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To: Judiciary B; Education

HOUSE BILL NO. 488

1 AN ACT TO CREATE THE MISSISSIPPI SUPPORT OUR LAW ENFORCEMENT  
2 AND SAFE NEIGHBORHOODS ACT OF 2012; TO SET FORTH LEGISLATIVE  
3 INTENT AND SHORT TITLE; TO REQUIRE COOPERATION AND ASSISTANCE IN  
4 ENFORCEMENT OF IMMIGRATION LAWS AND TO INDEMNIFY LAW ENFORCEMENT  
5 OFFICERS FOR IMPLEMENTATION OF THIS ACT; TO CREATE THE OFFENSE OF  
6 WILLFUL FAILURE TO COMPLETE AND CARRY AN ALIEN REGISTRATION  
7 DOCUMENT AND PRESCRIBE PENALTIES THEREFOR; TO REQUIRE PUBLIC  
8 SCHOOLS TO DETERMINE THE STATUS OF ENROLLING STUDENTS; TO PROHIBIT  
9 ILLEGAL ALIENS FROM ENTERING INTO BUSINESS TRANSACTIONS WITH THE  
10 STATE OR A POLITICAL SUBDIVISION; TO AMEND SECTION 99-3-7,  
11 MISSISSIPPI CODE OF 1972, TO CONFORM THE ARREST WITHOUT WARRANT  
12 STATUTE; TO AMEND SECTION 71-11-3, MISSISSIPPI CODE OF 1972, TO  
13 PROVIDE FOR RETENTION OF E-VERIFY CONFIRMATIONS FOR AT LEAST 3  
14 YEARS; TO CREATE THE SPECIAL FUND TO BE KNOWN AS THE IMMIGRATION  
15 REIMBURSEMENT FUND; TO AUTHORIZE ALL MISSISSIPPI LAW ENFORCEMENT  
16 OFFICERS TO ASSIST FEDERAL AGENCIES IN ENFORCEMENT OF IMMIGRATION  
17 LAW; TO REQUIRE THE BOARD OF PUBLIC CONTRACTORS TO REVIEW  
18 CONTRACTOR COMPLIANCE WITH E-VERIFY REQUIREMENTS; TO PROVIDE FOR  
19 SEVERABILITY, IMPLEMENTATION AND CONSTRUCTION; AND FOR RELATED  
20 PURPOSES.

21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

22 **SECTION 1. Legislative intent and short title.** (1) The  
23 Legislature finds that there is a compelling interest in the  
24 cooperative enforcement of federal immigration laws throughout all  
25 of Mississippi. The Legislature declares that the intent of this  
26 act is to make attrition through enforcement the public policy of  
27 all state agencies and local governments in Mississippi. The  
28 provisions of this act are intended to work together to discourage  
29 and deter the unlawful entry and presence of aliens and economic  
30 activity by persons unlawfully present in the United States.

31 (2) This act may be cited as the "Support Our Law  
32 Enforcement and Safe Neighborhoods Act."

33 **SECTION 2. Cooperation and assistance in enforcement of**  
34 **immigration laws.** (1) No official or agency of this state or a



35 political subdivision of this state shall limit or restrict the  
36 enforcement of federal immigration laws.

37 (2) For any lawful stop, detention or arrest made by a law  
38 enforcement official or a law enforcement agency of this state or  
39 a law enforcement official or a law enforcement agency of a  
40 political subdivision of this state in the enforcement of any  
41 other law or ordinance of a county, municipality or the state  
42 where reasonable suspicion exists that the person is an alien and  
43 is unlawfully present in the United States, a reasonable attempt  
44 shall be made, when practicable, to determine the immigration  
45 status of the person, except if the determination may hinder or  
46 obstruct an investigation. The immigration status of any person  
47 who is arrested shall be determined before the person is released  
48 by verification with the federal government pursuant to 8 USCS  
49 Section 1373(c). A law enforcement official or agency of this  
50 state or political subdivision of this state shall not consider  
51 race, color or national origin in implementing the requirements of  
52 this subsection except to the extent permitted by the United  
53 States or Mississippi Constitution. A person is presumed to not  
54 be an alien who is unlawfully present in the United States if the  
55 person provides to the law enforcement officer or agency any of  
56 the following:

57 (a) A valid Mississippi driver's license.

58 (b) A valid Mississippi identification card issued  
59 under Title 45, Chapter 35, Mississippi Code of 1972.

60 (c) A valid tribal enrollment card or other form of  
61 tribal identification.

