign national not lawfully admitted into the United States is at risk of flight;
- ▶ provides that the Alcoholic Beverage Control Commission may not grant a restaurant liquor license or private club license to a person who is not lawfully present in the United States;
- ▶ provides for the creation and issuance of identification documents and requires that those identification documents issued by public entities go only to United States citizens, nationals, or legal permanent resident aliens with certain exceptions;
- ▶ provides for exceptions to the issuance of identification documents by public



26 entities based on valid documentation of certain approved or pending immigration status and  
27 places time period restrictions on the length of validity of the documents;

- 28 ▶ requires public employers to register with and use a Status Verification System to  
29 verify the federal authorization status of a new employee;
- 30 ▶ beginning July 1, 2009, provides that a public employer may not enter into a  
31 contract for the physical performance of services within the state with a contractor  
32 unless the contractor registers and participates in the Status Verification System to  
33 verify the work eligibility status of the contractor's new employees;
- 34 ▶ provides that it is unlawful to discharge a lawful employee while retaining an  
35 unauthorized alien in the same job category;
- 36 ▶ requires an agency or political subdivision of the state to verify the lawful presence  
37 in the United States of an individual who has applied for a state or local public  
38 benefit, as defined by federal law, or a federal public benefit that is administered by  
39 the agency or the political subdivision and provides for exceptions;
- 40 ▶ requires an applicant for a state or local public benefit to certify the applicant's  
41 lawful presence in the United States, and provides penalties for making a false,  
42 fictitious, or fraudulent statement or representation in the application;
- 43 ▶ provides, subject to the availability of funding, for the establishment of a Fraudulent  
44 Documents Identification Unit by the attorney general for the primary purpose of  
45 investigating, apprehending, and prosecuting individuals who participate in the sale  
46 or distribution of fraudulent identification documents created and prepared for  
47 individuals who are unlawfully residing within the state;
- 48 ▶ requires the attorney general to negotiate a Memorandum of Understanding with the  
49 United States Department of Justice or the United States Department of Homeland  
50 Security for the enforcement of federal immigration and customs laws within the  
51 state by state and local law enforcement personnel;
- 52 ▶ prohibits a unit of local government from enacting an ordinance or policy that limits  
53 or prohibits a law enforcement officer or government employee from  
54 communicating or cooperating with federal officials regarding the immigration  
55 status of a person within the state; and
- 56 ▶ makes it a class A misdemeanor for a person to:

57 • transport in this state an alien for commercial advantage or private financial  
58 gain, knowing that the alien is in the United States in violation of federal law, in  
59 furtherance of the illegal presence in the United States; or

60 • conceal, harbor, or shelter from detection an alien, in a place within this state for  
61 commercial advantage or private financial gain, knowing or in reckless  
62 disregard of the fact that the alien is in the United States in violation of federal  
63 law.

64 **Monies Appropriated in this Bill:**

65 None

66 **Other Special Clauses:**

67 This bill coordinates with H.B. 63, Recodification of Title 63 State Affairs in General,  
68 by providing technical renumbering.

69 **Utah Code Sections Affected:**

70 AMENDS:

71 **32A-4-103**, as last amended by Laws of Utah 2003, Chapter 314

72 **32A-5-103**, as last amended by Laws of Utah 2003, Chapter 314

73 ENACTS:

74 **17-22-9.5**, Utah Code Annotated 1953

75 **63-99a-101**, Utah Code Annotated 1953

76 **63-99a-102**, Utah Code Annotated 1953

77 **63-99a-103**, Utah Code Annotated 1953

78 **63-99a-104**, Utah Code Annotated 1953

79 **67-5-22.5**, Utah Code Annotated 1953

80 **67-5-26**, Utah Code Annotated 1953

81 **76-10-2701**, Utah Code Annotated 1953



83 *Be it enacted by the Legislature of the state of Utah:*

84 Section 1. Section **17-22-9.5** is enacted to read:

85 **17-22-9.5. Citizenship determination of incarcerated persons.**

86 (1) The sheriff shall make a reasonable effort to determine the citizenship status of a  
87 person charged with a felony or driving under the influence under Section 41-6a-502 when the

88 person is confined to the county jail for a period of time.

