

The House Committee on Judiciary Non-civil offers the following substitute to SB 160:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 3 of Chapter 10 of Title 13 of the Official Code of Georgia Annotated,  
2 relating to security and immigration compliance, so as to modify provisions relating to  
3 penalties for the failure of a public employer to utilize the federal work authorization  
4 program and modify provisions relating to requiring private employers to utilize the federal  
5 work authorization program; to provide legislative intent relative thereto; to amend Code  
6 Section 36-60-6 of the Official Code of Georgia Annotated, relating to utilization of the  
7 federal work authorization program, so as to modify provisions relating to private businesses  
8 participating in the employment eligibility verification system prior to the issuance of a  
9 business license or other document and provisions related to evidence of state licensure,  
10 annual reporting, and violations; to amend Code Section 36-80-23 of the Official Code of  
11 Georgia Annotated, relating to prohibition on immigration sanctuary policies by local  
12 governmental entities, so as to correct a cross-reference; to amend Chapter 36 of Title 50 of  
13 the Official Code of Georgia Annotated, relating to verification of lawful presence within the  
14 United States, so as to modify provisions relating to the "Secure and Verifiable Identity  
15 Document Act" and the provision of public benefits to illegal aliens and to add new  
16 provisions relating to requiring agencies to submit annual immigration compliance reports;  
17 to provide for exceptions; to provide for related matters; to provide an effective date; to  
18 repeal conflicting laws; and for other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 style="text-align:center">**SECTION 1.**

21 Article 3 of Chapter 10 of Title 13 of the Official Code of Georgia Annotated, relating to  
22 security and immigration compliance, is amended by revising Code Section 13-10-90,  
23 relating to definitions pertaining to security and immigration compliance, as follows:

24 "13-10-90.

25 As used in this article, the term:

26 (1) 'Commissioner' means the Commissioner of Labor.

27 (2) 'Contractor' means a person or entity that enters into a contract for the physical  
28 performance of services ~~with a public employer.~~

29 (3) 'Federal work authorization program' means any of the electronic verification of work  
30 authorization programs operated by the United States Department of Homeland Security  
31 or any equivalent federal work authorization program operated by the United States  
32 Department of Homeland Security to verify employment eligibility information of newly  
33 hired employees, commonly known as E-Verify, or any subsequent replacement program.

34 (4) 'Physical performance of services' means ~~the building, altering, repairing, improving,~~  
35 ~~or demolishing of any public structure or building or other public improvements of any~~  
36 ~~kind to public real property within this state, including the construction, reconstruction,~~  
37 ~~or maintenance of all or part of a public road; or any other performance of labor or~~ or  
38 services for a public employer within this state under a contract or other using a bidding  
39 process or by contract wherein the labor or services exceed \$2,499.99.

40 (5) 'Public employer' means every department, agency, or instrumentality of ~~the~~ this state  
41 or a political subdivision of ~~the~~ this state ~~with more than one employee.~~

42 (6) 'Subcontractor' means a person or entity having privity of contract with a contractor,  
43 subcontractor, or sub-subcontractor and includes a contract employee or staffing agency.

44 (7) 'Sub-subcontractor' means a person or entity having privity of contract with a  
45 subcontractor or privity of contract with another person or entity contracting with a  
46 subcontractor or sub-subcontractor."

## 47 SECTION 2.

48 It is the intent of the General Assembly that all public employers and contractors at every tier  
49 and level use the federal work authorization program on all projects, jobs, and work resulting  
50 from any bid or contract and that every public employer and contractor working for a public  
51 employer take all possible steps to ensure that a legal and eligible workforce is utilized in  
52 accordance with federal immigration and employment.