62 (d) If the entity requires proof of legal presence in  
63 the United States before issuance, any valid United States  
64 federal, state or local government issued identification or  
65 driver's license.

66 (3) If an alien who is unlawfully present in the United  
67 States is convicted of a violation of state or local law, on



68 discharge from imprisonment or on the assessment of any monetary  
69 obligation that is imposed, the United States Immigration and  
70 Customs Enforcement or the United States Customs and Border  
71 Protection shall be notified immediately.

72 (4) Notwithstanding any other law, a law enforcement agency  
73 may securely transport to a federal facility in this state or to  
74 any other point of transfer into federal custody that is outside  
75 the jurisdiction of the law enforcement agency an alien for whom  
76 the agency has received verification that the alien is unlawfully  
77 present in the United States and is in the agency's custody. A  
78 law enforcement agency shall obtain judicial authorization before  
79 securely transporting an alien who is unlawfully present in the  
80 United States to a point of transfer that is outside of this  
81 state.

82 (5) In the implementation of this section, an alien's  
83 immigration status may be determined by:

84 (a) A law enforcement officer who is authorized by the  
85 federal government to verify or ascertain an alien's immigration  
86 status.

87 (b) The United States Immigration and Customs  
88 Enforcement or the United States Customs and Border Protection  
89 pursuant to 8 USCS Section 1373(c).

90 (6) Except as provided in federal law, officials or agencies  
91 of this state and political subdivisions of this state may not be  
92 prohibited or in any way be restricted from sending, receiving or  
93 maintaining information relating to the immigration status, lawful  
94 or unlawful, of any individual or exchanging that information with  
95 any other federal, state or local governmental entity for the  
96 following official purposes:

97 (a) Determining eligibility for any public benefit,  
98 service or license provided by any federal, state, local or other  
99 political subdivision of this state.



100 (b) Verifying any claim of residence or domicile if  
101 determination of residence or domicile is required under the laws  
102 of this state or a judicial order issued pursuant to a civil or  
103 criminal proceeding in this state.

104 (c) If the person is an alien, determining whether the  
105 person is in compliance with the federal registration laws  
106 prescribed by Title II, Chapter 7 of the federal Immigration and  
107 Nationality Act.

108 (d) Pursuant to 8 USCS Section 1373 and 8 USCS Section  
109 1644.

110 (7) This section does not implement, authorize or establish  
111 and shall not be construed to implement, authorize or establish  
112 the REAL ID Act of 2005 (Public Law 109-13, Division B; 119 Stat.  
113 302), including the use of a radio frequency identification chip.

114 (8) A person who is a legal resident of this state may bring  
115 an action in circuit court to challenge any official or agency of  
116 this state or a political subdivision of this state that adopts or  
117 implements a policy that limits or restricts the enforcement of  
118 federal immigration laws, including, but not limited to, 8 USCS  
119 Sections 1373 and 1644, to less than the full extent permitted by  
120 federal law. If there is a judicial finding that an entity has  
121 violated this section, the court shall order that the entity pay a  
122 civil penalty of not less than Five Hundred Dollars (\$500.00) and  
123 not more than Five Thousand Dollars (\$5,000.00) for each day that  
124 the policy has remained in effect after the filing of an action  
125 pursuant to this subsection.

126 (9) A court shall collect the civil penalty prescribed in  
127 subsection (8) of this section and remit the civil penalty to the  
128 State Treasurer for deposit in the Immigration Reimbursement Fund  
129 established by Section 9 of House Bill No. \_\_\_\_\_, 2012 Regular  
130 Session.

131 (10) The court may award court costs and reasonable  
132 attorney's fees to any person or any official or agency of this



133 state or a political subdivision of this state that prevails by an  
134 adjudication on the merits in a proceeding brought pursuant to  
135 this section.

136 (11) Except in relation to matters in which the officer is  
137 adjudged to have acted in bad faith, a law enforcement officer is  
138 indemnified by the law enforcement officer's agency against  
139 reasonable costs and expenses, including attorney's fees, incurred  
140 by the officer in connection with any action, suit or proceeding  
141 brought pursuant to this section in which the officer may be a  
142 defendant by reason of the officer being or having been a member  
143 of the law enforcement agency.

144 (12) This section shall be implemented in a manner  
145 consistent with federal laws regulating immigration, protecting  
146 the civil rights of all persons, and respecting the privileges and  
147 immunities of United States citizens.