89 (2) If the confined person is a foreign national, the sheriff shall make a reasonable  
90 effort to verify that the person:

91 (a) has been lawfully admitted into the United States; and

92 (b) the person's lawful status has not expired.

93 (3) (a) If the sheriff cannot verify the confined person's lawful status from documents  
94 in the person's possession, the sheriff shall attempt to verify that status within 48 hours of the  
95 person's confinement at the jail through contacting:

96 (i) the Law Enforcement Support Center of the United States Department of Homeland  
97 Security; or

98 (ii) an office or agency designated for citizenship status verification by the United  
99 States Department of Homeland Security.

100 (b) The sheriff shall notify the United States Department of Homeland Security of a  
101 person whose lawful citizenship status cannot be verified under Subsection (2) or (3)(a).

102 (4) It is a rebuttable presumption for the purpose of determining the grant or issuance  
103 of a bond that a person who is verified under this section as a foreign national not lawfully  
104 admitted into the United States is at risk of flight.

105 Section 2. Section **32A-4-103** is amended to read:

106 **32A-4-103. Qualifications.**

107 (1) (a) The commission may not grant a restaurant liquor license to any person who has  
108 been convicted of:

109 (i) a felony under ~~any~~ a federal or state law;

110 (ii) ~~any~~ a violation of ~~any~~ a federal or state law or local ordinance concerning the  
111 sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic  
112 beverages;

113 (iii) ~~any~~ a crime involving moral turpitude; or

114 (iv) on two or more occasions within the five years before the day on which the license  
115 is granted, driving under the influence of alcohol, ~~any~~ a drug, or the combined influence of  
116 alcohol and ~~any~~ a drug.

117 (b) In the case of a partnership, corporation, or limited liability company the  
118 proscription under Subsection (1)(a) applies if any of the following has been convicted of ~~any~~

119 an offense described in Subsection (1)(a):

120 (i) a partner;

121 (ii) a managing agent;

122 (iii) a manager;

123 (iv) an officer;

124 (v) a director;

125 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of  
126 the applicant corporation; or

127 (vii) a member who owns at least 20% of the applicant limited liability company.

128 (c) The proscription under Subsection (1)(a) applies if ~~any~~ a person employed to act  
129 in a supervisory or managerial capacity for a restaurant has been convicted of ~~any~~ an offense  
130 described in Subsection (1)(a).

131 (2) The commission may immediately suspend or revoke a restaurant liquor license if  
132 after the day on which the restaurant liquor license is granted, a person described in Subsection  
133 (1)(a), (b), or (c):

134 (a) is found to have been convicted of ~~any~~ an offense described in Subsection (1)(a)  
135 prior to the license being granted; or

136 (b) on or after the day on which the license is granted:

137 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

138 (ii) (A) is convicted of driving under the influence of alcohol, ~~any~~ a drug, or the  
139 combined influence of alcohol and ~~any~~ a drug; and

140 (B) was convicted of driving under the influence of alcohol, ~~any~~ a drug, or the  
141 combined influence of alcohol and ~~any~~ a drug within five years before the day on which the  
142 person is convicted of the offense described in Subsection (2)(b)(ii)(A).

143 (3) The director may take emergency action by immediately suspending the operation  
144 of a restaurant liquor license according to the procedures and requirements of Title 63, Chapter  
145 46b, Administrative Procedures Act, for the period during which the criminal matter is being  
146 adjudicated if a person described in Subsection (1)(a), (b), or (c):

147 (a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii);

148 or

149 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,

150 [any] a drug, or the combined influence of alcohol and [any] a drug; and

151 (ii) was convicted of driving under the influence of alcohol, [any] a drug, or the  
152 combined influence of alcohol and [any] a drug within five years before the day on which the  
153 person is arrested on a charge described in Subsection (3)(b)(i).

154 (4) (a) (i) The commission may not grant a restaurant liquor license to [any] a person  
155 who has had any type of license, agency, or permit issued under this title revoked within the  
156 last three years.