## 53 SECTION 3.

54 Article 3 of Chapter 10 of Title 13 of the Official Code of Georgia Annotated, relating to  
55 security and immigration compliance, is amended by revising paragraph (1) of subsection  
56 (b) and subparagraph (b)(7)(A) of Code Section 13-10-91, relating to verification of new  
57 employee eligibility, applicability, and rules and regulations, as follows:

58 "(b)(1) A public employer shall not enter into a contract ~~pursuant to this chapter~~ for the  
59 physical performance of services unless the contractor registers and participates in the  
60 federal work authorization program. Before a bid for any such service is considered by

61 a public employer, the bid shall include a signed, notarized affidavit from the contractor  
62 attesting to the following:

63 (A) The affiant has registered with, is authorized to use, and uses the federal work  
64 authorization program;

65 (B) The user identification number and date of authorization for the affiant;

66 (C) The affiant will continue to use the federal work authorization program throughout  
67 the contract period; and

68 (D) The affiant will contract for the physical performance of services in satisfaction of  
69 such contract only with subcontractors who present an affidavit to the contractor with  
70 the same information required by subparagraphs (A), (B), and (C) of this paragraph.

71 An affidavit required by this subsection shall be considered an open public record once  
72 a public employer has entered into a contract for physical performance of services;  
73 provided, however, that any information protected from public disclosure by federal law  
74 or by Article 4 of Chapter 18 of Title 50 shall be redacted. Affidavits shall be maintained  
75 by the public employer for five years from the date of receipt."

76 ~~"(7)(A) Not later than December 31 of each year, a public employer shall submit a~~  
77 ~~compliance report to the state auditor certifying compliance with the provisions of this~~  
78 ~~subsection. Such compliance report shall contain the public employer's federal work~~  
79 ~~authorization program verification user number and date of authorization and the legal~~  
80 ~~name, address, and federal work authorization program user number of the contractor~~  
81 ~~and the date of the contract between the contractor and public employer. Public~~  
82 ~~employers subject to the requirements of this subsection shall provide an annual report~~  
83 ~~to the Department of Audits and Accounts pursuant to Code Section 50-36-4 as proof~~  
84 ~~of compliance with this subsection.~~ Subject to available funding, the state auditor shall  
85 conduct annual compliance audits on a minimum of at least one-half of the reporting  
86 agencies and publish the results of such audits annually on the ~~department's~~ Department  
87 of Audits and Accounts' website on or before September 30."

88 **SECTION 4.**

89 Code Section 36-60-6 of the Official Code of Georgia Annotated, relating to utilization of  
90 the federal work authorization program, issuance of a business or similar license, evidence  
91 of state licensure, annual reporting, form affidavit, violations, and investigations, is amended  
92 by revising subsections (d), (e), and (f) as follows:

93 "(d)(1) Before any county or municipal corporation issues ~~or renews~~ a business license,  
94 occupational tax certificate, or other document required to operate a business to any  
95 person, the person shall provide evidence that he or she is authorized to use the federal  
96 work authorization program or evidence that the provisions of this Code section do not

97 apply. Evidence of such use shall be in the form of an affidavit as provided by the  
 98 Attorney General in subsection (f) of this Code section attesting that he or she utilizes the  
 99 federal work authorization program in accordance with federal regulations or that he or  
 100 she employs fewer than 11 employees or otherwise does not fall within the requirements  
 101 of this Code section. Whether an employer is exempt from using the federal work  
 102 authorization program as required by this Code section shall be determined by the  
 103 number of employees employed by such employer on January 1 of the year during which  
 104 the affidavit is submitted. The affidavit shall include the employer's federally assigned  
 105 employment eligibility verification system user number and the date of authority for use.  
 106 The requirements of this subsection shall be effective on January 1, 2012, as to employers  
 107 with 500 or more employees, on July 1, 2012, as to employers with 100 or more  
 108 employees but fewer than 500 employees, and on July 1, 2013, as to employers with more  
 109 than ten employees but fewer than 100 employees.

110 (2) Upon satisfying the requirements of paragraph (1) of this subsection, for all  
 111 subsequent renewals of a business license, occupation tax certificate, or other document,  
 112 the person shall submit to the county or municipality his or her federal work authorization  
 113 user number or assert that he or she is exempt from this requirement, provided that the  
 114 federal work authorization user number provided for the renewal is the same federal work  
 115 authorization user number as provided in the affidavit under paragraph (1) of this  
 116 subsection. If the federal work authorization user number is different than the federal  
 117 work authorization user number provided in the affidavit under paragraph (1) of this  
 118 subsection, then the person shall be subject to the requirements of subsection (g) of this  
 119 Code section.