148 **SECTION 3. Willful failure to complete and carry an alien**  
149 **registration document; assessment; exception; authenticated**  
150 **records; classification.** (1) In addition to any violation of  
151 federal law, a person is guilty of willful failure to complete and  
152 carry an alien registration document if the person is in violation  
153 of 8 USCS Section 1304(e) or 1306(a).

154 (2) In the enforcement of this section, an alien's  
155 immigration status may be determined by:

156 (a) A law enforcement officer who is authorized by the  
157 federal government to verify or ascertain an alien's immigration  
158 status.

159 (b) The United States Immigration and Customs  
160 Enforcement or the United States Customs and Border Protection  
161 pursuant to 8 USCS Section 1373(c).

162 (3) A law enforcement official or agency of this state or a  
163 county, city, town or other political subdivision of this state  
164 shall not consider race, color or national origin in the



165 enforcement of this section except to the extent permitted by the  
166 United States or Mississippi Constitution.

167 (4) A person who is sentenced pursuant to this section is  
168 not eligible for suspension of sentence, probation, or release  
169 from confinement on any basis except as authorized by Section  
170 47-7-4 until the sentence imposed by the court has been served or  
171 the person is eligible for release pursuant to Section 47-7-47 or  
172 47-5-138.

173 (5) In addition to any other penalty prescribed by law, the  
174 court shall order the person to pay jail costs.

175 (6) This section does not apply to a person who maintains  
176 authorization from the federal government to remain in the United  
177 States.

178 (7) A violation of this section is a misdemeanor, punishable  
179 by a fine not to exceed One Hundred Dollars (\$100.00) and thirty  
180 (30) days in jail; for a first violation, the court shall not  
181 sentence the offender to more than twenty (20) days in jail.

182 **SECTION 4.** (1) (a) Every public elementary and secondary  
183 school in this state, at the time of enrollment in kindergarten or  
184 any grade in such school, shall determine whether the student  
185 enrolling in public school was born outside the jurisdiction of  
186 the United States or is the child of an alien not lawfully present  
187 in the United States and qualifies for assignment to an English as  
188 Second Language class or other remedial program.

189 (b) The public school, when making the determination  
190 required by paragraph (a), shall rely upon presentation of the  
191 student's original birth certificate, or a certified copy thereof.

192 (c) If, upon review of the student's birth certificate,  
193 it is determined that the student was born outside the  
194 jurisdiction of the United States or is the child of an alien not  
195 lawfully present in the United States, or where such certificate  
196 is not available for any reason, the parent, guardian, or legal  
197 custodian of the student shall notify the school within thirty



198 (30) days of the date of the student's enrollment of the actual  
199 citizenship or immigration status of the student under federal  
200 law.

201 (d) Notification shall consist of both of the  
202 following:

203 (i) The presentation for inspection, to a school  
204 official designated for such purpose by the school district in  
205 which the child is enrolled, of official documentation  
206 establishing the citizenship and, in the case of an alien, the  
207 immigration status of the student, or alternatively by submission  
208 of a notarized copy of such documentation to such official.

209 (ii) Attestation by the parent, guardian, or legal  
210 custodian, under penalty of perjury, that the document states the  
211 true identity of the child. If the student or his or her parent,  
212 guardian, or legal representative possesses no such documentation  
213 but nevertheless maintains that the student is either a United  
214 States citizen or an alien lawfully present in the United States,  
215 the parent, guardian, or legal representative of the student may  
216 sign a declaration so stating, under penalty of perjury.

217 (e) If no such documentation or declaration is  
218 presented, the school official shall presume for the purposes of  
219 reporting under this section that the student is an alien  
220 unlawfully present in the United States.

221 (2) Each school district in this state shall collect and  
222 compile data as required by this section.

223 (3) Each school district shall submit to the State Board of  
224 Education an annual report listing all data obtained pursuant to  
225 this section.

226 (4) (a) The State Board of Education shall compile and  
227 submit an annual public report to the Legislature.

228 (b) The report shall provide data, aggregated by public  
229 school, regarding the numbers of United States citizens, of  
230 lawfully present aliens by immigration classification, and of



231 aliens believed to be unlawfully present in the United States  
232 enrolled at all primary and secondary public schools in this  
233 state. The report shall also provide the number of students in  
234 each category participating in English as a Second Language  
235 Programs enrolled at such schools.

236 (c) The report shall analyze and identify the effects  
237 upon the standard or quality of education provided to students who  
238 are citizens of the United States residing in Mississippi that may  
239 have occurred, or are expected to occur in the future, as a  
240 consequence of the enrollment of students who are aliens not  
241 lawfully present in the United States.

