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SECRETARY OF STATE
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LAS VEGAS, NEVADA

Initiative Petition

State of Nevada

NEVADA IMMIGRATION VERIFICATION

Explanation: Language in *boldface italics* is to be added to Nevada Revised Statutes; language between brackets [~~deleted language~~] is to be deleted.

THE PEOPLE OF THE STATE OF NEVADA DO ENACT AS FOLLOWS:

Section 1. Purpose. The people of the State of Nevada find that there is a compelling interest in the cooperative enforcement of federal immigration laws throughout all of Nevada. The people of the State of Nevada declare that the intent of this act is to make attrition through enforcement the public policy of all state and local government agencies in Nevada. The provisions of this act are intended to work together to discourage and deter the unlawful entry and presence of aliens and economic activity by persons unlawfully present in the United States.

Sec. 2. Section 171.124 of Title 14 of NRS is hereby amended to read as follows:

171.124 Arrest by peace officer or officer of Drug Enforcement Administration.

1. Except as otherwise provided in subsection 3 and NRS 33.070 and 33.320, a peace officer or an officer of the Drug Enforcement Administration designated by the Attorney General of the United States for that purpose may make an arrest in obedience to a warrant delivered to him or her, or may, without a warrant, arrest a person:

- (a) For a public offense committed or attempted in the officer's presence.
- (b) When a person arrested has committed a felony or gross misdemeanor, although not in the officer's presence.
- (c) When a felony or gross misdemeanor has in fact been committed, and the officer has reasonable cause for believing the person arrested to have committed it.
- (d) On a charge made, upon a reasonable cause, of the commission of a felony or gross misdemeanor by the person arrested.
- (e) When a warrant has in fact been issued in this State for the arrest of a named or described person for a public offense, and the officer has reasonable cause to believe that the person arrested is the person so named or described.

(f) When the person to be arrested has committed any public offense that makes the person removable from the United States.

2. A peace officer or an officer of the Drug Enforcement Administration designated by the Attorney General of the United States for that purpose may also, at night, without a warrant, arrest any person whom the officer has reasonable cause for believing to have committed a felony or gross misdemeanor, and is justified in making the arrest, though it afterward appears that a felony or gross misdemeanor has not been committed.

3. An officer of the Drug Enforcement Administration may only make an arrest pursuant to subsections 1 and 2 for a violation of chapter 453 of NRS.

Sec. 3. Chapter 207 of Title 15 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 7, inclusive, of this act.

Sec. 4. Willful failure to complete or carry an alien registration document; assessment; exception; authenticated records; classification.

1. In addition to any violation of federal law, a person is guilty of willful failure to complete or carry an alien registration document if the person is in violation of 8 United States Code Section 1304(e) or 1306(a).

2. In the enforcement of this section, an alien's immigration status may be determined by:

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

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

3. A law enforcement official or agency of this state or a county, city, town or other political subdivision of this state may not consider race, color or national origin in the enforcement of this section except to the extent permitted by the United States or Nevada constitution.

4. A person who is sentenced pursuant to this section is not eligible for suspension of sentence, probation, pardon, commutation of sentence, or release from confinement on any basis except as authorized by NRS 209.501 until the sentence imposed by the court has been served or the person is otherwise eligible for release.

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

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

7. Any record that relates to the immigration status of a person is admissible in any court without further foundation or testimony from a custodian of records if the record is certified as authentic by the government agency that is responsible for maintaining the record.

8. A violation of this section is a misdemeanor, except that the maximum fine is one hundred dollars and for a first violation of this section the court shall not sentence the person to more than twenty days in jail and for a second or subsequent violation the court shall not sentence the person to more than thirty days in jail.

Sec. 5. Unlawful stopping to hire and pick up passengers for work; unlawful application, solicitation or employment; classification; definitions.

1. It is unlawful for an occupant of a motor vehicle that is stopped on a street, roadway or highway to attempt to hire or hire and pick up passengers for work at a different location if the motor vehicle blocks or impedes the normal movement of traffic.

2. It is unlawful for a person to enter a motor vehicle that is stopped on a street, roadway or highway in order to be hired by an occupant of the motor vehicle and to be transported to work at a different location if the motor vehicle blocks or impedes the normal movement of traffic.

3. It is unlawful for a person who is unlawfully present in the United States and who is an unauthorized alien to knowingly apply for work, solicit work in a public place or perform work as an employee or independent contractor in this state.

4. A law enforcement official or agency of this state or a county, city, town or other political subdivision of this state may not consider race, color or national origin in the enforcement of this section except to the extent permitted by the United States or Nevada constitution.

5. In the enforcement of this section, an alien's immigration status may be determined by:

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

(b) The United States immigration and customs enforcement or the United States customs and border protection pursuant to 8 United States code section 1373(c).

6. A violation of this section is a misdemeanor.

7. For the purposes of this section:

(a) "Solicit" means verbal or nonverbal communication by a gesture or a nod that would indicate to a reasonable person that a person is willing to be employed.

(b) "Unauthorized alien" means an alien who does not have the legal right or authorization under federal law to work in the United States as described in 8 United States Code Section 1324a(h)(3).

Sec. 6. Unlawful transporting, moving, concealing, harboring or shielding of unlawful aliens; vehicle impoundment; exception; classification.

1. It is unlawful for a person who is in violation of a criminal offense to:

(a) Transport or move or attempt to transport or move an alien in this state, in furtherance of the illegal presence of the alien in the United States, in a means of transportation if the person knows or recklessly disregards the fact that the alien has come to, has entered or remains in the United States in violation of law.

(b) Conceal, harbor or shield or attempt to conceal, harbor or shield an alien from detection in any place in this state, including any building or any means of transportation, if the person knows or recklessly disregards the fact that the alien has come to, has entered or remains in the United States in violation of law.

(c) Encourage or induce an alien to come to or reside in this state if the person knows or recklessly disregards the fact that such coming to, entering or residing in this state is or will be in violation of law.

2. A means of transportation that is used in the commission of a violation of this section is subject to mandatory vehicle immobilization or impoundment pursuant to section 19 of this act.

3. A law enforcement official or agency of this state or a county, city, town or other political subdivision of this state may not consider race, color or national origin in the enforcement of this section except to the extent permitted by the United States or Nevada constitution.

4. In the enforcement of this section, an alien's immigration status may be determined by:

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

(b) The United States immigration and customs enforcement or the United States customs and border protection pursuant to 8 United States code section 1373(c).

5. This section does not apply to a child protective services worker acting in the worker's official capacity or a person who is acting in the capacity of a first responder, an ambulance attendant or an emergency medical technician and who is transporting or moving an alien in this state pursuant to Title 40, Chapter 450B.

6. A person who violates this section is guilty of a misdemeanor and is subject to a fine of at least one thousand dollars, except that a violation of this section that involves ten or more illegal aliens is a category E felony and the person is subject to a fine of at least one thousand dollars for each alien who is involved.

Sec. 7. Smuggling; classification; definitions.

1. It is unlawful for a person to intentionally engage in the smuggling of human beings for profit or commercial purpose.

2. A violation of this section is a category D felony.

3. Notwithstanding subsection 2 of this section, a violation of this section:

(a) Is a category B felony if the human being who is smuggled is under eighteen years of age and is not accompanied by a family member over eighteen years of age or the offense involved the use of a deadly weapon or dangerous instrument.

(b) Is a category C felony if the offense involves the use or threatened use of deadly physical force and the person is not eligible for suspension of sentence, probation, pardon or release from confinement on any other basis except pursuant to NRS 209.501 until the sentence imposed by the court is served, the person is otherwise eligible for release or the sentence is commuted.