157 (ii) The commission may not grant a restaurant liquor license to an applicant that is a  
158 partnership, corporation, or limited liability company if [any] a partner, managing agent,  
159 manager, officer, director, stockholder who holds at least 20% of the total issued and  
160 outstanding stock of the applicant corporation, or member who owns at least 20% of the  
161 applicant limited liability company is or was:

162 (A) a partner or managing agent of [any] a partnership that had any type of license,  
163 agency, or permit issued under this title revoked within the last three years;

164 (B) a managing agent, officer, director, or stockholder who holds or held at least 20%  
165 of the total issued and outstanding stock of [any] a corporation that had any type of license,  
166 agency, or permit issued under this title revoked within the last three years; or

167 (C) a manager or member who owns or owned at least 20% of [any] a limited liability  
168 company that had any type of license, agency, or permit issued under this title revoked within  
169 the last three years.

170 (b) An applicant that is a partnership, corporation, or limited liability company may not  
171 be granted a restaurant liquor license if any of the following had any type of license, agency, or  
172 permit issued under this title revoked while acting in that person's individual capacity within  
173 the last three years:

174 (i) a partner or managing agent of the applicant partnership;

175 (ii) [any] a managing agent, officer, director, or stockholder who holds at least 20% of  
176 the total issued and outstanding stock of the applicant corporation; or

177 (iii) a manager or member who owns at least 20% of the applicant limited liability  
178 company.

179 (c) A person acting in an individual capacity may not be granted a restaurant liquor  
180 license if that person was:

181 (i) a partner or managing agent of a partnership that had any type of license, agency, or  
182 permit issued under this title revoked within the last three years;

183 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the  
184 total issued and outstanding stock of a corporation that had any type of license, agency, or  
185 permit issued under this title revoked within the last three years; or

186 (iii) a manager or member of a limited liability company who owned at least 20% of  
187 the limited liability company that had any type of license, agency, or permit issued under this  
188 title revoked within the last three years.

189 (5) (a) A minor may not be granted a restaurant liquor license.

190 (b) The commission may not grant a restaurant liquor license to an applicant that is a  
191 partnership, corporation, or limited liability company if any of the following is a minor:

192 (i) a partner or managing agent of the applicant partnership;

193 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the  
194 total issued and outstanding stock of the applicant corporation; or

195 (iii) a manager or member who owns at least 20% of the applicant limited liability  
196 company.

197 (6) If ~~any~~ a person to whom a license has been issued under this part no longer  
198 possesses the qualifications required by this title for obtaining that license, the commission  
199 may suspend or revoke that license.

200 (7) The commission may not grant a restaurant liquor license to an applicant who is not  
201 lawfully present in the United States.

202 Section 3. Section **32A-5-103** is amended to read:

203 **32A-5-103. Qualifications.**

204 (1) (a) The commission may not grant a private club license to ~~any~~ a person who has  
205 been convicted of:

206 (i) a felony under ~~any~~ a federal or state law;

207 (ii) ~~any~~ a violation of ~~any~~ a federal or state law or local ordinance concerning the  
208 sale, manufacture, distribution, warehousing, adulteration, or transportation of alcoholic  
209 beverages;

210 (iii) ~~any~~ a crime involving moral turpitude; or

211 (iv) on two or more occasions within the five years before the day on which the license

212 is granted, driving under the influence of alcohol, [~~any~~] a drug, or the combined influence of  
213 alcohol and [~~any~~] a drug.

214 (b) In the case of a partnership, corporation, or limited liability company, the  
215 proscription under Subsection (1)(a) applies if any of the following has been convicted of [~~any~~]  
216 an offense described in Subsection (1)(a):

217 (i) a partner;

218 (ii) a managing agent;

219 (iii) a manager;

220 (iv) an officer;

221 (v) a director;

222 (vi) a stockholder who holds at least 20% of the total issued and outstanding stock of  
223 the applicant corporation; or

224 (vii) a member who owns at least 20% of the applicant limited liability company.

225 (c) The proscription under Subsection (1)(a) applies if [~~any~~] a person employed to act  
226 in a supervisory or managerial capacity for a private club has been convicted of [~~any~~] an  
227 offense described in Subsection (1)(a).