120 ~~(e) Beginning December 31, 2012, and annually thereafter, any county or municipal~~  
 121 ~~corporation issuing or renewing a business license, occupational tax certificate, or other~~  
 122 ~~document required to operate a business shall provide to the Department of Audits and~~  
 123 ~~Accounts a report demonstrating that such county or municipality is acting in compliance~~  
 124 ~~with the provisions of this Code section. This annual report shall identify each license or~~  
 125 ~~certificate issued by the agency in the preceding 12 months and include the name of the~~  
 126 ~~person and business issued a license or other document and his or her federally assigned~~  
 127 ~~employment eligibility verification system user number as provided in the affidavit~~  
 128 ~~submitted at the time of application. Counties and municipal corporations subject to the~~  
 129 ~~requirements of this Code section shall provide an annual report to the Department of~~  
 130 ~~Audits and Accounts pursuant to Code Section 50-36-4 as proof of compliance with this~~  
 131 ~~Code section.~~ Subject to funding, the Department of Audits and Accounts shall annually  
 132 conduct an audit of no fewer than 20 percent of such reporting agencies.

133 (f) In order to assist private businesses and counties and municipal corporations in  
 134 complying with the provisions of this Code section, the Attorney General shall provide a  
 135 standardized form affidavit which ~~may~~ shall be used as acceptable evidence demonstrating  
 136 use of the federal employment eligibility verification system or that the provisions of  
 137 subsection (b) of this Code section do not apply to the applicant. The form affidavit shall  
 138 be posted by the Attorney General on the Department of Law's official website no later  
 139 than January 1, 2012."

140 **SECTION 5.**

141 Code Section 36-80-23 of the Official Code of Georgia Annotated, relating to prohibition on  
 142 immigration sanctuary policies by local governmental entities, is amended by revising  
 143 subsection (c) as follows:

144 "(c) Any local governing body that acts in violation of this Code section shall be subject  
 145 to the withholding of state funding or state administered federal funding other than funds  
 146 to provide services specified in subsection ~~(c)~~ (d) of Code Section 50-36-1."

147 **SECTION 6.**

148 Chapter 36 of Title 50 of the Official Code of Georgia Annotated, relating to verification of  
 149 lawful presence within the United States, is amended by revising Code Section 50-36-1,  
 150 relating to verification requirements, procedures, and conditions, exceptions, regulations, and  
 151 criminal and other penalties for violations, as follows:

152 "50-36-1.

153 (a) As used in this Code section, the term:

154 (1) 'Agency head' means a director, commissioner, chairperson, mayor, councilmember,  
 155 board member, sheriff, or other executive official, whether appointed or elected,  
 156 responsible for establishing policy for a public employer.

157 (2) 'Agency or political subdivision' means any department, agency, authority,  
 158 commission, or government entity of this state or any subdivision of this state.

159 (3) 'Applicant' means any natural person, 18 years of age or older, who has made  
 160 application for access to public benefits on behalf of an individual, business, corporation,  
 161 partnership, or other private entity.

162 ~~(4)(A) 'Public benefit' means a federal benefit as defined in 8 U.S.C. Section 1611, a~~  
 163 ~~state, or local benefit as defined in 8 U.S.C. Section 1621, a benefit identified as a public~~  
 164 ~~benefit by the Attorney General of Georgia, or a public benefit which shall include the~~  
 165 following:

166 ~~(i)(A)~~ (A) Adult education;

167 ~~(i)(B)~~ (B) Authorization to conduct a commercial enterprise or business;