6. Notwithstanding any other law, in the enforcement of this section a peace officer may lawfully stop any person who is operating a motor vehicle if the officer has reasonable suspicion to believe the person is in violation of any civil traffic law.

7. For the purposes of this section:

(a) "Family member" means the person's parent, grandparent, sibling or any other person who is related to the person by consanguinity or affinity to the second degree.

(b) "Procurement of transportation" means any participation in or facilitation of transportation and includes:

(1) providing services that facilitate transportation including travel arrangement services or money transmission services.

(2) providing property that facilitates transportation, including a weapon, a vehicle or other means of transportation or false identification, or selling, leasing, renting or otherwise making available a drop house.

(c) "Smuggling of human beings" means the transportation, procurement of transportation or use of property or real property by a person or an entity that knows or has reason to know that the person or persons transported or to be transported are not United States citizens, permanent resident aliens or persons otherwise lawfully in this state or have attempted to enter, entered or remained in the United States in violation of law.

(d) "Drop house" means property or real property that is used to facilitate smuggling pursuant to this section.

Sec. 8. Chapter 211 of Title 16 of NRS is hereby amended by adding thereto a new section to read as follows:

211.250 Gang and Immigration Intelligence Team Enforcement Mission Fund.

The Gang and Immigration Intelligence Team Enforcement Mission Fund is established consisting of monies deposited pursuant to section 9 of this act and monies

appropriated by the legislature. The department shall administer the fund. Monies in the fund are subject to legislative appropriation and shall be used for gang and immigration enforcement and for county jail reimbursement costs relating to illegal immigration.

Sec. 9. Title 19 of NRS is hereby amended by adding thereto a new chapter to read as follows:

Chapter 243. Enforcement of Immigration Laws.

243.010 Cooperation and assistance in enforcement of immigration laws; indemnification.

1. No official or agency of this state or a county, city, town or other political subdivision of this state may adopt a policy that limits or restricts the enforcement of federal immigration laws to less than the full extent permitted by federal law.

2. For any lawful stop, detention or arrest made by a law enforcement official or agency of this state or a county, city, town or other political subdivision of this state in the enforcement of any other law or ordinance of a county, city or town of this state where reasonable suspicion exists that the person is an alien and is unlawfully present in the United States, a reasonable attempt shall be made, when practicable, to determine the immigration status of the person. The person's immigration status shall be verified with the federal government pursuant to United States Code Section 1373(c). A law enforcement official or agency of this state or a county, city, town or other political subdivision of this state may not consider race, color or national origin in implementing the requirements of this subsection except to the extent permitted by the United States or Nevada Constitution. A person is presumed to not be an alien who is unlawfully present in the United States if the person provides to the law enforcement officer or agency any of the following:

(a) A valid Nevada driver license.

(b) A valid Nevada identification card.

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

(d) If the entity requires proof of legal presence in the United States before issuance, any valid United States federal, state or local government issued identification.

3. If an alien who is unlawfully present in the United States is convicted of a violation of state or local law, on discharge from imprisonment or assessment of any fine that is imposed, the alien shall be transferred immediately to the custody of the United States Immigration and Customs Enforcement or the United States Customs and Border Protection.

4. Notwithstanding any other law, a law enforcement agency may securely transport an alien who is unlawfully present in the United States and who is in the agency's custody to a federal facility in this state or to any other point of transfer into federal custody that is outside the jurisdiction of the law enforcement agency.

5. In the implementation of this section, an alien's immigration status may be determined by:

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

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

6. Except as provided in federal law, officials or agencies of this state and counties, cities, towns and other political subdivisions of this state may not be prohibited or in any way be restricted from sending, receiving or maintaining information relating to the immigration status of any individual or exchanging that information with any other federal, state or local governmental entity for the following official purposes:

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

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

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

(d) Pursuant to 8 United States Code Section 1373 and 8 United States Code Section 1644.

7. This section does not implement, authorize or establish and shall not be construed to implement, authorize or establish the Real ID Act of 2005 (P.L. 109-13, Division B; 119 Stat. 302), including the use of a radio frequency identification chip.

8. A person who is a legal resident of this state may bring an action in district court to challenge any official or agency of this state or a county, city, town or other political subdivision of this state that adopts or implements a policy that limits or restricts the enforcement of federal immigration laws, including 8 United States Code Sections 1373 and 1644, to less than the full extent permitted by federal law. If there is a judicial finding that an entity has violated this section, the court shall order that the entity pay a civil penalty of not less than five hundred dollars and not more than five thousand dollars for each day that the policy has remained in effect after the filing of an action pursuant to this subsection.

9. A court shall collect the civil penalty prescribed in subsection 8 of this section and remit the civil penalty to the state treasurer for deposit in the Gang and Immigration Intelligence Team Enforcement Mission Fund established by section 8 of this act.

10. The court may award court costs and reasonable attorney fees to any person or any official or agency of this state or a county, city, town or other political subdivision of this state that prevails by an adjudication on the merits in a proceeding brought pursuant to this section.

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

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

Sec. 10. Section 293.2725 of Title 24 of NRS is hereby amended to read as follows:

293.2725 Voter who registered to vote by mail and has not previously voted in election for federal office in Nevada: Prerequisites to voting at polling place and to voting by mail; applicability of section; exceptions.

1. Except as otherwise provided in subsection 2, in NRS 293.3081 and 293.3083 and in federal law, a person who registers by mail to vote in this State and who has not previously voted in an election for federal office in this State:

(a) May vote at a polling place ***pursuant to the requirements of NRS 293.277*** ~~only if the person presents to the election board officer at the polling place:~~

~~(1) A current and valid photo identification of the person; or~~

~~(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517; and~~

(b) May vote by mail only if the person provides to the county or city clerk:

(1) A copy of a current and valid photo identification of the person; or

(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517.

(c) The provisions of paragraph (b) of this subsection do not apply to a person who:

(1) Registers to vote by mail and submits with an application to register to vote:

(I) A copy of a current and valid photo identification; or

(II) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517;

(2) Registers to vote by mail and submits with an application to register to vote a driver's license number or at least the last four digits of his or her social security number, if a state or local election official has matched that information with an

existing identification record bearing the same number, name and date of birth as provided by the person in the application;

2. The provisions of this section do not apply to a person who:

~~(a) Registers to vote by mail and submits with an application to register to vote:~~

~~(1) A copy of a current and valid photo identification; or~~

~~(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517;~~

~~(b) Registers to vote by mail and submits with an application to register to vote a driver's license number or at least the last four digits of his or her social security number, if a state or local election official has matched that information with an existing identification record bearing the same number, name and date of birth as provided by the person in the application;~~

~~(e) (a) Is entitled to vote an absent ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq.;~~

~~(e) (b) Is provided the right to vote otherwise than in person under the Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C. §§ 1973ee et seq.; or~~

~~(e) (c) Is entitled to vote otherwise than in person under any other federal law.~~

Sec. 11. Chapter 293 of Title 24 of NRS is hereby amended by adding thereto a new section to read as follows:

293.276 Proof of Identification. "Proof of identification" refers to a document that satisfies all the following:

1. The document shows the name of the individual to whom the document was issued, and the name conforms to the name in the individual's voter registration record.

2. The document shows a photograph of the individual to whom the document was issued.

3. The document includes an expiration date, and the document:

(a) is not expired; or

(b) expired after the date of the most recent general election.

