

# HB0088S05 compared with HB0088S04

~~{Omitted text}~~ shows text that was in HB0088S04 but was omitted in HB0088S05  
inserted text shows text that was not in HB0088S04 but was inserted into HB0088S05

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1 **Public Assistance Amendments**  
2026 GENERAL SESSION  
STATE OF UTAH  
**Chief Sponsor: Trevor Lee**  
Senate Sponsor:



2  
3 **LONG TITLE**

4 **General Description:**

5 This bill addresses lawful presence for receipt of public benefits.

6 **Highlighted Provisions:**

7 This bill:

- 8 ▶ ~~{provides an exception to governmental immunity;}~~
- 9 ▶ removes authority for an agency or political subdivision of the state to skip verification of lawful  
12 presence for receipt of a state or local public benefit or a federal public benefit the state administers;
- 12 ▶ prohibits an agency or political subdivision of the state from providing state or local public  
benefits to an individual who is unlawfully present in the United States, with certain exceptions;
- 14 ▶ requires an agency or department to conduct certain audits;
- 15 ▶ provides that the Office of the Legislative Auditor General may conduct a certain audit under  
certain circumstances;
- 17 ▶ allows a certain individual a private right of action against a certain governmental employee  
under certain circumstances;
- 19 ▶ provides for criminal or civil penalties under certain circumstances; and

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20           ▸ makes technical and conforming changes.

21 **Money Appropriated in this Bill:**

22           None

23 **Other Special Clauses:**

24           None

25 **Utah Code Sections Affected:**

26 AMENDS:

27           ~~{63G-7-301, as last amended by Laws of Utah 2025, First Special Session, Chapter 9}~~

27           **63G-12-402** , as last amended by Laws of Utah 2025, First Special Session, Chapter 9

28           **76-14-207** , as renumbered and amended by Laws of Utah 2025, Chapter 173

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

32           ~~{Section 1. Section 63G-7-301 is amended to read: }~~

33           **63G-7-301. Waivers of immunity.**

34 (1)

(a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

36 (b) Actions arising out of contractual rights or obligations are not subject to the requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

38 (c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.

43 (2) Immunity from suit of each governmental entity is waived:

44 (a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

46 (b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;

50 (c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

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- (d) subject to Section 63G-7-302, as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;
- 58 (e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or 63G-2-802;
- 60 (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;
- 62 (g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;
- 65 (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:
- 66 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or
- 69 (ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;
- 71 (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment;
- 74 (j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a sexual battery, as provided in Section 76-5-418, committed:
- 76 (i) against a student of a public elementary or secondary school, including a charter school; and
- 78 (ii) by an employee of a public elementary or secondary school or charter school who:
- 79 (A) at the time of the sexual battery, held a position of special trust, as defined in Section 76-5-404.1, with respect to the student;
- 81 (B) is criminally charged in connection with the sexual battery; and
- 82 (C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, a kidnap offender, or a child abuse offender as described in Section 53-29-202, required to register under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, whose status as a sex offender, kidnap offender, or child abuse offender would have been revealed in a background check under Section 53G-11-402;
- 89 (k) as to any action brought under Section 78B-6-2303;
- 90 (l) as to any action brought to obtain relief under Title 53H, Chapter 7, Part 7, Student Legal Representation;