242 (d) The report shall analyze and itemize the fiscal  
243 costs to the state and political subdivisions thereof of providing  
244 educational instruction, computers, textbooks and other supplies,  
245 free or discounted school meals, and extracurricular activities to  
246 students who are aliens not lawfully present in the United States.

247 (e) The State Board of Education shall prepare and  
248 issue objective baseline criteria for identifying and assessing  
249 the other educational impacts on the quality of education provided  
250 to students who are citizens of the United States, due to the  
251 enrollment of aliens who are not lawfully present in the United  
252 States, in addition to the statistical data on citizenship and  
253 immigration status and English as a Second Language enrollment  
254 required by this act. The State Board of Education may contract  
255 with reputable scholars and research institutions to identify and  
256 validate such criteria. The State Board of Education shall assess  
257 such educational impacts and include such assessments in its  
258 reports to the Legislature.

259 (5) Public disclosure by any person of information obtained  
260 pursuant to this section which personally identifies any student  
261 shall be unlawful, except for purposes permitted pursuant to 8  
262 USCS, Sections 1373 and 1644. Any person intending to make a  
263 public disclosure of information that is classified as





264 confidential under this section, on the ground that such  
265 disclosure constitutes a use permitted by federal law, shall first  
266 apply to the Attorney General and receive a waiver of  
267 confidentiality from the requirements of this subsection.

268 (6) A student whose personal identity has been negligently  
269 or intentionally disclosed in violation of this section shall be  
270 deemed to have suffered an invasion of the student's right to  
271 privacy. The student shall have a civil remedy for such violation  
272 against the agency or person that has made the unauthorized  
273 disclosure.

274 (7) The State Board of Education shall construe all  
275 provisions of this section in conformity with federal law.

276 (8) This section shall be enforced without regard to race,  
277 religion, gender, ethnicity, or national origin.

278 **SECTION 5.** (1) For the purposes of this section, "business  
279 transaction" includes any transaction between a person and the  
280 state or a political subdivision of the state, including, but not  
281 limited to, applying for or renewing a motor vehicle license  
282 plate, applying for or renewing a driver's license or nondriver  
283 identification card, or applying for or renewing a business  
284 license. "Business transaction" does not include applying for a  
285 marriage license.

286 (2) An alien not lawfully present in the United States shall  
287 not enter into or attempt to enter into a business transaction  
288 with the state or a political subdivision of the state and no  
289 person shall enter into a business transaction or attempt to enter  
290 into a business transaction on behalf of an alien not lawfully  
291 present in the United States.

292 (3) Any person entering into a business transaction or  
293 attempting to enter into a business transaction with this state or  
294 a political subdivision of this state shall be required to  
295 demonstrate his or her United States citizenship, or if he or she  
296 is an alien, his or her lawful presence in the United States to



297 the person conducting the business transaction on behalf of this  
298 state or a political subdivision of this state. United States  
299 citizenship shall be demonstrated by presentation of proper  
300 documentation as required by law. An alien's lawful presence in  
301 the United States shall be demonstrated by this state's or a  
302 political subdivision of this state's verification of the alien's  
303 lawful presence through the Systematic Alien Verification for  
304 Entitlements program operated by the Department of Homeland  
305 Security, or by other verification with the Department of Homeland  
306 Security pursuant to 8 USCS, Section 1373(c).

307 (4) A violation of this section is a felony punishable by a  
308 fine of not more than Five Thousand Dollars (\$5,000.00) or  
309 imprisonment in the custody of the Department of Corrections for  
310 not more than five (5) years, or both.

311 (5) An agency of this state or a county, city, town, or  
312 other political subdivision of this state may not consider race,  
313 color, or national origin in the enforcement of this section  
314 except to the extent permitted by the United States Constitution  
315 or the Mississippi Constitution of 1890.

316 (6) In the enforcement of this section, an alien's  
317 immigration status shall be determined by verification of the  
318 alien's immigration status with the federal government pursuant to  
319 8 USCS, Section 1373(c). An official of this state or political  
320 subdivision of this state shall not attempt to independently make  
321 a final determination of whether an alien is lawfully present in  
322 the United States.