4. The document was issued by the United States or the state of Nevada.

Sec. 12. Section 293.277 of Title 24 of NRS is hereby amended to read as follows:

293.277 Conditions for entitlement of person to vote; ~~forms of identification to identify registered voter.~~

1. Except as otherwise provided in NRS 293.541, if a person's name appears in the election board register or if the person provides an affirmation pursuant to NRS 293.525, the person is entitled to vote and must sign his or her name in the election board register when he or she applies to vote. The signature must be compared by an election board officer with the

signature or a facsimile thereof on the person's original application to register to vote or *on the proof of identification provided pursuant to one of the forms of identification listed in subsection 2.*

2. Except as otherwise provided in NRS 293.2725, ~~the forms of identification which may be used individually to identify a voter at the polling place are:~~

- ~~(a) The card issued to the voter at the time he or she registered to vote;~~
- ~~(b) A driver's license;~~
- ~~(c) An identification card issued by the Department of Motor Vehicles;~~
- ~~(d) A military identification card; or~~

~~(e) Any other form of identification issued by a governmental agency which contains the voter's signature and physical description or picture~~ *subsection 5, a voter who desires to vote at a polling place shall provide proof of identification that qualifies as proof of identification under section 11 of this act.*

3. *Except as provided in subsection 5, before the voter proceeds to vote, an election board officer shall ask the voter to provide proof of identification. The voter must produce the proof of identification before being permitted to sign the election board register.*

4. *If:*

(a) the voter is unable or declines to present the proof of identification; or

(b) an election board officer determines that the proof of identification presented by the voter does not qualify as proof of identification under section 11 of this act;

an election board officer shall challenge the voter, and such challenge shall be disposed of in the manner provided by NRS 293.303.

5. *A voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides is not required to provide proof of identification before voting in a primary election.*

6. *An election board officer may not consider race, color or national origin in the enforcement of this section except to the extent permitted by the United States or Nevada constitution.*

Sec. 13. Section 293.303 of Title 24 of NRS is hereby amended to read as follows:
293.303 Challenges.

1. A person applying to vote may be challenged:

(a) Orally by any registered voter of the precinct upon the ground that he or she is not the person entitled to vote as claimed or has voted before at the same election. A registered voter who initiates a challenge pursuant to this paragraph must submit an affirmation that is signed under penalty of perjury and in the form prescribed by the Secretary of State stating that the challenge is based on the personal knowledge of the registered voter.

(b) On any ground set forth in a challenge filed with the county clerk pursuant to the provisions of NRS 293.547.

(c) By an election board officer pursuant to subsection 2 of NRS 293.277.

2. If a person is challenged, an election board officer shall tender the challenged person the following oath or affirmation:

(a) If the challenge is on the ground that the challenged person does not belong to the political party designated upon the register, “I swear or affirm under penalty of perjury that I belong to the political party designated upon the register”;

(b) If the challenge is on the ground that the register does not show that the challenged person designated the political party to which he or she claims to belong, “I swear or affirm under penalty of perjury that I designated on the application to register to vote the political party to which I claim to belong”;

(c) If the challenge is on the ground that the challenged person does not reside at the residence for which the address is listed in the election board register, “I swear or affirm under penalty of perjury that I reside at the residence for which the address is listed in the election board register”;

(d) If the challenge is on the ground that the challenged person previously voted a ballot for the election, “I swear or affirm under penalty of perjury that I have not voted for any of the candidates or questions included on this ballot for this election”; or

(e) If the challenge is on the ground that the challenged person is not the person he or she claims to be, “I swear or affirm under penalty of perjury that I am the person whose name is in this election board register.”

(f) If the challenge is pursuant to paragraph (c) of subsection 1, “I swear or affirm under penalty of perjury that I am eligible to vote because I am 18 years of age or over, a U.S. Citizen, and a resident of Nevada for 30 days preceding this election.”

The oath or affirmation must be set forth on a form prepared by the Secretary of State and signed by the challenged person under penalty of perjury.

3. Except as otherwise provided in subsection 4, if the challenged person refuses to execute the oath or affirmation so tendered, he or she must not be issued a ballot, and the officer in charge of the election board register shall write the words “Challenged” opposite his or her name in the election board register.

4. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (a) or (b) of subsection 2, the election board officers shall issue the person a nonpartisan ballot.

5. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (c) of subsection 2, the election board officers shall inform the person that he or she is entitled to vote only in the manner prescribed in NRS 293.304.

6. If the challenged person executes the oath or affirmation and the challenge is not based on the ground set forth in paragraph (e) of subsection 2, the election board officers shall issue the person a partisan ballot.

7. If the challenge is based on the ground set forth in paragraph (c) of subsection 2, and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot until he or she furnishes satisfactory identification which contains proof of the address at which the person actually resides. For the purposes of this subsection, a voter registration card issued pursuant to NRS 293.517 does not provide proof of the address at which a person resides.

8. If the challenge is based on the ground set forth in paragraph (e) of subsection 2 and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot unless the person:

- (a) Furnishes official identification which contains a photograph of the person, such as a driver's license or other official document; or
- (b) Brings before the election board officers a person who is at least 18 years of age who:
 - (1) Furnishes official identification which contains a photograph of that person, such as a driver's license or other official document; and
 - (2) Executes an oath or affirmation under penalty of perjury that the challenged person is who he or she swears to be.

9. If the challenge is based on the ground set forth in paragraph (f) of subsection 2 and the challenged person executes the oath or affirmation, the election board officers shall not issue the person a ballot until the person provides proof of identification that qualifies as proof of identification under section 11 of this act.

9. The election board officers shall:

- (a) Record on the challenge list:
 - (1) The name of the challenged person;
 - (2) The name of the registered voter who initiated the challenge; and
 - (3) The result of the challenge; and
- (b) If possible, orally notify the registered voter who initiated the challenge of the result of the challenge.

Sec. 14. Section 293.3081 of Title 24 of NRS is hereby amended to read as follows:

293.3081 Casting of provisional ballot: General conditions; declaration or application. A person at a polling place may cast a provisional ballot in an election to vote for a candidate for federal office if the person complies with the applicable provisions of NRS 293.3082 and:

1. Declares that he or she has registered to vote and is eligible to vote at that election in that jurisdiction, but his or her name does not appear on a voter registration list as a voter eligible

to vote in that election in that jurisdiction or an election official asserts that the person is not eligible to vote in that election in that jurisdiction;

2. Applies by mail, on or after January 1, 2003, to register to vote and has not previously voted in an election for federal office in this State and fails to provide ***proof of identification required pursuant to subsection 2 of NRS 293.277*** ~~the identification required pursuant to paragraph (a) of subsection 1 of NRS 293.2725~~ to the election board officer at the polling place; or

3. Declares that he or she is entitled to vote after the polling place would normally close as a result of a court order or other order extending the time established for the closing of polls pursuant to a law of this State in effect 10 days before the date of the election.

Sec. 15. Section 293.3085 of Title 24 of NRS is hereby amended to read as follows:

293.3085 Canvass and counting of provisional ballots.

1. Following each election, a canvass of the provisional ballots cast in the election must be conducted pursuant to NRS 293.387 and, if appropriate, pursuant to NRS 293C.387.

2. The county and city clerk shall not:

(a) Include any provisional ballot in the unofficial results reported on election night; or

(b) Open any envelope containing a provisional ballot before 8 a.m. on the Wednesday following election day.

3. Except as otherwise provided in subsection 4, a provisional ballot must be counted if:

(a) The county or city clerk determines that the person who cast the provisional ballot was registered to vote in the election, eligible to vote in the election and issued the appropriate ballot for the address at which the person resides;

(b) A voter who failed to provide required identification ~~at the polling place~~ or with his or her mailed ballot provides the required identification to the county or city clerk not later than 5 p.m. on the Friday following election day; or

(c) A court order has not been issued by 5 p.m. on the Friday following election day directing that provisional ballots cast pursuant to subsection 3 of NRS 293.3081 not be counted, and the provisional ballot was cast pursuant to subsection 3 of NRS 293.3081; ***or***

(d) The ballot is valid pursuant to section 16 of this act.