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- 92 (m) as to any action brought under Section 53-30-301; [~~and~~]
- 93 (n) as to any action or suit brought under Section 20A-19-301 and as to any compensation or expenses  
awarded under Subsection 20A-19-301(5)[~~;~~] ; and
- 95 (o) as to any action brought under Section 63G-12-402.
- 96 (3)
- (a) As used in this Subsection (3):
- 97 (i) "Code of conduct" means a code of conduct that:
- 98 (A) is not less stringent than a model code of conduct, created by the State Board of Education,  
establishing a professional standard of care for preventing the conduct described in Subsection (3)
- (a)(i)(D);
- 101 (B) is adopted by the applicable local education governing body;
- 102 (C) regulates behavior of a school employee toward a student; and
- 103 (D) includes a prohibition against any sexual conduct between an employee and a student and  
against the employee and student sharing any sexually explicit or lewd communication, image, or  
photograph.
- 106 (ii) "Local education agency" means:
- 107 (A) a school district;
- 108 (B) a charter school; or
- 109 (C) the Utah Schools for the Deaf and the Blind.
- 110 (iii) "Local education governing board" means:
- 111 (A) for a school district, the local school board;
- 112 (B) for a charter school, the charter school governing board; or
- 113 (C) for the Utah Schools for the Deaf and the Blind, the state board.
- 114 (iv) "Public school" means a public elementary or secondary school.
- 115 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).
- 116 (vi) "Sexual battery" means the offense described in Section 76-5-418, considering the term "child"  
in that section to include an individual under 18 years old.
- 118 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim against a  
local education agency for an injury resulting from a sexual battery or sexual abuse committed  
against a student of a public school by a paid employee of the public school who is criminally  
charged in connection with the sexual battery or sexual abuse, unless:

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- 123 (i) at the time of the sexual battery or sexual abuse, the public school was subject to a code of conduct;  
and
- 125 (ii) before the sexual battery or sexual abuse occurred, the public school had:
- 126 (A) provided training on the code of conduct to the employee; and
- 127 (B) required the employee to sign a statement acknowledging that the employee has read and  
understands the code of conduct.
- 129 (4)
- (a) As used in this Subsection (4):
- 130 (i) "Institution of higher education" means the same as that term is defined in Section 53H-1-101.
- 132 (ii) "Policy governing behavior" means a policy adopted by a higher education institution or the  
Utah Board of Higher Education that:
- 134 (A) establishes a professional standard of care for preventing the conduct described in Subsections (4)  
(a)(ii)(C) and (D);
- 136 (B) regulates behavior of a special trust employee toward a subordinate student;
- 137 (C) includes a prohibition against any sexual conduct between a special trust employee and a  
subordinate student; and
- 139 (D) includes a prohibition against a special trust employee and subordinate student sharing any sexually  
explicit or lewd communication, image, or photograph.
- 141 (iii) "Sexual battery" means the offense described in Section 76-5-418.
- 142 (iv) "Special trust employee" means an employee of an institution of higher education who is in a  
position of special trust, as defined in Section 76-5-404.1, with a higher education student.
- 145 (v) "Subordinate student" means a student:
- 146 (A) of an institution of higher education; and
- 147 (B) whose educational opportunities could be adversely impacted by a special trust employee.
- 149 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury  
resulting from a sexual battery committed against a subordinate student by a special trust employee,  
unless:
- 152 (i) the institution of higher education proves that the special trust employee's behavior that otherwise  
would constitute a sexual battery was:
- 154 (A) with a subordinate student who was at least 18 years old at the time of the behavior; and
- 156 (B) with the student's consent; or

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- 157 (ii)  
(A) at the time of the sexual battery, the institution of higher education was subject to a policy governing behavior; and
- 159 (B) before the sexual battery occurred, the higher education institution had taken steps to implement and enforce the policy governing behavior.
- 31 Section 1. Section **63G-12-402** is amended to read:
- 32 **63G-12-402. Receipt of state, local, or federal public benefits -- Verification -- Fraudulently obtaining benefits -- Penalties -- Audit requirement -- Annual report.**
- 164 (1)
- [~~(a) Except as provided in Subsection (3) or when exempted by federal law, an~~] An agency or political subdivision of the state shall verify the lawful presence in the United States of an individual at least 18 years old who applies for:
- 167 [~~(i)~~] (a) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or
- 168 [~~(ii)~~] (b) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an agency or political subdivision of this state.
- 170 [~~(b)~~] (2) For purpose of a license issued under Title 58, Chapter 55, Utah Construction Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of Commerce shall verify in accordance with this Subsection [~~(1)~~] (2) the lawful presence in the United States of each individual who:
- 174 [~~(i)~~] (a) owns an interest in the contractor that is an unincorporated entity; and
- 175 [~~(ii)~~] (b) engages, or will engage, in a construction trade in Utah as an owner of the contractor described in Subsection [~~(1)(b)(i)~~] (2)(a).
- 177 [~~(2)~~] (3) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.
- 179 [~~(3) Verification of lawful presence under this section is not required for:~~]
- 180 [~~(a) any purpose for which lawful presence in the United States is not restricted by law, ordinance, or regulation;~~]
- 182 [~~(b) assistance for health care items and services that:~~]
- 183 [~~(i) are necessary for the treatment of an emergency medical condition, as defined in 42 U.S.C. Sec. 1396b(v)(3), of the individual involved; and~~]
- 185 [~~(ii) are not related to an organ transplant procedure;~~]