228 (2) The commission may immediately suspend or revoke a private club license if after  
229 the day on which the private club license is granted, a person described in Subsection (1)(a),  
230 (b), or (c):

231 (a) is found to have been convicted of [~~any~~] an offense described in Subsection (1)(a)  
232 prior to the license being granted; or

233 (b) on or after the day on which the license is granted:

234 (i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

235 (ii) (A) is convicted of driving under the influence of alcohol, [~~any~~] a drug, or the  
236 combined influence of alcohol and [~~any~~] a drug; and

237 (B) was convicted of driving under the influence of alcohol, [~~any~~] a drug, or the  
238 combined influence of alcohol and [~~any~~] a drug within five years before the day on which the  
239 person is convicted of the offense described in Subsection (2)(b)(ii)(A).

240 (3) The director may take emergency action by immediately suspending the operation  
241 of a private club license according to the procedures and requirements of Title 63, Chapter 46b,  
242 Administrative Procedures Act, for the period during which the criminal matter is being



243 adjudicated if a person described in Subsection (1)(a), (b), or (c):

244 (a) is arrested on a charge for [any] an offense described in Subsection (1)(a)(i), (ii), or  
245 (iii); or

246 (b) (i) is arrested on a charge for the offense of driving under the influence of alcohol,  
247 [any] a drug, or the combined influence of alcohol and [any] a drug; and

248 (ii) was convicted of driving under the influence of alcohol, [any] a drug, or the  
249 combined influence of alcohol and [any] a drug within five years before the day on which the  
250 person is arrested on a charge described in Subsection (3)(b)(i).

251 (4) (a) (i) The commission may not grant a private club license to [any] a person who  
252 has had any type of license, agency, or permit issued under this title revoked within the last  
253 three years.

254 (ii) The commission may not grant a private club license to [any] an applicant that is a  
255 partnership, corporation, or limited liability company if [any] a partner, managing agent,  
256 manager, officer, director, stockholder who holds at least 20% of the total issued and  
257 outstanding stock of an applicant corporation, or member who owns at least 20% of an  
258 applicant limited liability company is or was:

259 (A) a partner or managing agent of [any] a partnership that had any type of license,  
260 agency, or permit issued under this title revoked within the last three years;

261 (B) a managing agent, officer, director, or a stockholder who holds or held at least 20%  
262 of the total issued and outstanding stock of [any] a corporation that had any type of license,  
263 agency, or permit issued under this title revoked within the last three years; or

264 (C) a manager or member who owns or owned at least 20% of [any] a limited liability  
265 company that had any type of license, agency, or permit issued under this title revoked within  
266 the last three years.

267 (b) An applicant that is a partnership, corporation, or limited liability company may not  
268 be granted a private club license if any of the following had any type of license, agency, or  
269 permit issued under this title revoked while acting in that person's individual capacity within  
270 the last three years:

271 (i) [any] a partner or managing agent of the applicant partnership;

272 (ii) [any] a managing agent, officer, director, or stockholder who holds at least 20% of  
273 the total issued and outstanding stock of the applicant corporation; or

274 (iii) ~~any~~ a manager or member who owned at least 20% of the applicant limited  
275 liability company.

276 (c) A person acting in an individual capacity may not be granted a private club license  
277 if that person was:

278 (i) a partner or managing agent of a partnership that had any type of license, agency, or  
279 permit issued under this title revoked within the last three years;

280 (ii) a managing agent, officer, director, or stockholder who held at least 20% of the  
281 total issued and outstanding stock of a corporation that had any type of license, agency, or  
282 permit issued under this title revoked within the last three years; or

283 (iii) a manager or member of a limited liability company who owned at least 20% of  
284 the limited liability company that had any type of license, agency, or permit issued under this  
285 title revoked within the last three years.

286 (5) (a) A minor may not be granted a private club license.

287 (b) The commission may not grant a private club license to an applicant that is a  
288 partnership, corporation, or limited liability company if any of the following is a minor:

289 (i) a partner or managing agent of the applicant partnership;

290 (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the  
291 total issued and outstanding stock of the applicant corporation; or

292 (iii) a manager or member who owns at least 20% of the applicant limited liability  
293 company.

294 (6) If ~~any~~ a person or entity to whom a license has been issued under this chapter no  
295 longer possesses the qualifications required by this title for obtaining that license, the  
296 commission may suspend or revoke that license.

297 (7) The commission may not grant a private club license to an applicant who is not  
298 lawfully present in the United States.