4. A provisional ballot must not be counted if the county or city clerk determines that the person who cast the provisional ballot cast the wrong ballot for the address at which the person resides.

Sec. 16. Chapter 293 of Title 24 of NRS is hereby amended by adding thereto a new section to read as follows:

293.30855 Counting of provisional ballots by voters who lacked proof of identification at polling places

1. A voter who:

(a) was challenged pursuant to paragraph (c) of subsection 1 of NRS 293.303 as a result of the voter's inability or declination to provide proof of identification that qualifies as proof of identification under section 11 of this act; and

(b) cast a provisional ballot;

may personally appear before the county or city clerk not later than 5 p.m. on the Friday following election day.

2. Except as provided in subsection 3, if the voter:

(a) provides proof of identification that qualifies as proof of identification under section 11 of this act to the county or city clerk; and

(b) executes an affidavit before the clerk affirming under the penalties of perjury that the voter is the same individual who:

(1) personally appeared before the election board officer who issued the challenge; and

**(2) cast the provisional ballot on election day;
the voter's provisional ballot is valid.**

3. If the voter executes an affidavit before the county or city clerk affirming under the penalties of perjury that:

(a) the voter is the same individual who:

(1) personally appeared before the election board officer who issued the challenge; and

(2) cast the provisional ballot on election day;

(b) the voter:

(1) is:

(I) indigent; and

(II) unable to obtain proof of identification that qualifies as proof of identification under section 11 of this act without the payment of a fee; or

(2) has a religious objection to being photographed; and

(c) the voter is eligible to vote because the voter is:

(1) 18 years of age or over;

(2) a U.S. Citizen; and

(3) a resident of Nevada for 30 days preceding the election;

the county or city clerk shall find that the voter's provisional ballot is valid.

4. If a voter described by subsection 1 fails by 5 p.m. on the Friday following election day to:

(a) appear before the county or city clerk; and

**(b) execute an affidavit in the manner prescribed by subsection 2 or 3;
the county or city clerk shall find that the voter's provisional ballot is invalid.**

Sec. 17. Section 422.065 of Title 38 of NRS is hereby amended to read as follows:

422.065 Eligibility of aliens for state or local public benefits.

1. Notwithstanding any other provision of state or local law, a person or governmental entity that provides a state or local public benefit:

(a) Shall comply with the provisions of 8 U.S.C. § 1621 regarding the eligibility of an alien for such a benefit.

(b) Is not required to pay any costs or other expenses relating to the provision of such a benefit after July 1, 1997, to an alien who, pursuant to 8 U.S.C. § 1621, is not eligible for the benefit.

2. Compliance with the provisions of 8 U.S.C. § 1621 must not be construed to constitute any form of discrimination, distinction or restriction made, or any other action taken, on the basis of national origin.

~~3. As used in this section, "state or local public benefit" has the meaning ascribed to it in 8 U.S.C. § 1621.~~

3. Notwithstanding any other state law and to the extent permitted by federal law, any agency of this state or a political subdivision of this state that administers any state or local public benefit shall require each natural person who applies for the state or local public benefit to submit at least one of the following documents to the entity that administers the state or local public benefit demonstrating lawful presence in the United States:

(a) A Nevada driver license issued after 1996 or a Nevada identification card.

(b) A birth certificate or delayed birth certificate issued in any state, territory or possession of the United States.

(c) A United States certificate of birth abroad.

(d) A United States passport.

(e) A foreign passport with a United States visa.

(f) An I-94 form with a photograph.

(g) A United States citizenship and immigration services employment authorization document or refugee travel document.

(h) A United States certificate of naturalization

(i) A United States certificate of citizenship.

(j) A tribal certificate of Indian blood.

(k) A tribal or bureau of Indian affairs affidavit of birth.

4. For the purposes of administering the Nevada Medicaid, documentation of citizenship and legal residence shall conform with the requirements of title XIX of the Social Security Act.

5. To the extent permitted by federal law, an agency of this state or political subdivision of this state may allow tribal members, the elderly and persons with disabilities or incapacity

of the mind or body to provide documentation as specified in section 6036 of the federal Deficit Reduction Act of 2005 (P.L. 109-171; 120 Stat. 81) and related federal guidance in lieu of the documentation required by this section.

6. Any person who applies for state or local public benefits shall sign a sworn affidavit stating that the documents presented pursuant to subsection 3 of this section are true under penalty of perjury.

7. Failure to report discovered violations of federal immigration law by an employee of an agency of this state or a political subdivision of this state that administers any state or local public benefit is a misdemeanor, except that the court shall not sentence the person to more than four months in jail. If that employee's supervisor knew of the failure to report and failed to direct the employee to make the report, the supervisor is guilty of a misdemeanor, except that the court shall not sentence the person to more than four months in jail.

8. This section shall be enforced without regard to race, color, religion, sex, age, disability or national origin.

9. Any person who is a resident of this state has standing in any court of record to bring suit against any agent or agency of this state or its political subdivisions to remedy any violation of any provision of this section, including an action for mandamus. Courts shall give preference to actions brought under this section over other civil actions or proceedings pending in the court.

10. The court may award court costs and reasonable attorney fees to any person or any official or agency of this state or a county, city, town or other political subdivision of this state that prevails by an adjudication on the merits in a proceeding brought pursuant to this section.

11. For the purposes of this section, "state or local public benefit" has the same meaning prescribed in 8 United States Code section 1621, except that it does not include commercial or professional licenses, benefits provided by the public retirement systems and plans of this state or services widely available to the general population as a whole.

Sec. 18. Chapter 422 of Title 38 of NRS is hereby amended by adding thereto a new section to read as follows:

422.066 Eligibility of aliens for federal public benefits.

1. Notwithstanding any other provision of state or local law and to the extent permitted by federal law, a person or governmental entity that provides a federal public benefit administered by this state or a political subdivision of this state:

(a) Shall comply with the provisions of 8 U.S.C. § 1621 regarding the eligibility of an alien for such a benefit.

(b) Is not required to pay any costs or other expenses relating to the provision of such a benefit to an alien who, pursuant to 8 U.S.C. § 1621, is not eligible for the benefit.

2. Compliance with the provisions of 8 U.S.C. § 1621 must not be construed to constitute any form of discrimination, distinction or restriction made, or any other action taken, on the basis of national origin.

3. Notwithstanding any other state law and to the extent permitted by federal law, any natural person who applies for a federal public benefit that is administered by this state or a political subdivision of this state and that requires participants to be citizens of the United States, legal residents of the United States or otherwise lawfully present in the United States shall submit at least one of the following documents to the entity that administers the federal public benefit demonstrating lawful presence in the United States:

(a) A Nevada driver license issued after 1996 or a Nevada identification card.

(b) A birth certificate or delayed birth certificate issued in any state, territory or possession of the United States.

(c) A United States certificate of birth abroad.

(d) A United States passport.

(e) A foreign passport with a United States visa.

(f) An I-94 form with a photograph.

(g) A United States citizenship and immigration services employment authorization document or refugee travel document.

(h) A United States certificate of naturalization.

(i) A United States certificate of citizenship.

(j) A tribal certificate of Indian blood.

(k) A tribal or bureau of Indian affairs affidavit of birth.

4. For the purposes of administering the Nevada Medicaid, documentation of citizenship and legal residence shall conform with the requirements of title XIX of the Social Security Act.