- 168 ~~(iii)(C)~~ Business certificate, license, or registration;  
 169 ~~(iv)(D)~~ Business loan;  
 170 ~~(v)(E)~~ Cash allowance;  
 171 ~~(vi)(F)~~ Disability assistance or insurance;  
 172 ~~(vii)(G)~~ Down payment assistance;  
 173 ~~(viii)(H)~~ Energy assistance;  
 174 ~~(ix)(I)~~ Food stamps;  
 175 ~~(x)(J)~~ Gaming license;  
 176 (K) Grants;  
 177 ~~(xi)(L)~~ Health benefits;  
 178 (M) Homestead exemption;  
 179 ~~(xii)(N)~~ Housing allowance, grant, guarantee, or loan;  
 180 ~~(xiii)(O)~~ Loan guarantee;  
 181 ~~(xiv)(P)~~ Medicaid;  
 182 ~~(xv)(Q)~~ Occupational license;  
 183 ~~(xvi)(R)~~ Professional license;  
 184 (S) Public and assisted housing;  
 185 ~~(xvii)(T)~~ Registration of a regulated business;  
 186 ~~(xviii)(U)~~ Rent assistance or subsidy;  
 187 (V) Retirement benefits;  
 188 ~~(xix)(W)~~ State grant or loan;  
 189 ~~(xx)(X)~~ State issued driver's license and identification card;  
 190 ~~(xxi)(Y)~~ Tax certificate required to conduct a commercial business;  
 191 (Z) Tax credit;  
 192 ~~(xxii)(AA)~~ Temporary assistance for needy families (TANF);  
 193 ~~(xxiii)(BB)~~ Unemployment insurance; and  
 194 ~~(xxiv)(CC)~~ Welfare to work.

195 ~~(B) Each year before August 1, the Attorney General shall prepare a detailed report~~  
 196 ~~indicating any 'public benefit' that may be administered in this state as defined in 8~~  
 197 ~~U.S.C. Sections 1611 and 1621 and whether such benefit is subject to SAVE~~  
 198 ~~verification pursuant to this Code section. Such report shall provide the description of~~  
 199 ~~the benefit and shall be updated annually and distributed to the members of the General~~  
 200 ~~Assembly and be posted to the Attorney General's website.~~

201 (5) 'SAVE program' means the federal Systematic Alien Verification for Entitlements  
 202 program operated by the United States Department of Homeland Security or a successor  
 203 program designated by the United States Department of Homeland Security for the same  
 204 purpose.

205 (b) Except as provided in subsection (d) of this Code section or where exempted by federal  
 206 law, every agency or political subdivision shall verify the lawful presence in the United  
 207 States under federal immigration law of any applicant for public benefits.

208 (c) This Code section shall be enforced without regard to race, religion, gender, ethnicity,  
 209 or national origin.

210 (d) Verification of lawful presence in the United States under federal immigration law  
 211 under this Code section shall not be required:

212 (1) For any purpose for which lawful presence in the United States under federal  
 213 immigration law is not required by law, ordinance, or regulation;

214 (2) For assistance for health care items and services that are necessary for the treatment  
 215 of an emergency medical condition, as defined in 42 U.S.C. Section 1396b(v)(3), of the  
 216 alien involved and are not related to an organ transplant procedure;

217 (3) For short-term, noncash, in-kind emergency disaster relief;

218 (4) For public health assistance for immunizations with respect to immunizable diseases  
 219 and for testing and treatment of symptoms of communicable diseases whether or not such  
 220 symptoms are caused by a communicable disease;

221 (5) For programs, services, or assistance such as soup kitchens, crisis counseling and  
 222 intervention, and short-term shelter specified by the United States Attorney General, in  
 223 the United States Attorney General's sole and unreviewable discretion after consultation  
 224 with appropriate federal agencies and departments, which:

225 (A) Deliver in-kind services at the community level, including through public or  
 226 private nonprofit agencies;

227 (B) Do not condition the provision of assistance, the amount of assistance provided,  
 228 or the cost of assistance provided on the individual recipient's income or resources; and

229 (C) Are necessary for the protection of life or safety;

230 (6) For prenatal care; or

231 (7) For postsecondary education, whereby the Board of Regents of the University System  
 232 of Georgia or the State Board of the Technical College System of Georgia shall set forth,  
 233 or cause to be set forth, policies regarding postsecondary benefits that comply with all  
 234 federal law including but not limited to public benefits as described in 8 U.S.C. Section  
 235 1611, 1621, or 1623.