299 Section 4. Section **63-99a-101** is enacted to read:

300 **CHAPTER 99a. IDENTITY DOCUMENTS AND VERIFICATION**

301 **63-99a-101. Title.**

302 This chapter is known as "Identity Documents and Verification."

303 Section 5. Section **63-99a-102** is enacted to read:

304 **63-99a-102. Creation of identity documents -- Issuance to citizens, nationals, and**

305 **legal permanent resident aliens -- Exceptions.**

306 (1) The following entities may create, publish, or otherwise manufacture an  
307 identification document, identification card, or identification certificate and possess an  
308 engraved plate or other device for the printing of an identification document:

309 (a) a federal, state, or local government agency for employee identification, which is  
310 designed to identify the bearer as an employee;

311 (b) a federal, state, or local government agency for purposes authorized or required by  
312 law or a legitimate purpose consistent with the duties of the agency, including such documents  
313 as voter identification cards, driver licenses, identification cards, passports, birth certificates,  
314 and Social Security cards; and

315 (c) a public school or state or private educational institution to identify the bearer as an  
316 administrator, faculty member, student, or employee.

317 (2) The name of the issuing entity shall be clearly printed upon the face of the  
318 identification document.

319 (3) Except as otherwise provided in Subsections (4) and (5) or by federal law, an entity  
320 providing an identity document, card, or certificate under Subsection (1)(b) or (c) shall issue  
321 the document, card, or certificate only to:

322 (a) a United States citizen;

323 (b) a national; or

324 (c) a legal permanent resident alien.

325 (4) (a) Subsection (3) does not apply to an applicant for an identification document  
326 who presents, in person, valid documentary evidence of the applicant's:

327 (i) unexpired immigrant or nonimmigrant visa status for admission into the United  
328 States;

329 (ii) pending or approved application for asylum in the United States;

330 (iii) admission into the United States as a refugee;

331 (iv) pending or approved application for temporary protected status in the United  
332 States;

333 (v) approved deferred action status; or

334 (vi) pending application for adjustment of status to legal permanent resident or  
335 conditional resident.

336 (b) (i) An entity listed in Subsection (1)(b) or (c) may issue a Subsection (1)(b) or (c)  
337 identification document to an applicant who satisfies the requirements of Subsection (4)(a).

338 (ii) Except as otherwise provided by federal law, the document is valid only:

339 (A) during the period of time of the individual's authorized stay in the United States; or

340 (B) for one year from the date of issuance if there is no definite end to the individual's  
341 period of authorized stay.

342 (iii) An entity issuing an identification document under this Subsection (4) shall clearly  
343 indicate on the document:

344 (A) that it is temporary; and

345 (B) its expiration date.

346 (c) An individual may renew a document issued under this Subsection (4) only upon  
347 presentation of valid documentary evidence that the status by which the individual originally  
348 qualified for the identification document has been extended by the United States Citizenship  
349 and Immigration Services or other authorized agency of the United States Department of  
350 Homeland Security.

351 (5) (a) Subsection (3) does not apply to an identification document issued under  
352 Subsection (1)(c) that is only:

353 (i) valid for use on the educational institution's campus or facility; and

354 (ii) includes a statement of the restricted use conspicuously printed upon the face of the  
355 identification document.

356 (b) Subsection (3) does not apply to a driving privilege card issued or renewed under  
357 Section 53-3-207.

358 Section 6. Section **63-99a-103** is enacted to read:

359 **63-99a-103. Status verification system -- Registration and use -- Performance of**  
360 **services -- Unlawful practice.**

361 (1) As used in this section:

362 (a) "Contractor" means a subcontractor, contract employee, staffing agency, or any  
363 contractor regardless of its tier.

364 (b) "Public employer" means a department, agency, instrumentality, or political  
365 subdivision of the state.

366 (c) (i) "Status Verification System" means an electronic system operated by the federal

367 government, through which an authorized official of a state agency or a political subdivision of  
368 the state may inquire by exercise of authority delegated pursuant to 8 U.S.C., Sec. 1373, to  
369 verify the citizenship or immigration status of an individual within the jurisdiction of the  
370 agency or political subdivision for a purpose authorized under this section.