5. To the extent permitted by federal law, an agency of this state or political subdivision of this state may allow tribal members, the elderly and persons with disabilities or incapacity of the mind or body to provide documentation as specified in section 6036 of the federal Deficit Reduction Act of 2005 (P.L. 109-171; 120 Stat. 81) and related federal guidance in lieu of the documentation required by this section.

6. Any person who applies for federal public benefits shall sign a sworn affidavit stating that the documents presented pursuant to subsection 3 of this section are true under penalty of perjury.

7. Failure to report discovered violations of federal immigration law by an employee of an agency of this state or a political subdivision of this state that administers any federal public benefit is a misdemeanor, except that the court shall not sentence the person to more than four months in jail. If that employee's supervisor knew of the failure to report and failed

to direct the employee to make the report, the supervisor is guilty of a misdemeanor, except that the court shall not sentence the person to more than four months in jail.

8. This section shall be enforced without regard to race, color, religion, sex, age, disability or national origin.

9. Any person who is a resident of this state has standing in any court of record to bring suit against any agent or agency of this state or its political subdivisions to remedy any violation of any provision of this section, including an action for mandamus. Courts shall give preference to actions brought under this section over other civil actions or proceedings pending in the court.

10. The court may award court costs and reasonable attorney fees to any person or any official or agency of this state or a county, city, town or other political subdivision of this state that prevails by an adjudication on the merits in a proceeding brought pursuant to this section.

11. For the purposes of this section, "federal public benefit" has the same meaning prescribed in 8 United States Code section 1611.

Sec. 19. Chapter 482 of Title 43 is hereby amended by adding thereto a new section to read as follows:

482.570 Removal and immobilization or impoundment of vehicle.

1. A peace officer shall cause the removal and either immobilization or impoundment of a vehicle if the peace officer determines that a person is driving the vehicle while any of the following applies:

(a) In furtherance of the illegal presence of an alien in the United States and in violation of a criminal offense, the person is transporting or moving or attempting to transport or move an alien in this state in a vehicle if the person knows or recklessly disregards the fact that the alien has come to, has entered or remains in the United States in violation of law.

(b) The person is concealing, harboring or shielding or attempting to conceal, harbor or shield from detection an alien in this state in a vehicle if the person knows or recklessly disregards the fact that the alien has come to, entered or remains in the United States in violation of law.

2. Except as otherwise provided in this chapter, a vehicle that is removed and either immobilized or impounded pursuant to subsection 1 of this section shall be immobilized or impounded for thirty days. An insurance company does not have a duty to pay any benefits for charges or fees for immobilization or impoundment.

3. The owner of a vehicle that is removed and either immobilized or impounded pursuant to subsection 1 of this section, the spouse of the owner and each person identified on the department's record with an interest in the vehicle shall be provided with an opportunity for a hearing.

Sec. 20. Title 53 of NRS is hereby amended by adding thereto a new chapter, *Employment of Unauthorized Aliens*, to consist of the provisions set forth as sections 21 to 27, inclusive of this act.

Sec. 21. Definitions. *As used in this chapter, unless the context otherwise requires:*

1. *"Agency" means any agency, department, board or commission of this state or a county, city or town that issues a license for purposes of operating a business in this state.*
2. *"Employ" means hiring an employee on or after the 1st of July of the year following the year this act becomes law.*
3. *"Employee":*
 - (a) *Means any person who provides services or labor for an employer in this state for wages or other remuneration.*
 - (b) *Does not include an independent contractor.*
4. *"Employer" means any individual or type of organization that transacts business in this state, that has a license issued by an agency in this state and that employs one or more employees in this state. Employer includes this state, any political subdivision of this state and self-employed persons. In the case of an independent contractor, employer means the independent contractor and does not mean the person or organization that uses the contract labor.*
5. *"E-verify program" means the employment verification pilot program as jointly administered by the United States Department of Homeland Security and the Social Security Administration or any of its successor programs.*
6. *"Independent contractor" means any individual or entity that carries on an independent business, that contracts to do a piece of work according to the individual's or entity's own means and methods and that is subject to control only as to results. Whether an individual or entity is an independent contractor is determined on a case-by-case basis through various factors, including whether the individual or entity:*
 - (a) *Supplies the tools or materials.*
 - (b) *Makes services available to the general public.*
 - (c) *Works or may work for a number of clients at the same time.*
 - (d) *Has an opportunity for profit or loss as a result of labor or service provided.*
 - (e) *Invests in the facilities for work.*
 - (f) *Directs the order or sequence in which the work is completed.*
 - (g) *Determines the hours when the work is completed.*
7. *"Intentionally" means that a person's objective is to cause that result or to engage in that conduct.*

8. ***"Knowingly employ an unauthorized alien"*** means the actions described in 8 United States Code section 1324a. This term shall be interpreted consistently with 8 United States Code section 1324a and any applicable federal rules and regulations.

9. ***"License"***:

(a) ***Means any agency permit, certificate, approval, registration, charter or similar form of authorization that is required by law and that is issued by any agency for the purposes of operating a business in this state.***

(b) ***Includes:***

(1) ***Articles of incorporation or articles of organization under Title 7, Chapters 78, 78A, 81, 82, 84, and 89.***

(2) ***A certificate of partnership, a partnership registration or articles of organization under Title 7, Chapters 86, 87, 87A, 88, and 88A.***

(3) ***A grant of authority issued under Title 7, Chapter 80.***

(4) ***Any transaction privilege tax license.***

(c) ***Does not include:***

(1) ***Any license issued pursuant to Titles 40 or 48 or rules adopted pursuant to those titles.***

(2) ***Any professional license.***

10. ***"Social security number verification service"*** means the program administered by the Social Security Administration or any of its successor programs.

11. ***"Unauthorized alien"*** means an alien who does not have the legal right or authorization under federal law to work in the United States as described in 8 United States Code section 1324a(h)(3).

Sec. 22. Knowingly employing unauthorized aliens; prohibition; false and frivolous complaints; violation; classification; license suspension and revocation; affirmative defenses.

1. ***An employer shall not knowingly employ an unauthorized alien. If, in the case when an employer uses a contract, subcontract or other independent contractor agreement to obtain the labor of an alien in this state, the employer knowingly contracts with an unauthorized alien or with a person who employs or contracts with an unauthorized alien to perform the labor, the employer violates this subsection.***

2. ***The attorney general shall prescribe a complaint form for a person to allege a violation of subsection 1 of this section. The complainant shall not be required to list the complainant's social security number on the complaint form or to have the complaint form notarized. On receipt of a complaint on a prescribed complaint form that an employer allegedly knowingly employs an unauthorized alien, the attorney general or county attorney shall investigate whether the employer has violated subsection 1 of this section. If a complaint is received but is not submitted on a prescribed complaint form, the attorney general or county***

attorney may investigate whether the employer has violated subsection 1 of this section. This subsection shall not be construed to prohibit the filing of anonymous complaints that are not submitted on a prescribed complaint form. The attorney general or county attorney shall not investigate complaints that are based solely on race, color or national origin. A complaint that is submitted to a county attorney shall be submitted to the county attorney in the county in which the alleged unauthorized alien is or was employed by the employer. The county sheriff or any other local law enforcement agency may assist in investigating a complaint. When investigating a complaint, the attorney general or county attorney shall verify the work authorization of the alleged unauthorized alien with the federal government pursuant to 8 United States Code section 1373(c). A state, county or local official shall not attempt to independently make a final determination on whether an alien is authorized to work in the United States. An alien's immigration status or work authorization status shall be verified with the federal government pursuant to 8 United States Code section 1373(c). A person who knowingly files a false and frivolous complaint under this subsection is guilty of a misdemeanor, except that the court shall not sentence the person to more than thirty days in jail.