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- 186 [~~(e) short-term, noneash, in-kind emergency disaster relief;~~]  
187 [~~(d) public health assistance for immunizations with respect to immunizable diseases and for testing and  
treatment of symptoms of communicable diseases whether or not the symptoms are caused by the  
communicable disease;~~]  
190 [~~(e) programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and  
short-term shelter, specified by the United States Attorney General, in the sole and unreviewable  
discretion of the United States Attorney General after consultation with appropriate federal agencies  
and departments, that:~~]  
194 [~~(i) deliver in-kind services at the community level, including through public or private nonprofit  
agencies;~~]  
196 [~~(ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of  
assistance provided on the income or resources of the individual recipient; and]~~  
199 [~~(iii) are necessary for the protection of life or safety;~~]  
200 [~~(f) the exemption for paying the nonresident portion of total tuition as set forth in Section  
53H-11-203;~~]  
202 [~~(g) an applicant for a license under Section 61-1-4, if the applicant:]~~  
203 [~~(i) is registered with the Financial Industry Regulatory Authority; and]~~  
204 [~~(ii) files an application with the state Division of Securities through the Central Registration  
Depository;~~]  
206 [~~(h) a state public benefit to be given to an individual under Title 49, Utah State Retirement and  
Insurance Benefit Act;~~]  
208 [~~(i) a home loan that will be insured, guaranteed, or purchased by:]~~  
209 [~~(i) the Federal Housing Administration, the Veterans Administration, or any other federal agency; or]~~  
211 [~~(ii) an enterprise as defined in 12 U.S.C. Sec. 4502;~~]  
212 [~~(j) a subordinate loan or a grant that will be made to an applicant in connection with a home loan that  
does not require verification under Subsection (3)(i);]~~  
214 [~~(k) an applicant for a license issued by the Department of Commerce or individual described in  
Subsection (1)(b), if the applicant or individual provides the Department of Commerce:]~~  
217 [~~(i) certification, under penalty of perjury, that the applicant or individual is:]~~  
218 [~~(A) a United States citizen;~~]  
219 [~~(B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or]~~

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- 220 [~~(C) lawfully present in the United States; and]~~  
221 [~~(ii)~~  
222 ~~(A) the number assigned to a driver license or identification card issued under Title 53, Chapter 3,~~  
223 ~~Uniform Driver License Act; or]~~  
224 [~~(B) the number assigned to a driver license or identification card issued by a state other than Utah if,~~  
225 ~~as part of issuing the driver license or identification card, the state verifies an individual's lawful~~  
226 ~~presence in the United States; and]~~  
227 [~~(f) an applicant for:]~~  
228 [~~(i) an Opportunity scholarship described in Section 53H-11-402;]~~  
229 [~~(ii) a New Century scholarship described in Section 53H-11-407;]~~  
230 [~~(iii) a promise grant described in Section 53H-11-414; or]~~  
231 [~~(iv) a scholarship:]~~  
232 [~~(A) for an individual who is a graduate of a high school located within Utah; and]~~  
233 [~~(B) administered by an institution of higher education as defined in Section 53H-1-101.]~~  
234 (4)  
235 (a) An agency or political subdivision required to verify the lawful presence in the United States of an  
236 applicant under this section shall require the applicant to certify under penalty of perjury that:  
237 (i) the applicant is a United States citizen; or  
238 (ii) the applicant is:  
239 (A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and  
240 (B) lawfully present in the United States.  
241 (b) The certificate required under this Subsection (4) shall include a statement advising the signer that  
242 providing false information subjects the signer to penalties for perjury.  
243 (5) An agency or political subdivision shall verify a certification required under Subsection (4)(a)(ii)  
244 through the federal SAVE program.  
245 (6)  
246 (a) An individual who knowingly and willfully makes a false, fictitious, or fraudulent statement or  
247 representation in a certification under Subsection [~~(3)(k) or~~](4) is subject to the criminal penalties  
248 applicable in this state for:  
249 (i) making a written false statement under Section 76-8-504; and  
250 (ii) fraudulently obtaining:

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- 250 (A) public assistance program benefits under Section 76-8-1203.1; or  
251 (B) unemployment compensation under Section 76-8-1301, 76-8-1302, 76-8-1303, or 76-8-1304.
- 253 (b) If the certification constitutes a false claim of United States citizenship under 18 U.S.C. Sec. 911,  
the agency or political subdivision shall file a complaint with the United States Attorney General for  
the applicable district based upon the venue in which the application was made.
- 257 (c) If an agency or political subdivision receives verification that a person making an application  
for a benefit, service, or license is not a qualified alien, the agency or political subdivision shall  
immediately deny the application and provide the information to the Office of the Attorney General  
unless prohibited by federal mandate.
- 262 (7)
- (a) An agency or political subdivision may adopt variations to the requirements of this section that:
- 264 [~~(a)~~] (i) clearly improve the efficiency of or reduce delay in the verification process; or  
265 [~~(b)~~] (ii) provide for adjudication of unique individual circumstances where the verification  
procedures in this section would impose an unusual hardship on a legal resident of Utah.
- 268 (b) An agency or political subdivision may not adopt variations under Subsection (7)(a) that expand  
eligibility of public benefits to individuals without lawful presence in the United States.
- 271 (8)
- (a) Notwithstanding any other provision of state law, an agency or political subdivision of the state  
may not provide a state or local public benefit that is funded by state or local funds, including non-  
emergency medical health care, local- or state-administered health care or health insurance, housing  
assistance, food assistance, cash benefits, tuition assistance, or other state or locally funded public  
assistance programs, to an individual who is not a qualified alien or who is without lawful presence  
in the United States.
- 278 (b) [~~It is unlawful for an-~~] An agency or a political subdivision of this state [~~to~~] may not provide a state,  
local, or federal benefit, as defined in 8 U.S.C. [~~See-~~] Secs. 1611 and 1621, in violation of this  
section.
- 151 (c) Nothing in this Subsection (8) prevents an agency or political subdivision from providing  
emergency medical health care or temporary disaster shelter to an individual in the state regardless  
of lawful status.
- 281 (9) A state agency or department that administers a program of state or local public benefits shall:  
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- (a) provide an annual report to the governor, the president of the Senate, and the speaker of the House of Representatives regarding[-its-] :
- 285 (i) the state agency's or department's compliance with this section; and
- 286 (ii) the number and type of the state or local public benefit for which an applicant applied and was denied, if the agency or department denied the applicant benefits because the applicant was not a qualified alien or lawfully present in the United States;
- 290 (b)
- (i) monitor the federal SAVE program for application verification errors and significant delays;
- 292 (ii) provide an annual report on the errors and delays to ensure that the application of the federal SAVE program is not erroneously denying a state or local benefit to a legal resident of the state; and
- 295 (iii) report delays and errors in the federal SAVE program to the United States Department of Homeland Security[-] ; and
- 297 (c) beginning on January 1, 2027, conduct a quarterly audit of each public assistance program for compliance with this section.
- 299 (10) Subject to prioritization of the Legislative Audit Subcommittee, the Office of the Legislative Auditor General established under Section 36-12-15 shall in any fiscal year conduct a biennial audit of each state agency or department described in Subsection (9) to determine if the state agency or department is compliant with this section.
- 303 (11)
- (a) An employee of a state agency or political subdivision who {**knowingly**}, **with willful or reckless disregard for the verification requirements under this section,** fails to verify lawful presence or who fails to maintain records regarding the verification of lawful presence{**-as required under this section**} , is guilty of a class B misdemeanor.
- 306 (b) The penalties in this section are in addition to existing law.
- 307 (12) An executive director of a state agency or department who is vested with responsibility to administer or make policy for a state agency, and who knowingly violates or allows an employee to violate this section, shall be subject to removal from office in accordance with the state agency's or department's procedures.
- 311 (13) An individual taxpayer who is injured by a violation of this section has a private right of action against an employee or executive director described in Subsection (11)(a) or (12) if:
- 314 (a) the action is brought in accordance with Section 78B-3-101.3; and