371 (ii) "Status Verification System" includes:

372 (A) the electronic verification of the work authorization program of the Illegal  
373 Immigration Reform and Immigration Responsibility Act of 1996, 8 U.S.C., Sec. 1324a,  
374 known as the Basic Pilot Program;

375 (B) an equivalent federal program designated by the United States Department of  
376 Homeland Security or other federal agency authorized to verify the work eligibility status of a  
377 newly hired employee pursuant to the Immigration and Reform Control Act of 1986;

378 (C) the Social Security Number Verification Service or similar online verification  
379 process implemented by the United States Social Security Administration; or

380 (D) an independent third-party system with an equal or higher degree of reliability as  
381 the programs, systems, or processes described in Subsection (1)(a)(ii)(A), (B), or (C).

382 (d) "Unauthorized alien" means an alien as defined in 8 U.S.C., Sec. 1324a(h)(3).

383 (2) Each public employer shall register with and use a Status Verification System to  
384 verify the federal employment authorization status of a new employee.

385 (3) (a) Beginning July 1, 2009:

386 (i) a public employer may not enter into a contract for the physical performance of  
387 services within the state with a contractor unless the contractor registers and participates in the  
388 Status Verification System to verify the work eligibility status of the contractor's new  
389 employees.

390 (ii) a contractor shall register and participate in the Status Verification System in order  
391 to enter into a contract with a public employer.

392 (b) Subsection (3)(a) does not apply to a contract:

393 (i) entered into by the entities referred to in Subsection (3)(a) prior to July 1, 2009,  
394 even though the contract may involve the physical performance of services within the state on  
395 or after July 1, 2009; or

396 (ii) that involves underwriting, remarketing, broker-dealer activities, securities  
397 placement, investment advisory, financial advisory, or other financial or investment banking

398 services.

399 (4) (a) It is unlawful for an employing entity in the state to discharge an employee  
400 working in Utah who is a United States citizen or permanent resident alien while retaining an  
401 employee who:

402 (i) the employing entity knows, or reasonably should have known, is an unauthorized  
403 alien hired on or after July 1, 2009; and

404 (ii) is working in the state in a job category:

405 (A) that requires equal skill, effort, and responsibility; and

406 (B) which is performed under similar working conditions, as defined in 29 U.S.C., Sec.  
407 206 (d)(1), as the job category held by the discharged employee.

408 (b) An employing entity, which on the date of a discharge in question referred to in  
409 Subsection (4)(a) is enrolled in and using the Status Verification System to verify the  
410 employment eligibility of its employees in Utah who are hired on or after July 1, 2009, is  
411 exempt from liability, investigation, or lawsuit arising from an action under this section.

412 (c) A cause of action for a violation of this Subsection (4) arises exclusively from the  
413 provisions of this Subsection (4).

414 Section 7. Section **63-99a-104** is enacted to read:

415 **63-99a-104. Receipt of state, local, or federal public benefits -- Verification --**

416 **Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.**

417 (1) Except as provided in Subsection (3) or where exempted by federal law, an agency  
418 or political subdivision of the state shall verify the lawful presence in the United States of an  
419 individual at least 18 years of age who has applied for:

420 (a) a state or local public benefit as defined in 8 U.S.C., Sec. 1621; or

421 (b) a federal public benefit as defined in 8 U.S.C., Sec. 1611, that is administered by an  
422 agency or political subdivision of this state.

423 (2) This section shall be enforced without regard to race, religion, gender, ethnicity, or  
424 national origin.

425 (3) Verification of lawful presence under this section is not required for:

426 (a) any purpose for which lawful presence in the United States is not restricted by law,  
427 ordinance, or regulation;

428 (b) assistance for health care items and services that are necessary for the treatment of

429 an emergency medical condition, as defined in 42 U.S.C., Sec. 1396b(v)(3), of the individual  
430 involved and are not related to an organ transplant procedure;

431 (c) short-term, noncash, in-kind emergency disaster relief;

432 (d) public health assistance for immunizations with respect to immunizable diseases  
433 and for testing and treatment of symptoms of communicable diseases whether or not the  
434 symptoms are caused by the communicable disease;