3. If, after an investigation, the attorney general or county attorney determines that the complaint is not false and frivolous:

(a) The attorney general or county attorney shall notify the United States Immigration and Customs Enforcement of the unauthorized alien.

(b) The attorney general or county attorney shall notify the local law enforcement agency of the unauthorized alien.

(c) The attorney general shall notify the appropriate county attorney to bring an action pursuant to subsection 4 of this section if the complaint was originally filed with the attorney general.

4. An action for a violation of subsection 1 of this section shall be brought against the employer by the county attorney in the county where the unauthorized alien employee is or was employed by the employer. The county attorney shall not bring an action against any employer for any violation of subsection 1 of this section that occurs before the 1st of July of the year following the year this act becomes law. A second violation of this section shall be based only on an unauthorized alien who is or was employed by the employer after an action has been brought for a violation of subsection 1 of this section or section 23 of this act, subsection 1.

5. For any action in district court under this section, the court shall expedite the action, including assigning the hearing at the earliest practicable date.

6. On a finding of a violation of subsection 1 of this section:

(a) For a first violation, as described in paragraph (c) of this subsection, the court:

(1) Shall order the employer to terminate the employment of all unauthorized aliens.

(2) Shall order the employer to be subject to a three year probationary period for the business location where the unauthorized alien performed work. During the probationary period the employer shall file quarterly reports with the county attorney of each new employee who is hired by the employer at the business location where the unauthorized alien performed work.

(3) Shall order the employer to file a signed sworn affidavit with the county attorney within three business days after the order is issued. The affidavit shall state that the employer has terminated the employment of all unauthorized aliens in this state and that the employer will not intentionally or knowingly employ an unauthorized alien in this state. The court shall order the appropriate agencies to suspend all licenses subject to this subparagraph that are held by the employer if the employer fails to file a signed sworn affidavit with the county attorney within three business days after the order is issued. All licenses that are suspended under this subparagraph shall remain suspended until the employer files a signed sworn affidavit with the county attorney. Notwithstanding any other law, on filing of the affidavit the suspended licenses shall be reinstated immediately by the appropriate agencies. For the purposes of this subparagraph, the licenses that are subject to suspension under this subparagraph are all licenses that are held by the employer specific to the business location where the unauthorized alien performed work. If the employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the licenses that are subject to suspension under this subparagraph are all licenses that are held by the employer at the employer's primary place of business. On receipt of the court's order and notwithstanding any other law, the appropriate agencies shall suspend the licenses according to the court's order. The court shall send a copy of the court's order to the attorney general and the attorney general shall maintain the copy pursuant to subsection 7 of this section.

(4) May order the appropriate agencies to suspend all licenses described in subparagraph (3) of this paragraph that are held by the employer for not to exceed ten business days. The court shall base its decision to suspend under this subparagraph on any evidence or information submitted to it during the action for a violation of this subsection and shall consider the following factors, if relevant:

(I) The number of unauthorized aliens employed by the employer.

(II) Any prior misconduct by the employer.

(III) The degree of harm resulting from the violation.

(IV) Whether the employer made good faith efforts to comply with any applicable requirements.

(V) The duration of the violation.

(VI) The role of the directors, officers or principals of the employer in the violation.

(VII) Any other factors the court deems appropriate.

(b) For a second violation, as described in paragraph (c) of this subsection, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer specific to the business location where the unauthorized alien performed work. If the employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer at the employer's primary place of business. On receipt of the order and notwithstanding any other law, the appropriate agencies shall immediately revoke the licenses.

(c) The violation shall be considered:

(1) A first violation by an employer at a business location if the violation did not occur during a probationary period ordered by the court under this subsection or section 23 of this act, subsection 6 for that employer's business location.

(2) A second violation by an employer at a business location if the violation occurred during a probationary period ordered by the court under this subsection or section 23 of this act, subsection 6 for that employer's business location.

7. The attorney general shall maintain copies of court orders that are received pursuant to subsection 6 of this section and shall maintain a database of the employers and business locations that have a first violation of subsection 1 of this section and make the court orders available on the attorney general's website.

8. On determining whether an employee is an unauthorized alien, the court shall consider only the federal government's determination pursuant to 8 United States Code section 1373(c). The federal government's determination creates a rebuttable presumption of the employee's lawful status. The court may take judicial notice of the federal government's determination and may request the federal government to provide automated or testimonial verification pursuant to 8 United States Code section 1373(c).

9. For the purposes of this section, proof of verifying the employment authorization of an employee through the e-verify program creates a rebuttable presumption that an employer did not knowingly employ an unauthorized alien.

10. For the purposes of this section, an employer that establishes that it has complied in good faith with the requirements of 8 United States Code section 1324a(b) establishes an affirmative defense that the employer did not knowingly employ an unauthorized alien. An employer is considered to have complied with the requirements of 8 United States Code section

1324a(b), notwithstanding an isolated, sporadic or accidental technical or procedural failure to meet the requirements, if there is a good faith attempt to comply with the requirements.

11. It is an affirmative defense to a violation of Subsection 1 of this section that the employer was entrapped. To claim entrapment, the employer must admit by the employer's testimony or other evidence the substantial elements of the violation. An employer who asserts an entrapment defense has the burden of proving the following by a preponderance of the evidence:

(a) The idea of committing the violation started with law enforcement officers or their agents rather than with the employer.

(b) The law enforcement officers or their agents urged and induced the employer to commit the violation.

(c) The employer was not predisposed to commit the violation before the law enforcement officers or their agents urged and induced the employer to commit the violation.

12. An employer does not establish entrapment if the employer was pre-disposed to violate Subsection 1 of this section and the law enforcement officers or their agents merely provided the employer with an opportunity to commit the violation. It is not entrapment for law enforcement officers or their agents merely to use a ruse or to conceal their identity. The conduct of law enforcement officers and their agents may be considered in determining if an employer has proven entrapment.

Sec. 23. Intentionally employing unauthorized aliens; prohibition; false and frivolous complaints; violation; classification; license suspension and revocation; affirmative defenses.

1. An employer shall not intentionally employ an unauthorized alien. If, in the case when an employer uses a contract, subcontract or other independent contractor agreement to obtain the labor of an alien in this state, the employer intentionally contracts with an unauthorized alien or with a person who employs or contracts with an unauthorized alien to perform the labor, the employer violates this subsection.

2. The attorney general shall prescribe a complaint form for a person to allege a violation of subsection 1 of this section. The complainant shall not be required to list the complainant's social security number on the complaint form or to have the complaint form notarized. On receipt of a complaint on a prescribed complaint form that an employer allegedly intentionally employs an unauthorized alien, the attorney general or county attorney shall investigate whether the employer has violated subsection 1 of this section. If a complaint is received but is not submitted on a prescribed complaint form, the attorney general or county attorney may investigate whether the employer has violated subsection 1 of this section. This subsection shall not be construed to prohibit the filing of anonymous complaints that are not submitted on a prescribed complaint form. The attorney general or county attorney shall not investigate complaints that are based solely on race, color or national origin. A complaint that

is submitted to a county attorney shall be submitted to the county attorney in the county in which the alleged unauthorized alien is or was employed by the employer. The county sheriff or any other local law enforcement agency may assist in investigating a complaint. When investigating a complaint, the attorney general or county attorney shall verify the work authorization of the alleged unauthorized alien with the federal government pursuant to 8 United States Code section 1373(c). A state, county or local official shall not attempt to independently make a final determination on whether an alien is authorized to work in the United States. An alien's immigration status or work authorization status shall be verified with the federal government pursuant to 8 United States Code section 1373(c). A person who knowingly files a false and frivolous complaint under this subsection is guilty of a misdemeanor, except that the court shall not sentence the person to more than thirty days in jail.