236 (e) All policies of agencies or political subdivisions regarding public benefits for  
 237 postsecondary education shall comply with federal law as provided in 8 U.S.C. Section  
 238 1623.

239 ~~(e)~~(f)(1) Except as provided in subsection (g) of this Code section, an ~~An~~ agency or  
 240 political subdivision providing or administering a public benefit shall require every  
 241 applicant for such benefit to:

242 (A) Provide at least one secure and verifiable document, as defined in Code Section  
 243 50-36-2, or a copy or facsimile of such document. Any document required by this  
 244 subparagraph may be submitted by or on behalf of the applicant at any time within nine  
 245 months prior to the date of application so long as the document remains valid through  
 246 the licensing or approval period or such other period for which the applicant is applying  
 247 to receive a public benefit; and

248 (B) Execute a signed and sworn affidavit verifying the applicant's lawful presence in  
 249 the United States ~~and stating~~ under federal immigration law; provided, however, that  
 250 if the applicant is younger than 18 years of age at the time of the application, he or she  
 251 shall execute the affidavit required by this subparagraph within 30 days after his or her  
 252 eighteenth birthday. Such affidavit shall affirm that:

253 (i) The applicant is a United States citizen or legal permanent resident 18 years of age  
 254 or older; or

255 (ii) The applicant is a qualified alien or nonimmigrant under the federal Immigration  
 256 and Nationality Act, Title 8 U.S.C., 18 years of age or older lawfully present in the  
 257 United States and ~~providing~~ provide the applicant's alien number issued by the  
 258 Department of Homeland Security or other federal immigration agency.

259 (2) The state auditor shall create affidavits for use under this subsection and shall keep  
 260 a current version of such affidavits on the Department of Audits and Accounts' official  
 261 website.

262 (3) Documents ~~and copies of documents~~ required by this ~~Code section~~ subsection may  
 263 be submitted in person, by mail, or electronically, provided the submission complies with  
 264 Chapter 12 of Title 10. Copies of documents submitted in person, by mail, or  
 265 electronically shall satisfy the requirements of this Code section. For purposes of this  
 266 paragraph, electronic submission shall include a submission via facsimile, Internet,  
 267 electronic texting, or any other electronically assisted transmitted method approved by  
 268 the agency or political subdivision.

269 (4) The requirements of this subsection shall not apply to any applicant applying for or  
 270 renewing an application for a public benefit within the same agency or political  
 271 subdivision if the applicant has previously complied with the requirements of this  
 272 subsection by submission of a secure and verifiable document, as defined in Code Section  
 273 50-36-2, and a signed and sworn affidavit affirming that such applicant is a United States  
 274 citizen.

275 (g)(1) The Department of Driver Services shall require every applicant for a state issued  
 276 driver's license or state identification card to submit, in person, an original secure and  
 277 verifiable document, as defined in Code Section 50-36-2.

278 (2) The requirements of this subsection shall not apply to any applicant renewing a state  
 279 issued driver's license or state identification card if he or she has previously complied  
 280 with the requirements of this subsection.

281 ~~(f)~~(h) For any applicant who has executed an affidavit that he or she is an alien lawfully  
 282 present in the United States, eligibility for public benefits shall be made through the  
 283 ~~Systematic Alien Verification of Entitlement (SAVE) program operated by the United~~  
 284 ~~States Department of Homeland Security or a successor program designated by the United~~  
 285 ~~States Department of Homeland Security~~ SAVE program. Until such eligibility  
 286 verification is made, the affidavit may be presumed to be proof of lawful presence in the  
 287 United States under federal immigration law for the purposes of this Code section.

288 ~~(g)~~(i) Any person who knowingly and willfully makes a false, fictitious, or fraudulent  
 289 statement of representation in an affidavit executed pursuant to this Code section shall be  
 290 guilty of a violation of Code Section 16-10-20.

