

**Representative Christopher N. Herrod** proposes the following substitute bill:

**1                    LIMITATION ON GOVERNMENT BENEFITS**  
**2                    TO ALIENS UNLAWFULLY PRESENT IN THE**  
**3                    UNITED STATES**

**4                    2007 GENERAL SESSION**

**5                    STATE OF UTAH**

**6                    Chief Sponsor: Christopher N. Herrod**

**7                    Senate Sponsor: \_\_\_\_\_**

**8                    Cosponsors:**

**8                    Stephen E. Sandstrom**

**8                    Carl Wimmer**

**9                    Glenn A. Donnelson**

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**11                  LONG TITLE**

**12                  General Description:**

**13                  This bill prohibits the receipt of a state or local public benefit by an individual who is**  
**14                  not lawfully present in the United States.**

**15                  Highlighted Provisions:**

**16                  This bill:**

**17                  ▶ requires an individual 18 years of age or older to provide proof that the individual is**  
**18                  lawfully present in the United States in order to receive a state or local public**  
**19                  benefit as defined in Federal law;**

**20                  ▶ provides for verification of lawful presence in the United States of an individual**  
**21                  who is applying with the entity for a state or local public benefit;**

**22                  ▶ restricts exemptions from payment of nonresident higher education tuition;**

**23                  ▶ provides a criminal penalty for making a false, fictitious, or fraudulent statement**  
**24                  when applying for a state or local public benefit; and**

**25                  ▶ provides that it is unlawful for an agency or political subdivision of the state or local**



government to provide a state or local public benefit in violation of the application process.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53B-8-106**, as enacted by Chapter 230, Laws of Utah 2002

ENACTS:

**63-38h-101**, Utah Code Annotated 1953

**63-38h-102**, Utah Code Annotated 1953

**63-38h-103**, Utah Code Annotated 1953

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

Section 1. Section **53B-8-106** is amended to read:

**53B-8-106. Resident tuition -- Requirements -- Rules.**

(1) If allowed under federal law, a student, other than a nonimmigrant alien within the meaning of paragraph (15) of Subsection (a) of Section 1101 of Title 8 of the United States Code, shall be exempt from paying the nonresident portion of total tuition if the student:

(a) attended high school in this state for three or more years;

(b) graduated from a high school in this state or received the equivalent of a high school diploma in this state; and

(c) registers as an entering student at an institution of higher education;

(i) not earlier than the fall of the 2002-03 academic year[-]; and

(ii) before May 1, 2007.

(2) In addition to the requirements under Subsection (1), a student without lawful immigration status shall:

(a) file an affidavit with the institution of higher education stating that the student has filed an application to legalize his immigration status, or will file an application as soon as he is eligible to do so; and

(b) file an affidavit certifying that the student has not or will not work in the United

States until legally allowed to do so.

(3) The State Board of Regents shall make rules for the implementation of this section.

(4) Nothing in this section limits the ability of institutions of higher education to assess nonresident tuition on students who do not meet the requirements under this section.

(5) An institution of higher education shall continue to provide the exemption from paying the nonresident portion of total tuition for a student who entered the institution before May 1, 2007, through the time that the student remains admitted as a student at that institution of higher education in a program of study leading to a degree or certificate.

Section 2. Section **63-38h-101** is enacted to read:

#### **CHAPTER 38h. RESTRICTIONS ON PUBLIC BENEFITS ACT**

##### **63-38h-101. Title.**

This chapter is known as the "Restrictions on Public Benefits Act."

Section 3. Section **63-38h-102** is enacted to read:

##### **63-38h-102. Definitions.**

As used in this chapter, "state or local public benefit" has the same meaning as provided in 8 U.S.C. Sec. 1621.

Section 4. Section **63-38h-103** is enacted to read:

##### **63-38h-103. Receipt of state and local public benefits -- Verification.**

(1) (a) An individual 18 years of age or older shall provide proof that the individual is lawfully present in the United States in order to receive a state or local public benefit.

(b) Subsection (1)(a) does not apply to:

(i) the exceptions listed in 8 U.S.C. Sec. 1621(b); or

(ii) the exemption from paying the nonresident portion of total tuition for the time periods described in Subsections 53B-8-106(1)(c) and (5).

(2) An agency or political subdivision of the state or local government shall verify the lawful presence in the United States of each person who is 18 years of age or older and applying for a state or local public benefit by requiring the applicant to produce documentation substantiating the applicant's lawful presence, which may include:

(a) a certified copy of a birth certificate that documents the applicant as a natural born citizen of the United States;

(b) a United States military card or a military dependent's identification card;

88 (c) a United States Coast Guard Merchant Mariner card;

89 (d) a Native American tribal document; or

90 (e) any other form of documentation that establishes the lawful presence of the  
91 applicant in the United States as prescribed by a rule enacted by the agency or political  
92 subdivision.

93 (3) (a) An applicant who knowingly makes a false, fictitious, or fraudulent statement or  
94 representation in an application for a state or local public benefit under Subsection (2)  
95 regarding the applicant's lawful presence in the United States is guilty of a violation of  
96 Subsection 76-8-504(2).

97 (b) It is a separate violation of Subsection 76-8-504(2) each time a person receives a  
98 state or local public benefit based upon the statement or representation referred to in  
99 Subsection (3)(a).

100 (4) (a) It is unlawful for an agency or political subdivision of the state or local  
101 government to provide a state or local public benefit in violation of this section.

102 (b) Each state agency or department that administers a program that provides a state or  
103 local public benefit shall provide an annual report regarding compliance with this section to the  
104 Government Operations Interim and Political Subdivisions Committee by no later than  
105 November 1.