3. If, after an investigation, the attorney general or county attorney determines that the complaint is not false and frivolous:

(a) The attorney general or county attorney shall notify the United States immigration and customs enforcement of the unauthorized alien.

(b) The attorney general or county attorney shall notify the local law enforcement agency of the unauthorized alien.

(c) The attorney general shall notify the appropriate county attorney to bring an action pursuant to subsection D of this section if the complaint was originally filed with the attorney general.

4. An action for a violation of subsection 1 of this section shall be brought against the employer by the county attorney in the county where the unauthorized alien employee is or was employed by the employer. The county attorney shall not bring an action against any employer for any violation of subsection 1 of this section that occurs before the 1st of July of the year following the year this act becomes law. A second violation of this section shall be based only on an unauthorized alien who is or was employed by the employer after an action has been brought for a violation of subsection 1 of this section or section 22 of this act, subsection 1.

5. For any action in district court under this section, the court shall expedite the action, including assigning the hearing at the earliest practicable date.

6. On a finding of a violation of subsection 1 of this section:

(a) For a first violation, as described in paragraph (c) of this subsection, the court shall:

(1) Order the employer to terminate the employment of all unauthorized aliens.

(2) Order the employer to be subject to a five year probationary period for the business location where the unauthorized alien performed work. During the probationary period the employer shall file quarterly reports with the county attorney

of each new employee who is hired by the employer at the business location where the unauthorized alien performed work.

(3) Order the appropriate agencies to suspend all licenses described in subparagraph (4) of this paragraph that are held by the employer for a minimum of ten days. The court shall base its decision on the length of the suspension under this subdivision on any evidence or information submitted to it during the action for a violation of this subsection and shall consider the following factors, if relevant:

(I) The number of unauthorized aliens employed by the employer.

(II) Any prior misconduct by the employer.

(III) The degree of harm resulting from the violation.

(IV) Whether the employer made good faith efforts to comply with any applicable requirements.

(V) The duration of the violation.

(VI) The role of the directors, officers or principals of the employer in the violation.

(VII) Any other factors the court deems appropriate.

(4) Order the employer to file a signed sworn affidavit with the county attorney. The affidavit shall state that the employer has terminated the employment of all unauthorized aliens in this state and that the employer will not intentionally or knowingly employ an unauthorized alien in this state. The court shall order the appropriate agencies to suspend all licenses subject to this subparagraph that are held by the employer if the employer fails to file a signed sworn affidavit with the county attorney within three business days after the order is issued. All licenses that are suspended under this subparagraph for failing to file a signed sworn affidavit shall remain suspended until the employer files a signed sworn affidavit with the county attorney. For the purposes of this subparagraph, the licenses that are subject to suspension under this subparagraph are all licenses that are held by the employer specific to the business location where the unauthorized alien performed work. If the employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the licenses that are subject to suspension under this subparagraph are all licenses that are held by the employer at the employer's primary place of business. On receipt of the court's order and notwithstanding any other law, the appropriate agencies shall suspend the licenses according to the court's order. The court shall send a copy of the court's order to the attorney general and the attorney general shall maintain the copy pursuant to subsection 7 of this section.

(b) For a second violation, as described in paragraph (c) of this subsection, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the

employer specific to the business location where the unauthorized alien performed work. If the employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer at the employer's primary place of business. On receipt of the order and notwithstanding any other law, the appropriate agencies shall immediately revoke the licenses.

(c) The violation shall be considered:

(1) A first violation by an employer at a business location if the violation did not occur during a probationary period ordered by the court under this subsection or section 22 of this act, subsection 6 for that employer's business location.

(2) A second violation by an employer at a business location if the violation occurred during a probationary period ordered by the court under this subsection or section 22 of this act, subsection 6 for that employer's business location.

7. The attorney general shall maintain copies of court orders that are received pursuant to subsection 6 of this section and shall maintain a database of the employers and business locations that have a first violation of subsection 1 of this section and make the court orders available on the attorney general's website.

8. On determining whether an employee is an unauthorized alien, the court shall consider only the federal government's determination pursuant to 8 United States Code section 1373(c). The federal government's determination creates a rebuttable presumption of the employee's lawful status. The court may take judicial notice of the federal government's determination and may request the federal government to provide automated or testimonial verification pursuant to 8 United States Code section 1373(c).

9. For the purposes of this section, proof of verifying the employment authorization of an employee through the e-verify program creates a rebuttable presumption that an employer did not intentionally employ an unauthorized alien.

10. For the purposes of this section, an employer that establishes that it has complied in good faith with the requirements of 8 United States Code section 1324a(b) establishes an affirmative defense that the employer did not intentionally employ an unauthorized alien. An employer is considered to have complied with the requirements of 8 United States Code section 1324a(b), notwithstanding an isolated, sporadic or accidental technical or procedural failure to meet the requirements, if there is a good faith attempt to comply with the requirements.

11. It is an affirmative defense to a violation of Subsection 1 of this section that the employer was entrapped. To claim entrapment, the employer must admit by the employer's testimony or other evidence the substantial elements of the violation. An employer who asserts an entrapment defense has the burden of proving the following by a preponderance of the evidence:

(a) The idea of committing the violation started with law enforcement officers or their agents rather than with the employer.

(b) The law enforcement officers or their agents urged and induced the employer to commit the violation.

(c) The employer was not predisposed to commit the violation before the law enforcement officers or their agents urged and induced the employer to commit the violation.

12. An employer does not establish entrapment if the employer was pre-disposed to violate Subsection 1 of this section and the law enforcement officers or their agents merely provided the employer with an opportunity to commit the violation. It is not entrapment for law enforcement officers or their agents merely to use a ruse or to conceal their identity. The conduct of law enforcement officers and their agents may be considered in determining if an employer has proven entrapment.

Sec. 24. Employer actions; federal or state law compliance.

This chapter shall not be construed to require an employer to take any action that the employer believes in good faith would violate federal or state law.

Sec. 25. Verification of employment eligibility; e-verify program; economic development incentives; list of registered employers.

1. On or after the 1st of July of the year following the year this act becomes law, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the e-verify program and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer.

2. In addition to any other requirement for an employer to receive an economic development incentive from a government entity, the employer shall register with and participate in the e-verify program. Before receiving the economic development incentive, the employer shall provide proof to the government entity that the employer is registered with and is participating in the e-verify program. If the government entity determines that the employer is not complying with this subsection, the government entity shall notify the employer by certified mail of the government entity's determination of noncompliance and the employer's right to appeal the determination. On a final determination of noncompliance, the employer shall repay all monies received as an economic development incentive to the government entity within thirty days of the final determination. For the purposes of this subsection:

(a) "Economic development incentive" means any grant, loan or performance-based incentive from any government entity that is awarded after the 31st of December of the year following the year this act becomes law. Economic development incentive does not include any tax provision under Title 32.

(b) "Government entity" means this state and any political subdivision of this state that

receives and uses tax revenues.

3. Every three months the attorney general shall request from the United States department of homeland security a list of employers from this state that are registered with the e-verify program. On receipt of the list of employers, the attorney general shall make the list available on the attorney general's website.

Sec. 26. Voluntary employer enhanced compliance program; program termination.

1. The attorney general shall establish the voluntary employer enhanced compliance program. The program is voluntary and an employer is not required to enroll in the program.

2. An employer that is on probation under section 22 or section 23 of this act may not enroll in the voluntary employer enhanced compliance program. A court shall not consider nonenrollment in the voluntary employer enhanced compliance program as a factor when determining whether to suspend or revoke a license under section 22 or section 23 of this act.