291 ~~(h)~~(j) Verification of citizenship through means required by federal law shall satisfy the  
 292 requirements of this Code section.

293 ~~(i)~~(k) It shall be unlawful for any agency or political subdivision to provide or administer  
 294 any public benefit in violation of this Code section. ~~On or before January 1 of each year,~~  
 295 ~~each agency or political subdivision which administers any public benefit shall provide an~~  
 296 ~~annual report to the Department of Community Affairs that identifies each public benefit,~~  
 297 ~~as defined in subparagraph (a)(3)(A) of this Code section, administered by the agency or~~  
 298 ~~political subdivision and a listing of each public benefit for which SAVE authorization for~~  
 299 ~~verification has not been received.~~ Agencies and political subdivisions subject to the  
 300 requirements of this subsection shall provide an annual report to the Department of Audits  
 301 and Accounts pursuant to Code Section 50-36-4 as proof of compliance with this  
 302 subsection. Any agency or political subdivision failing to provide a report as required by  
 303 this subsection shall not be entitled to any assistance, funds, or grants from the Department  
 304 of Community Affairs.

305 ~~(j)~~(l) Any and all errors and significant delays by the SAVE program shall be reported to  
 306 the United States Department of Homeland Security.

307 ~~(k)~~(m) Notwithstanding subsection ~~(g)~~ (i) of this Code section, any applicant for public  
 308 benefits shall not be guilty of any crime for executing an affidavit attesting to his or her  
 309 lawful presence in the United States under federal immigration law that contains a false  
 310 statement if ~~said~~ such affidavit is not required by this Code section.

311 ~~(l)~~(n) In the event a legal action is filed against any agency or political subdivision alleging  
 312 improper denial of a public benefit arising out of an effort to comply with this Code  
 313 section, the Attorney General shall be served with a copy of the proceeding and shall be  
 314 entitled to be heard.

315 ~~(m)~~(o) Compliance with this Code section by an agency or political subdivision shall  
 316 include taking all reasonable, necessary steps required by a federal agency to receive  
 317 authorization to utilize the SAVE program or any successor program designated by the  
 318 United States Department of Homeland Security or other federal agency, including  
 319 providing copies of statutory authorization for the agency or political subdivision to  
 320 provide public benefits and other affidavits, letters of memorandum of understanding, or  
 321 other required documents or information needed to receive authority to utilize the SAVE  
 322 program or any successor program for each public benefit provided by such agency or  
 323 political subdivision. An agency or political subdivision that takes all reasonable,  
 324 necessary steps and submits all requested documents and information as required in this  
 325 subsection but either has not been given access to use such programs by such federal  
 326 agencies or has not completed the process of obtaining access to use such programs shall  
 327 not be liable for failing to use the SAVE program or any such successor program to verify  
 328 eligibility for public benefits.

329 ~~(n)~~(p) In the case of noncompliance with the provisions of this Code section by an agency  
 330 or political subdivision, the appropriations committee of each house of the General  
 331 Assembly may consider such noncompliance in setting the budget and appropriations.

332 ~~(o)~~(q) No employer, agency, or political subdivision shall be subject to lawsuit or liability  
 333 arising from any act to comply with the requirements of this chapter; provided, however,  
 334 that the intentional and knowing failure of any agency head to abide by the provisions of  
 335 this chapter shall:

336 (1) Be a violation of the code of ethics for government service established in Code  
 337 Section 45-10-1 and subject such agency head to the penalties provided for in Code  
 338 Section 45-10-28, including removal from office and a fine not to exceed \$10,000.00; and

339 (2) Be a high and aggravated misdemeanor offense where such agency head acts to  
 340 willfully violate the provisions of this Code section or acts so as to intentionally and  
 341 deliberately interfere with the implementation of the requirements of this Code section.