323 **SECTION 6.** Section 99-3-7, Mississippi Code of 1972, is  
324 amended as follows:

325 99-3-7. (1) An officer or private person may arrest any  
326 person without warrant, for an indictable offense committed, or a  
327 breach of the peace threatened or attempted in his presence; or  
328 when a person has committed a felony, though not in his presence;  
329 or when a felony has been committed, and he has reasonable ground



330 to suspect and believe the person proposed to be arrested to have  
331 committed it; or on a charge, made upon reasonable cause, of the  
332 commission of a felony by the party proposed to be arrested. And  
333 in all cases of arrests without warrant, the person making such  
334 arrest must inform the accused of the object and cause of the  
335 arrest, except when he is in the actual commission of the offense,  
336 or is arrested on pursuit.

337 (2) Any law enforcement officer may arrest any person on a  
338 misdemeanor charge without having a warrant in his possession when  
339 a warrant is in fact outstanding for that person's arrest and the  
340 officer has knowledge through official channels that the warrant  
341 is outstanding for that person's arrest. In all such cases, the  
342 officer making the arrest must inform such person at the time of  
343 the arrest the object and cause therefor. If the person arrested  
344 so requests, the warrant shall be shown to him as soon as  
345 practicable.

346 (3) (a) Any law enforcement officer shall arrest a person  
347 with or without a warrant when he has probable cause to believe  
348 that the person has, within twenty-four (24) hours of such arrest,  
349 knowingly committed a misdemeanor which is an act of domestic  
350 violence or knowingly violated provisions of an ex parte  
351 protective order, protective order after hearing or court-approved  
352 consent agreement entered by a chancery, circuit, county, justice  
353 or municipal court pursuant to the Protection from Domestic Abuse  
354 Law, Sections 93-21-1 through 93-21-29, Mississippi Code of 1972,  
355 or a restraining order entered by a foreign court of competent  
356 jurisdiction to protect an applicant from domestic violence as  
357 defined by Section 97-3-7 that requires the person to refrain from  
358 further abuse or threats of abuse, to absent himself from a  
359 particular geographic area, or prohibit such person from being  
360 within a specified distance of another person or persons.

361 (b) If a law enforcement officer has probable cause to  
362 believe that two (2) or more persons committed a misdemeanor which



363 is an act of domestic violence as defined herein, or if two (2) or  
364 more persons make complaints to the officer, the officer shall  
365 attempt to determine who was the principal aggressor. The term  
366 principal aggressor is defined as the party who poses the most  
367 serious ongoing threat, or who is the most significant, rather  
368 than the first, aggressor. The officer shall presume that arrest  
369 is not the appropriate response for the person or persons who were  
370 not the principal aggressor. If the officer affirmatively finds  
371 more than one (1) principal aggressor was involved, the officer  
372 shall document those findings.

373 (c) To determine who is the principal aggressor, the  
374 officer shall consider the following factors, although such  
375 consideration is not limited to these factors:

376 (i) Evidence from the persons involved in the  
377 domestic abuse;

378 (ii) The history of domestic abuse between the  
379 parties, the likelihood of future injury to each person, and the  
380 intent of the law to protect victims of domestic violence from  
381 continuing abuse;

382 (iii) Whether one (1) of the persons acted in  
383 self-defense; and

384 (iv) Evidence from witnesses of the domestic  
385 violence.

386 (d) A law enforcement officer shall not base the  
387 decision of whether to arrest on the consent or request of the  
388 victim.

389 (e) A law enforcement officer's determination regarding  
390 the existence of probable cause or the lack of probable cause  
391 shall not adversely affect the right of any party to independently  
392 seek appropriate remedies.

393 (4) (a) Any person authorized by a court of law to  
394 supervise or monitor a convicted offender who is under an  
395 intensive supervision program may arrest the offender when the



396 offender is in violation of the terms or conditions of the  
397 intensive supervision program, without having a warrant, provided  
398 that the person making the arrest has been trained at the Law  
399 Enforcement Officers Training Academy established under Section  
400 45-5-1 et seq., or at a course approved by the Board on Law  
401 Enforcement Officer Standards and Training.

402 (b) For the purposes of this subsection, the term  
403 "intensive supervision program" means an intensive supervision  
404 program of the Department of Corrections as described in Section  
405 47-5-1001 et seq., or any similar program authorized by a court  
406 for offenders who are not under jurisdiction of the Department of  
407 Corrections.

408 (5) A law enforcement officer who makes an arrest without a  
409 warrant under the authority of this section shall verify the  
410 immigration status of the person arrested as provided in Section 2  
411 of House Bill No. \_\_\_\_\_, 2012 Regular Session.