435 (e) programs, services, or assistance such as soup kitchens, crisis counseling and  
436 intervention, and short-term shelter, specified by the United States Attorney General, in the  
437 sole and unreviewable discretion of the United States Attorney General after consultation with  
438 appropriate federal agencies and departments, which:

439 (i) deliver in-kind services at the community level, including through public or private  
440 nonprofit agencies;

441 (ii) do not condition the provision of assistance, the amount of assistance provided, or  
442 the cost of assistance provided on the income or resources of the individual recipient; and

443 (iii) are necessary for the protection of life or safety;

444 (f) the exemption for paying the nonresident portion of total tuition as set forth in  
445 Section 53B-8-106; and

446 (g) an applicant for a license under Section 61-1-4, if the applicant is registered with  
447 the Financial Industry Regulatory Authority and files an application with the state Division of  
448 Securities through the Central Registration Depository.

449 (4) An agency or political subdivision required to verify the lawful presence in the  
450 United States of an applicant under this section shall require the applicant to certify under  
451 penalty of perjury that:

452 (a) the applicant is a United States citizen; or

453 (b) the applicant is:

454 (i) a qualified alien as defined in 8 U.S.C., Sec. 1641; and

455 (ii) lawfully present in the United States.

456 (5) An agency or political subdivision shall verify a certification required under  
457 Subsection (4) through the Systematic Alien Verification for Entitlements Program, hereafter  
458 referred to in this section as the "Program", operated by the United States Department of  
459 Homeland Security or an equivalent program designated by the Department of Homeland

460 Security.

461 (6) (a) An individual who knowingly and willfully makes a false, fictitious, or  
462 fraudulent statement or representation in a certification under Subsection (4) is subject to the  
463 criminal penalties applicable in this state for:

464 (i) making a written false statement under Subsection 76-8-504(2); and

465 (ii) fraudulently obtaining public assistance program benefits under Sections 76-8-1205  
466 and 76-8-1206 or unemployment compensation under Section 76-8-1301.

467 (b) If the certification constitutes a false claim of U.S. citizenship under 18 U.S.C.,  
468 Sec. 911, the agency or political subdivision shall file a complaint with the United States  
469 Attorney General for the applicable district based upon the venue in which the application was  
470 made.

471 (7) An agency or political subdivision may adopt variations to the requirements of this  
472 section which:

473 (a) clearly improve the efficiency of or reduce delay in the verification process; or

474 (b) provide for adjudication of unique individual circumstances where the verification  
475 procedures in this section would impose an unusual hardship on a legal resident of Utah.

476 (8) It is unlawful for an agency or a political subdivision of this state to provide a state,  
477 local, or federal benefit, as defined in 8 U.S.C., Sec. 1611 and Sec. 1621, in violation of the  
478 provisions of this section.

479 (9) Each state agency or department that administers a program of state or local public  
480 benefits shall:

481 (a) provide an annual report to the governor, the president of the Senate, and the  
482 speaker of the House regarding its compliance with this section; and

483 (b) (i) monitor the Program for application verification errors and significant delays;

484 (ii) provide an annual report on the errors and delays to ensure that the application of  
485 the Program is not erroneously denying a state or local benefit to a legal resident of the state;  
486 and

487 (iii) report delays and errors in the Program to the United States Department of  
488 Homeland Security.

489 Section 8. Section **67-5-22.5** is enacted to read:

490 **67-5-22.5. Fraudulent Documents Identification Unit.**



491 Subject to the availability of funding, the attorney general shall establish a Fraudulent  
492 Documents Identification Unit:

493 (1) for the primary purpose of investigating, apprehending, and prosecuting individuals  
494 or entities that participate in the sale or distribution of fraudulent documents used for  
495 identification purposes; and

496 (2) to specialize in fraudulent identification documents created and prepared for  
497 individuals who are unlawfully residing within the state.

498 Section 9. Section **67-5-26** is enacted to read:

499 **67-5-26. Memorandum of Understanding regarding enforcement of federal**  
500 **immigration laws -- Communications regarding immigration status -- Private cause of**  
501 **action.**

502 (1) The attorney general shall negotiate the terms of a Memorandum of Understanding  
503 between the state and the United States Department of Justice or the United States Department  
504 of Homeland Security as provided in 8 U.S.C., Sec. 1357(g) for the enforcement of federal  
505 immigration and customs laws within the state by state and local law enforcement personnel, to  
506 include investigations, apprehensions, detentions, and removals of persons who are illegally  
507 present in the United States.

