

**Senator D. Chris Butters** proposes the following substitute bill:

**VERIFICATION OF EMPLOYMENT ELIGIBILITY**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: D. Chris Butters**

House Sponsor: Christopher N. Herrod

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to employment to address verification of employment eligibility.

**Highlighted Provisions:**

This bill:

▶ enacts the Private Employer Verification Act, including:

- defining terms;
- addressing private employers' obligations related to verification of federal legal working status and liability protections;
- providing for voluntary registration with the Department of Commerce by a private employer who participates in employee verification; and
- requiring the Department of Commerce to publish a list of registered private employers participating in employee verification.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**



26 ENACTS:

27 **13-47-101**, Utah Code Annotated 1953

28 **13-47-102**, Utah Code Annotated 1953

29 **13-47-103**, Utah Code Annotated 1953

30 **13-47-201**, Utah Code Annotated 1953

31 **13-47-202**, Utah Code Annotated 1953

32 **13-47-203**, Utah Code Annotated 1953

33 **13-47-204**, Utah Code Annotated 1953



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

36 Section 1. Section **13-47-101** is enacted to read:

37 **CHAPTER 47. PRIVATE EMPLOYER VERIFICATION ACT**

38 **Part 1. General Provisions**

39 **13-47-101. Title.**

40 This chapter is known as the "Private Employer Verification Act."

41 Section 2. Section **13-47-102** is enacted to read:

42 **13-47-102. Definitions.**

43 As used in this chapter:

44 (1) "Department" means the Department of Commerce.

45 (2) "Employee" means an individual:

46 (a) who is hired to perform services in Utah; and

47 (b) to whom a private employer provides a federal form required for federal taxation  
48 purposes to report income paid to the individual for the services performed.

49 (3) (a) Except as provided in Subsection (3)(b), "private employer" means a person  
50 who for federal taxation purposes is required to provide a federal form:

51 (i) to an individual who performs services for the person in Utah; and

52 (ii) to report income paid to the individual who performs the services.

53 (b) "Private employer" does not mean a public employer as defined in Section

54 63G-11-103.

55 (4) (a) "Status verification system" means an electronic system operated by the federal  
56 government, through which an employer may inquire to verify the federal legal working status

57 of an individual who is a newly hired employee.

58 (b) "Status verification system" includes:

59 (i) the electronic verification of the work authorization program of the Illegal  
60 Immigration Reform and Immigration Responsibility Act of 1996, 8 U.S.C. Sec. 1324a;

61 (ii) a federal program equivalent to the program described in Subsection (4)(b)(i) that  
62 is designated by the United States Department of Homeland Security or other federal agency  
63 authorized to verify the employment eligibility status of a newly hired employee pursuant to the  
64 Immigration Reform and Control Act of 1986;

65 (iii) the Social Security Number Verification Service or similar online verification  
66 process implemented by the United States Social Security Administration; or

67 (iv) an independent third-party system with an equal or higher degree of reliability as  
68 the programs, systems, or processes described in Subsection (4)(b)(i), (ii), or (iii).

69 Section 3. Section **13-47-103** is enacted to read:

70 **13-47-103. Scope of chapter.**

71 A private employer shall comply with this chapter, and this chapter shall be enforced  
72 without regard to race, color, national origin, gender, religion, age, disability, familial status, or  
73 source of income.

74 Section 4. Section **13-47-201** is enacted to read:

75 **Part 2. Verification by Private Employer**

76 **13-47-201. Verification required for new hires.**

77 (1) A private employer who employs 15 or more employees as of July 1, 2010, may not  
78 hire a new employee on or after July 1, 2010, unless the private employer:

79 (a) is registered with a status verification system to verify the federal legal working  
80 status of any new employee; and

81 (b) uses the status verification system to verify the federal legal working status of the  
82 new employee in accordance with the requirements of the status verification system.

83 (2) This section does not apply to a private employer of a foreign national if the foreign  
84 national holds a visa issued in response to a petition by the private employer that is classified as  
85 H-2A or H-2B.

86 Section 5. Section **13-47-202** is enacted to read:

87 **13-47-202. Liability protections.**

88 (1) A private employer may not be held civilly liable under state law in a cause of  
89 action for the private employer's unlawful hiring of an unauthorized alien, as defined in 8  
90 U.S.C. Sec. 1324a, if:

91 (a) the private employer complies with Section 13-47-201; and

92 (b) the information obtained in accordance with the status verification system indicated  
93 that the employee's federal legal status allowed the private employer to hire the employee.

94 (2) A private employer may not be held civilly liable under state law in a cause of  
95 action for the private employer's refusal to hire an individual if:

96 (a) the private employer complies with Section 13-47-201; and

97 (b) the information obtained in accordance with the status system verification indicated  
98 that the individual's federal legal status was that of an unauthorized alien as defined in 8 U.S.C.  
99 Sec. 1324a.

100 Section 6. Section **13-47-203** is enacted to read:

101 **13-47-203. Voluntary registration by private employer certifying participation in**  
102 **verification.**

103 (1) (a) A private employer may register with the department certifying that the private  
104 employer is in compliance with Section 13-47-201.

105 (b) A private employer may register with the department under this section regardless  
106 of whether the private employer is required to comply with Section 13-47-201.

107 (2) To register or renew a registration with the department under this part, a private  
108 employer shall:

109 (a) file a registration statement with the department that certifies compliance with  
110 Section 13-47-201; and

111 (b) pay a fee established by the department in accordance Section 63J-1-504 that  
112 reflects the cost of registering employers under this section and publishing the list described in  
113 Section 13-47-204.

114 (3) A registration under this part expires every two years on the anniversary of the day  
115 on which the registration is filed with the department.

116 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
117 department may make rules to provide for:

118 (a) the form of a registration statement under this section;

119 (b) the process of filing a registration statement under this section; and

120 (c) the process of renewing a registration statement under this section.

121 Section 7. Section **13-47-204** is enacted to read:

122 **13-47-204. Department to publish list of registered private employers.**

123 On and after July 1, 2010, the department shall publish electronically a list of private

124 employers who register under Section 13-47-203 on a website accessible to the general public

125 without a charge.

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**S.B. 251 1st Sub. (Green) - Verification of Employment Eligibility**

**Fiscal Note**

2010 General Session  
State of Utah

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**State Impact**

Enacting this bill will require an ongoing appropriation of \$82,400 beginning in FY 2011 for additional staff to handle complaints and investigations. Fees established by the bill will generate revenue to the Commerce Service Fund.

	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2011</u> <u>Approp.</u>	<u>FY 2012</u> <u>Approp.</u>	<u>FY 2010</u> <u>Revenue</u>	<u>FY 2011</u> <u>Revenue</u>	<u>FY 2012</u> <u>Revenue</u>
Commerce Service Fund	\$0	\$82,500	\$82,500	\$0	\$82,500	\$82,500
<b>Total</b>	<b>\$0</b>	<b>\$82,500</b>	<b>\$82,500</b>	<b>\$0</b>	<b>\$82,500</b>	<b>\$82,500</b>

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**Individual, Business and/or Local Impact**

Enacting this bill will not likely result in direct, measurable costs and/or benefits for local governments or individuals. Businesses will have additional employment verification costs.