412 (6) As used in subsection (3) of this section, the phrase  
413 "misdemeanor which is an act of domestic violence" shall mean one  
414 or more of the following acts between current or former spouses or  
415 a child of current or former spouses, persons living as spouses or  
416 who formerly lived as spouses or a child of persons living as  
417 spouses or who formerly lived as spouses, other persons related by  
418 consanguinity or affinity who reside or formerly resided together,  
419 persons who have a current or former dating relationship, or  
420 persons who have a biological or legally adopted child together:

421 (a) Simple domestic violence within the meaning of  
422 Section 97-3-7;

423 (b) Disturbing the family or public peace within the  
424 meaning of Section 97-35-9, 97-35-11, 97-35-13 or 97-35-15; or

425 (c) Stalking within the meaning of Section 97-3-107.

426 (7) Any arrest made pursuant to subsection (3) of this  
427 section shall be designated as domestic assault or domestic  
428 violence on both the arrest docket and the incident report. Any



429 officer investigating a complaint of a misdemeanor crime of  
430 domestic violence who finds probable cause that such an offense  
431 has occurred within the past twenty-four (24) hours shall file an  
432 affidavit on behalf of the victim(s) of the crime, regardless of  
433 whether an arrest is made within that time period. If the crime  
434 is reported or investigated outside of that twenty-four-hour  
435 period, the officer may file the affidavit on behalf of the  
436 victim. In the event the officer does not file an affidavit on  
437 behalf of the victim, the officer shall instruct the victim of the  
438 procedure for filing on his or her own behalf.

439 (8) A law enforcement officer shall not be held liable in  
440 any civil action for an arrest based on probable cause and in good  
441 faith pursuant to subsection (3) of this section, or failure, in  
442 good faith, to make an arrest pursuant to subsection (3) of this  
443 section.

444 **SECTION 7.** Section 71-11-3, Mississippi Code of 1972, is  
445 amended as follows:

446 71-11-3. (1) This chapter shall be known as the  
447 "Mississippi Employment Protection Act."

448 (2) The provisions of this section shall be enforced without  
449 regard to race, gender, religion, ethnicity or national origin.

450 (3) For the purpose of this section only, the following  
451 words shall have the meanings ascribed herein unless the content  
452 clearly states otherwise:

453 (a) "Employer" is any person or business that is  
454 required by federal or state law to issue a United States Internal  
455 Revenue Service Form W-2 or Form 1099 to report income paid to  
456 employed or contracted personnel in Mississippi.

457 (b) "Employee" is any person or entity that is hired to  
458 perform work within the State of Mississippi and to whom a United  
459 States Internal Revenue Service Form W-2 or Form 1099 must be  
460 issued.



461 (c) "Third-party employer" is any person or company  
462 that provides workers for another person or company. This  
463 includes, but is not limited to, leasing companies and contract  
464 employers.

465 (d) "Status verification system" means the electronic  
466 verification of work authorization program of the Illegal  
467 Immigration Reform and Immigration Responsibility Act of 1996,  
468 Public Law 104-208, Division C, Section 403(a); 8 USC, Section  
469 1324a, and operated by the United States Department of Homeland  
470 Security, known as the E-Verify Program.

471 (e) "Unauthorized alien" means an alien as defined in  
472 Section 1324a(h) (3) of Title 8 of the United States Code.

473 (f) "Legal alien" means an individual who was lawfully  
474 present in the United States at the time of employment and for the  
475 duration of employment, or who was permanently residing in the  
476 United States under color of law at the time of employment and for  
477 the duration of employment.

478 (g) "Public employer" means every department, agency or  
479 instrumentality of the state or a political subdivision of the  
480 state.

481 (h) "Subcontractor" means a subcontractor, contract  
482 employee, staffing agency or any contractor regardless of its  
483 tier.

484 (4) (a) Employers in the State of Mississippi shall only  
485 hire employees who are legal citizens of the United States of  
486 America or are legal aliens. For purposes of this section, a  
487 legal alien is an individual who was lawfully present in the  
488 United States at the time of employment and for the duration of  
489 employment, or was permanently residing in the United States under  
490 color of law at the time of employment and for the duration of  
491 employment.

492 (b) (i) Every employer shall register with and utilize  
493 the status verification system to verify the federal employment



494 authorization status of all newly hired employees and shall keep a  
495 record of the verification for the duration of the employee's  
496 employment or at least three (3) years, whichever is longer.

497 (ii) No contractor or subcontractor shall hire any  
498 employee unless the contractor or subcontractor registers and  
499 participates in the status verification system to verify the work  
500 eligibility status of all newly hired employees.