508 (2) The attorney general, the governor, or an individual otherwise required by the  
509 appropriate federal agency referred to in Subsection (1) shall sign the Memorandum of  
510 Understanding on behalf of the state.

511 (3) (a) A unit of local government, whether acting through its governing body or by an  
512 initiative or referendum, may not enact an ordinance or policy that limits or prohibits a law  
513 enforcement officer, local official, or local government employee from communicating or  
514 cooperating with federal officials regarding the immigration status of a person within the state.

515 (b) Notwithstanding any other provision of law, a government entity or official within  
516 the state may not prohibit or in any way restrict a government entity or official from sending to,  
517 or receiving from, the United States Department of Homeland Security information regarding  
518 the citizenship or immigration status, lawful or unlawful, of an individual.

519 (c) Notwithstanding any other provision of law, a person or agency may not prohibit or  
520 in any way restrict a public employee from doing the following regarding the immigration  
521 status, lawful or unlawful, of an individual:

522 (i) sending information to or requesting or receiving information from the United  
523 States Department of Homeland Security;

524 (ii) maintaining the information referred to in Subsection (3)(c)(i); and

525 (iii) exchanging the information referred to in Subsection (3)(c)(i) with any other  
526 federal, state, or local government entity.

527 (d) This Subsection (3) allows for a private right of action by a natural or legal person  
528 lawfully domiciled in this state to file for a writ of mandamus to compel a noncompliant local  
529 or state governmental agency to comply with the reporting laws of this Subsection (3).

530 Section 10. Section **76-10-2701** is enacted to read:

531 **Part 27. Transporting or Harboring of Illegal Aliens**

532 **76-10-2701. Transporting or harboring aliens -- Definition -- Penalty.**

533 (1) For purposes of this part, "alien" means an individual who is illegally present in the  
534 United States.

535 (2) It is unlawful for a person to:

536 (a) transport, move, or attempt to transport in this state an alien for commercial  
537 advantage or private financial gain, knowing or in reckless disregard of the fact that the alien is  
538 in the United States in violation of federal law, in furtherance of the illegal presence of the  
539 alien in the United States; or

540 (b) knowingly, with the intent to violate federal immigration law, conceal, harbor, or  
541 shelter from detection an alien in a place within this state, including a building or means of  
542 transportation for commercial advantage or private financial gain, knowing or in reckless  
543 disregard of the fact that the alien is in the United States in violation of federal law.

544 (3) A person who violates Subsection (2)(a) or (b) is guilty of a class A misdemeanor.

545 (4) Nothing in this part prohibits or restricts the provision of:

546 (a) a state or local public benefit described in 8 U.S.C., Section 1621(b); or

547 (b) charitable or humanitarian assistance, including medical care, housing, counseling,  
548 food, victim assistance, religious services and sacraments, and transportation to and from a  
549 location where the assistance is provided , by a charitable, educational, or religious  
550 organization or its employees, agents, or volunteers, using private funds.

551 (5) (a) It is not a violation of this part for a religious denomination or organization or  
552 an agent, officer, or member of a religious denomination or organization to encourage, invite,

553 call, allow, or enable an alien to perform the vocation of a minister or missionary for the  
554 denomination or organization in the United States as a volunteer who is not compensated as an  
555 employee, notwithstanding the provision of room, board, travel, medical assistance, and other  
556 basic living expenses.

557 (b) Subsection (5)(a) applies only to an alien who has been a member of the religious  
558 denomination or organization for at least one year.

559 **Section 11. Coordinating S.B. 81 with H.B. 63 -- Technical renumbering.**

560 If this S.B. 81 and H.B. 63, Recodification of Title 63 State Affairs in General, both  
561 pass, it is the intent of the Legislature that the Office of Legislative Research and General  
562 Counsel, in preparing the Utah Code database for publication renumber Title 63, Chapter 99a  
563 to Title 63G, Chapter 11 and Sections 63-99a-101 through 63-99a-104 to Sections 63G-11-101  
564 through 63G-11-104.