342 The Attorney General shall have the authority to conduct a criminal and civil investigation  
 343 of an alleged violation of this chapter by an agency or agency head and to bring a  
 344 prosecution or civil action against an agency or agency head for all cases of violations  
 345 under this chapter. In the event that an order is entered against an employer, the state shall  
 346 be awarded attorney's fees and expenses of litigation incurred in bringing such an action  
 347 and investigating such violation."

#### 348 **SECTION 7.**

349 Said chapter is further amended by revising Code Section 50-36-2, relating to secure and  
 350 verifiable identification documents, as follows:

S. B. 160 (SUB)

351 "50-36-2.

352 (a) This Code section shall be known and may be cited as the 'Secure and Verifiable  
353 Identity Document Act.'

354 (b) As used in this Code section, the term:

355 (1) 'Agency or political subdivision' means any department, agency, authority,  
356 commission, or government entity of this state or any subdivision of this state.

357 (2) 'Public official' means an elected or appointed official or an employee or an agent of  
358 an agency or political subdivision.

359 (3)(A) 'Secure and verifiable document' means a document issued by a state or federal  
360 jurisdiction or recognized by the United States government and that is verifiable by  
361 federal or state law enforcement, intelligence, or homeland security agencies and shall  
362 include:

363 (i) An original or certified birth certificate issued by a state, county, municipal  
364 authority, or territory of the United States bearing an official seal;

365 (ii) A certification of report of birth issued by the United States Department of State;

366 (iii) A certification of birth abroad issued by the United States Department of State;

367 or

368 (iv) A consular report of birth abroad issued by the United States Department of  
369 State.

370 (B) The term 'secure and verifiable document' shall not include any foreign passport  
371 unless the passport is submitted with a valid United States Homeland Security Form  
372 I-94, I-94A, or I-94W, or other federal document specifying an alien's lawful  
373 immigration status, or other proof of lawful presence in the United States under federal  
374 immigration law, or ~~Secure and verifiable document shall not mean~~ a Matricula  
375 Consular de Alta Seguridad, matricula consular card, consular matriculation card,  
376 consular identification card, or similar identification card issued by a foreign  
377 government regardless of the holder's immigration status. Only those documents  
378 approved and posted by the Attorney General pursuant to subsection (f) (g) of this Code  
379 section shall be considered secure and verifiable documents.

380 (c) Unless required by federal law, on or after January 1, 2012, no agency or political  
381 subdivision shall accept, rely upon, or utilize an identification document for any official  
382 purpose that requires the presentation of identification by such agency or political  
383 subdivision or by federal or state law unless it is a secure and verifiable document.

384 (d) Copies of secure and verifiable documents submitted in person, by mail, or  
385 electronically shall satisfy the requirements of this Code section. For purposes of this  
386 subsection, electronic submission shall include, but shall not be limited to, submission via

387 facsimile, Internet, or any other electronically assisted transmitted method approved by the  
 388 agency or political subdivision.

389 ~~(d)~~(e) Any person acting in willful violation of this Code section by knowingly accepting  
 390 identification documents that are not secure and verifiable documents shall be guilty of a  
 391 misdemeanor and, upon conviction thereof, shall be punished by imprisonment not to  
 392 exceed 12 months, a fine not to exceed \$1,000.00, or both.

393 ~~(e)~~(f) This Code section shall not apply to:

394 (1) A person reporting a crime;

395 (2) An agency official accepting a crime report, conducting a criminal investigation, or  
 396 assisting a foreign national to obtain a temporary protective order;

397 (3) A person providing services to infants, children, or victims of a crime;

398 (4) A person providing emergency medical service;

399 (5) A peace officer in the performance of the officer's official duties and within the scope  
 400 of his or her employment;

401 (6) Instances when a federal law mandates acceptance of a document;

402 (7) A court, court official, or traffic violation bureau for the purpose of enforcing a  
 403 citation, accusation, or indictment;

404 (8) Paragraph (2) of subsection (a) of Code Section 40-5-21 or paragraph (2) of  
 405 subsection (a) of Code Section 40-5-21.1; ~~or~~

406 (9) An attorney or his or her employees for the purpose of representing a criminal  
 407 defendant; or

408 (10) The provision of utility services related to basic human necessities, including water,  
 409 sewer, electrical power, communications, and gas.