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- 315 (b) the taxpayer's alleged damages are reasonable, foreseeable, and proximately caused by the violation  
317 of this section.
- 317 ~~{(14)} {An employee or executive director described in Subsection (11)(a) or (12) may not assert the~~  
~~defense of governmental immunity under Title 63G, Chapter 7, Governmental Immunity Act of~~  
~~Utah, in an action brought under this section.}~~
- 191 Section 2. Section **76-14-207** is amended to read:
- 192 **76-14-207. Proof of immigration status required to receive public benefits.**
- 322 (1)
- (a) An agency that provides state or local public benefits as defined in 8 U.S.C. Sec. 1621 shall comply  
with Section 63G-12-402 and shall also comply with this section~~[-except:]~~
- 325 ~~[(i) as provided in Subsection 63G-12-402(3)(g) or (k); or]~~
- 326 ~~[(ii) when compliance is exempted by federal law or when compliance could reasonably be~~  
~~expected to be grounds for the federal government to withhold federal Medicaid funding].~~
- 329 (b) The agency shall verify an individual's lawful presence in the United States by requiring that the  
applicant under this section sign a certificate under penalty of perjury, stating that the applicant:
- 332 (i) is a United States citizen; or
- 333 (ii) is a qualified alien as defined by 8 U.S.C. Sec. 1641.
- 334 (c) The certificate under Subsection (1)(b) shall include a statement advising the signer that providing  
false information subjects the signer to penalties for perjury.
- 336 (d) The signature under this Subsection (1) may be executed in person or electronically.
- 337 (e) When an applicant who is a qualified alien has executed the certificate under this section, the  
applicant's eligibility for benefits shall be verified by the agency through the federal SAVE program  
or an equivalent program designated by the United States Department of Homeland Security.
- 341 (2) An individual who knowingly and willfully makes a false, fictitious, or fraudulent statement of  
representation in a certificate executed under this section is guilty of public assistance fraud by an  
applicant for public assistance under Section 76-8-1203.1.
- 344 (3) If the certificate constitutes a false claim of United States citizenship under 18 U.S.C. Sec. 911,  
the agency requiring the certificate shall file a complaint with the United States Attorney for the  
applicable federal judicial district based upon the venue in which the certificate was executed.
- 348 (4) Agencies may, with the concurrence of the Utah Attorney General, adopt variations to the  
requirements of the provisions of this section that provide for adjudication of unique individual

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circumstances in which the verification procedures in this section would impose unusual hardship on a legal resident of this state.

- 352 (5) If an agency under Subsection (1) receives verification that an individual making an application for a benefit, service, or license is not a qualified alien, the agency shall immediately deny the application and provide the information to the local law enforcement agency for enforcement of public assistance fraud by an applicant for public assistance under Section 76-8-1203.1 unless prohibited by federal mandate.

228 Section 3. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

2-17-26 4:35 PM