501 (iii) No contractor or subcontractor who enters  
502 into a contract with a public employer shall enter into such a  
503 contract or subcontract unless the contractor or subcontractor  
504 registers and participates in the status verification system to  
505 verify information of all newly hired employees.

506 (c) The provisions of this section shall not apply to  
507 any contracts entered into on or before July 1, 2008.

508 (d) (i) It shall be a discriminatory practice for an  
509 employer to discharge an employee working in Mississippi who is a  
510 United States citizen or permanent resident alien while retaining  
511 an employee who the employing entity knows, or reasonably should  
512 have known, is an unauthorized alien hired after July 1, 2008, and  
513 who is working in Mississippi in a job category that requires  
514 equal skill, effort and responsibility, and which is performed  
515 under similar working conditions, as defined by 29 USCS, Section  
516 206(d) (1), as the job category held by the discharged employee.

517 (ii) An employing entity which, on the date of the  
518 discharge in question, was enrolled in and used the status  
519 verification system to verify the employment eligibility of its  
520 employees in Mississippi hired after July 1, 2008, shall be exempt  
521 from liability, investigation or suit arising from any action  
522 under this section.

523 (iii) No cause of action for a violation of this  
524 section shall lie under any other Mississippi law but shall arise  
525 solely from the provisions of this section.





526 (5) Any employer that complies with the requirements of this  
527 section shall be held harmless by the Mississippi Department of  
528 Employment Security, provided the employer is not directly  
529 involved in the creation of any false documents, and provided that  
530 the employer did not knowingly and willfully accept false  
531 documents from the employee.

532 (6) (a) All third-party employers that conduct business in  
533 Mississippi shall register to do business in Mississippi with the  
534 Mississippi Department of Employment Security before placing  
535 employees into the workforce in Mississippi.

536 (b) Third-party employers shall provide proof of  
537 registration and any participation in the status verification  
538 system to any Mississippi employer with whom they do business.

539 (7) (a) State of Mississippi agencies and political  
540 subdivisions, public contractors and public subcontractors and  
541 private employers with two hundred fifty (250) or more employees  
542 shall meet verification requirements not later than July 1, 2008.

543 (b) Employers with at least one hundred (100) but less  
544 than two hundred fifty (250) employees shall meet verification  
545 requirements not later than July 1, 2009.

546 (c) Employers with at least thirty (30) but less than  
547 one hundred (100) employees shall meet verification requirements  
548 not later than July 1, 2010.

549 (d) All employers shall meet verification requirements  
550 not later than July 1, 2011.

551 (e) (i) Any employer violating the provisions of this  
552 section shall be subject to the cancellation of any state or  
553 public contract, resulting in ineligibility for any state or  
554 public contract for up to three (3) years, the loss of any  
555 license, permit, certificate or other document granted to the  
556 employer by any agency, department or government entity in the  
557 State of Mississippi for the right to do business in Mississippi  
558 for up to one (1) year, or both.



559 (ii) The contractor or employer shall be liable  
560 for any additional costs incurred by the agencies and institutions  
561 of the State of Mississippi, or any of its political subdivisions,  
562 because of the cancellation of the contract or the loss of any  
563 license or permit to do business in the state.

564 (iii) Any person or entity penalized under this  
565 paragraph shall have the right to appeal to the appropriate entity  
566 imposing sanctions or to the circuit court of competent  
567 jurisdiction.

568 (d) The Department of Employment Security, Department  
569 of Revenue, Secretary of State, Department of Human Services,  
570 Board of Public Contractors, the Attorney General and any other  
571 agency, department or government entity shall have the authority  
572 to impose sanctions or seek penalties authorized under this  
573 section \* \* \*.

574 (8) (a) There shall be no liability under this section in  
575 the following circumstances:

576 (i) An employer who hires an employee through a  
577 state or federal work program that requires verification of the  
578 employee's social security number and provides for verification of  
579 the employee's lawful presence in the United States in an  
580 employment-authorized immigration status;

581 (ii) Any candidate for employment referred by the  
582 Mississippi Department of Employment Security, if the Mississippi  
583 Department of Employment Security has verified the social security  
584 number and provides for verification of the candidate's lawful  
585 presence in the United States in an employment-authorized  
586 immigration status; or

587 (iii) Individual homeowners who hire workers on  
588 their private property for noncommercial purposes, unless required  
589 by federal law to do so.