3. To enroll in the voluntary employer enhanced compliance program, an employer shall submit a signed sworn affidavit to the attorney general. The affidavit shall state that the employer agrees to perform all of the following actions in good faith:

(a) After hiring an employee, the employer shall verify the employment eligibility of the employee through the e-verify program.

(b) To ensure the accuracy of reporting wages to the social security administration, the employer shall verify the accuracy of social security numbers through the social security number verification service for any employee who is not verified through the e-verify program. Within thirty days after enrolling in the voluntary employer enhanced compliance program, the employer shall submit the necessary information to the social security number verification service, including the full name, the social security number, the date of birth and the gender of each employee. On receipt of a failed verification result, the employer shall notify the employee of the date on which the employer received the failed result and instruct the employee to resolve the discrepancy with the social security administration within ninety days after that date. The employer and employee shall resolve any failed result within ninety days after the date on which the employer received the failed result. If the failed result is not resolved within the ninety-day period but the employer and employee are continuing to actively and consistently work toward resolving the failed result with the social security administration, the ninety-day period does not apply as long as the employer and employee have documented proof of these ongoing efforts to resolve the failed result in good faith and have provided the documented proof to the attorney general. The employer shall verify the accuracy of the social security numbers and resolve any failed verification results in a consistent manner for all employees.

(c) In response to a written request by the attorney general or county attorney stating the name of an employee for whom a complaint has been received under section 22 or section

23 of this act, the employer shall provide the attorney general or county attorney the documents indicating that the employee was verified through the e-verify program or that the accuracy of the employee's wage report was verified through the social security number verification service under this section.

4. An employer that is enrolled in the voluntary employer enhanced compliance program shall not be in violation of section 22 of this act, subsection 1 or section 23 of this act, subsection 1 regarding an employee named in a complaint under section 22 or section 23 of this act if the employer has completed both of the following:

(a) In good faith verified the employment eligibility of the employee named in the complaint through the e-verify program or in good faith verified the accuracy of the social security number of the employee named in the complaint through the social security number verification system as required by subsection 3, paragraphs (a) and (b) of this section.

(b) Provided the attorney general or county attorney with the documents, as required by subsection 3, paragraph (c) of this section, indicating that the employer verified the employee named in the complaint.

5. The attorney general shall maintain a list of employers enrolled in the voluntary employer enhanced compliance program and make the list available on the attorney general's website.

6. The attorney general shall develop a form of recognition that an employer may display to the general public for enrolling in the voluntary employer enhanced compliance program.

7. If an employer does not fully comply with this section, the attorney general shall terminate the employer's enrollment in the voluntary employer enhanced compliance program. At any time, an employer may voluntarily withdraw from the voluntary employer enhanced compliance program by notifying the attorney general. Beginning on the date of termination or withdrawal, subsection 4 of this section no longer applies to the employer and the employer shall immediately remove any form of recognition from public display that is authorized under this section.

8. The program established by this section ends on July 1, 2018.

Sec. 27. Independent contractors; applicability.

For the purposes of this chapter, independent contractor status applies to an individual who performs services and is not an employee pursuant to section 3508 of the internal revenue code.

Sec. 28. Employer sanctions legislative study committee.

1. The employer sanctions legislative study committee is established consisting of the following members:

(a) Three members of the senate who are appointed by the president of the senate, not more than two of whom shall be members of the same political party. The president of the senate shall designate one of these members to co-chair the committee.

(b) Three members of the house of representatives who are appointed by the speaker of the House of Representatives, not more than two of whom shall be members of the same political party. The speaker of the House of Representatives shall designate one of these members to co-chair the committee.

(c) A citizen of Nevada appointed by the president of the Senate who owns a business in Nevada with no more than 30 employees.

(d) A citizen of Nevada appointed by the speaker of the House of Representatives who owns a business in Nevada with more than 30 employees.

2. The Committee shall:

(a) Examine the laws and regulations pertaining to employers sanctions in Nevada.

(b) Examine the effects of these laws and whether such laws are being properly implemented.

(c) Examine if these laws are being applied to all businesses in Nevada in a fair manner.

(d) Examine if the complaint process is being implemented in a fair and just manner.

(e) Submit a report of its findings and recommendations to the governor, the president of the Senate and speaker of the House of Representatives before the 1st of July of the year following the year this act becomes law and submit a copy of its report to the secretary of state and the division administrator of the Nevada State Library and Archives Administration.

3. Committee members are not eligible to receive compensation or reimbursement of expenses.

Sec. 29. Joint illegal immigration advisory committee; membership; duties; report; delayed repeal.

1. The joint illegal immigration security advisory committee is established consisting of the following members:

(a) The president of the Senate or the president's designee.

(b) The speaker of the House of Representatives or the speaker's designee.

(c) Two members of the House of Representatives who are appointed by the speaker of the House of Representatives.

(d) Two members of the Senate who are appointed by the president of the Senate.

(e) Six members who are appointed by the governor.

2. Committee members are not eligible to receive compensation for committee activities.

3. The president of the Senate and the speaker of the House of Representatives shall each appoint a co-chairperson of the committee.

4. The commission shall meet on the call of the two co-chairpersons, but no more frequently than monthly.

5. The committee may:

- (a) Take testimony and other evidence regarding illegal immigration in Nevada.
- (b) Analyze statistics and other findings regarding illegal immigration in Nevada.
- (c) Analyze related crime statistics.
- (d) Make recommendations designed to increase public safety and security.
- (e) Make other recommendations deemed essential by the committee.

6. The committee may use the services of legislative staff as required.

7. Beginning the 1st of July of the year following the year this act becomes law and each month thereafter, the commission shall submit a written report of its findings and recommendations to the speaker of the House of Representatives, the president of the Senate and the governor. The commission shall provide a copy of the report to the secretary of state.

8. Notwithstanding any law to the contrary, the committee may vote to go into executive session to take testimony or evidence it considers sensitive or confidential in nature, which if released could compromise the security or safety of law enforcement or military personnel or a law enforcement or national guard law enforcement support operation.

9. This section is repealed from and after December 31, 2016.

Sec. 30. Immigration legislation challenges.

1. Notwithstanding Title 18 of NRS, and any other law, through the 31st of December of the year following the year this act becomes law, the attorney general shall act at the direction of the governor in any challenge in a state or federal court to this act and any subsequent amendments to this act.

2. Notwithstanding Title 18 of NRS, and any other law, through the 31st of December of the year following the year this act becomes law, the governor may direct counsel other than the attorney general to appear on behalf of this state to defend any challenge to this act and any subsequent amendments to this act.

Sec. 31. Severability, implementation and construction.

1. If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

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

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

4. Nothing in this act shall implement or shall be construed or interpreted to implement or establish the Real ID Act of 2005 (P.L. 109-13, Division B; 119 stat. 302) including the use of a radio frequency identification chip.

Sec. 32. Short title. This act may be cited as the “Nevada Immigration Verification Act.”

Place Affidavit on last page of document.
THE FOLLOWING AFFIDAVIT MUST BE COMPLETED AND SIGNED.
AFFIDAVIT OF CIRCULATOR
(TO BE SIGNED BY CIRCULATOR)

STATE OF NEVADA)
)
COUNTY OF _____)

I, _____, (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that I believe each person who signed was at the time of signing a registered voter in the county of his residence; (6) that the number of signatures affixed thereon is _____; and (7) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

Signature of Circulator

Subscribed and sworn to or affirmed before me this _____ day of _____, _____, by _____.

Notary Public or person authorized to administer oath


ROSS MILLER
SECRETARY OF STATE
2010 MAY 28 AM 11:14
LAS VEGAS, NEVADA