410 ~~(f)~~(g) Not later than August 1, 2011, the Attorney General shall provide and make public  
 411 on the Department of Law's website a list of acceptable secure and verifiable documents.  
 412 The list shall be reviewed and updated annually by the Attorney General."

#### 413 **SECTION 8.**

414 Said chapter is further amended by adding a new Code section to read as follows:

415 "50-36-4.

416 (a) As used in this Code section, the term:

417 (1) 'Agency or political subdivision' means any department, agency, authority,  
 418 commission, or governmental entity of this state or any subdivision of this state.

419 (2) 'Annual reporting period' means from December 1 of the preceding year through  
 420 November 30 of the year in which the report is due.

421 (3) 'Contractor' shall have the same meaning as set forth in Code Section 13-10-90.

422 (4) 'Department' means the Department of Audits and Accounts.

423 (5) 'Physical performance of services' shall have the same meaning as set forth in Code  
424 Section 13-10-90.

425 (6) 'Public employer' shall have the same meaning as set forth in Code Section 13-10-90.

426 (b) Each agency or political subdivision subject to any of the requirements provided in  
427 Code Sections 13-10-91, 36-60-6, and 50-36-1 shall submit an annual immigration  
428 compliance report to the department by December 31 that includes the information required  
429 under subsection (d) of this Code section for the annual reporting period. If an agency or  
430 political subdivision is exempt from any, but not all, of the provisions of subsection (d) of  
431 this Code section, it shall still be required to submit the annual report but shall indicate in  
432 the report which requirements from which it is exempt.

433 (c) The department shall create an immigration compliance reporting system and shall  
434 provide technical support for the submission of such reports. The department shall further  
435 provide annual notification of such reports with submission instructions to all agencies and  
436 political subdivisions subject to such requirements. The department shall be authorized to  
437 implement policy as is needed to carry out the requirements of this subsection.

438 (d) The immigration compliance report provided for in subsection (b) of this Code section  
439 shall contain the following:

440 (1) The agency or political subdivision's federal work authorization program verification  
441 user number and date of authorization;

442 (2) The legal name, address, and federal work authorization program user number of  
443 every contractor that has entered into a contract for the physical performance of services  
444 with a public employer as required under Code Section 13-10-91 during the annual  
445 reporting period;

446 (3) The date of the contract for the physical performance of services between the  
447 contractor and public employer as required under Code Section 13-10-91;

448 (4) A listing of each license or certificate issued by a county or municipal corporation  
449 to private employers that are required to utilize the federal work authorization program  
450 under the provisions of Code Section 36-60-6 during the annual reporting period,  
451 including the name of the person and business issued a license and his or her federally  
452 assigned employment eligibility verification system user number as provided in the  
453 private employer affidavit submitted at the time of application; and

454 (5)(A) A listing of each public benefit administered by the agency or political  
455 subdivision and a listing of each public benefit for which SAVE program authorization  
456 for verification has not been received.

457 (B) As used in this paragraph, the terms 'public benefit' and 'SAVE program' shall have  
458 the same meaning as set forth in Code Section 50-36-1.

459 (e) In the event that the immigration compliance report submitted by an agency or political  
460 subdivision is found to be deficient by the department, so long as a new immigration  
461 compliance report is submitted with the prior deficiencies corrected and fully complies  
462 with this Code section, such agency or political subdivision shall be deemed to have  
463 satisfied the requirements of this Code section.

464 (f) Any action taken by an agency or a political subdivision for the purpose of complying  
465 with the requirements of this Code section shall not subject such agency or political  
466 subdivision to any civil liability arising from such action.

467 (g) The department shall not find an agency or a political subdivision to be in violation of  
468 this Code section as a result of any actions or omissions by a county constitutional officer."

469 **SECTION 9.**

470 This Act shall become effective on July 1, 2013.

471 **SECTION 10.**

472 All laws and parts of laws in conflict with this Act are repealed.