590 (b) (i) Compliance with the sections of this statute  
591 shall not exempt the employer from regulations and requirements  
592 related to any federal laws or procedures related to employers.

593 (ii) This section shall not be construed as an  
594 attempt to preempt federal law.

595 (c) (i) It shall be a felony for any person to accept  
596 or perform employment for compensation knowing or in reckless  
597 disregard that the person is an unauthorized alien with respect to  
598 employment during the period in which the unauthorized employment  
599 occurred. Upon conviction, a violator shall be subject to  
600 imprisonment in the custody of the Department of Corrections for  
601 not less than one (1) year nor more than five (5) years, a fine of  
602 not less than One Thousand Dollars (\$1,000.00) nor more than Ten  
603 Thousand Dollars (\$10,000.00), or both.

604 (ii) For purposes of determining bail for persons  
605 who are charged under this section, it shall be a rebuttable  
606 presumption that a defendant who has entered and remains in the  
607 United States unlawfully is deemed at risk of flight for purposes  
608 of bail determination.

609 **SECTION 8.** (1) The Department of Public Safety shall  
610 implement an Immigration Reimbursement Program that will provide  
611 reimbursement to county jails and municipal jails, to the extent  
612 funds may be available therefor, of costs relating to  
613 incarceration of certain illegal aliens, not to exceed Twenty  
614 Dollars (\$20.00) per eligible inmate per day.

615 (2) There is created in the State Treasury a special fund to  
616 be known as the Immigration Reimbursement Fund. The purpose of  
617 the fund shall be to provide reimbursement to local governments of  
618 unrecovered costs relating to the incarceration of illegal aliens  
619 for the offense or alleged offense of willful failure to carry  
620 documentation as set forth in Section 3 of House Bill No. \_\_\_\_\_,  
621 2012 Regular Session, for the Immigration Reimbursement Program.  
622 Monies from the fund shall be distributed by the State Treasurer



623 upon warrants issued by the Department of Public Safety. The fund  
624 shall be a continuing fund, not subject to fiscal-year  
625 limitations, and shall consist of:

- 626 (a) Monies appropriated by the Legislature;
- 627 (b) The interest accruing to the fund;
- 628 (c) Monies received under the provisions of Section  
629 2(9) of House Bill No. \_\_\_\_\_, 2012 Regular Session;
- 630 (d) Monies received from the federal government;
- 631 (e) Donations; and
- 632 (f) Monies received from such other sources as may be  
633 provided by law.

634 **SECTION 9.** All law enforcement officers of this state are  
635 authorized to assist federal agencies in the enforcement of  
636 federal immigration law.

637 **SECTION 10.** The State Board of Contractors shall have the  
638 duty to review contractor compliance with the status verification  
639 system requirements for employers and public employers set forth  
640 in Section 71-11-3(6)(k) of the Mississippi Employment Protection  
641 Act in the course of the board's performance of its regular  
642 inspection responsibilities under Title 31 of the Mississippi Code  
643 of 1972. This information may be obtained by investigation, by  
644 hearings, or by any other reasonable and lawful means. The board  
645 shall keep information concerning contractor compliance  
646 appropriately filed and shall disseminate to any interested person  
647 information as to contractor compliance; the information  
648 disseminated shall not identify individual employees or give  
649 identifying information about individual employees. The board  
650 shall have the power of subpoena in enforcing this section. If an  
651 inspector finds a violation of the Mississippi Employment  
652 Protection Act set forth in Section 71-11-3(6)(k), the board shall  
653 file a complaint with the Attorney General under Section  
654 71-11-3(4).



655           **SECTION 11.** (1) If a provision of this act or its  
656 application to any person or circumstance is held invalid, the  
657 invalidity does not affect other provisions or applications of the  
658 act that can be given effect without the invalid provision or  
659 application, and to this end the provisions of this act are  
660 severable.

661           (2) The terms of this act regarding immigration shall be  
662 construed to have the meanings given to them under federal  
663 immigration law.

664           (3) This act shall be implemented in a manner consistent  
665 with federal laws regulating immigration, protecting the civil  
666 rights of all persons and respecting the privileges and immunities  
667 of United States citizens.

668           (4) Nothing in this act shall implement or shall be  
669 construed or interpreted to implement or establish the REAL ID Act  
670 of 2005 (Public Law 109-13, Division B; 119 Stat. 302) including  
671 the use of a radio frequency identification chip.

672           **SECTION 12.** This act shall take effect and be in force from  
673 and after July 1, 2012.

