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# HOUSE BILL No. 1274

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3; IC 12-7-2; IC 12-31; IC 21-14-10; IC 22-5-2.5; IC 34-30-2-87.3; IC 35-44-5; IC 36-2-13-7.5.

**Synopsis:** Illegal alien matters. Prohibits a state agency or political subdivision from providing federal, state, or local public benefits to a person who is not a: (1) United States citizen; or (2) qualified alien under the federal Immigration and Nationality Act and lawfully present in the United States. Requires a state agency or a political subdivision to verify the lawful presence in the United States of each individual who: (1) is at least 18 years of age; and (2) applies for federal, state, or local public benefits administered by the agency or political subdivision. Requires a state agency or a political subdivision to: (1) verify the lawful presence of the person by requiring the person to execute a verified affidavit stating that the person is a United States citizen or a qualified alien; (2) verify the lawful presence of certain individuals through the Systematic Alien Verification of Entitlements (SAVE) program; and (3) report errors and significant delays in the SAVE program. Provides that: (1) a state agency or political subdivision may provide variations of the verification of lawful presence requirements; and (2) a person who makes a false, fictitious, or fraudulent statement of representation in an affidavit verifying lawful presence commits a Class D felony. Requires: (1) a state agency to provide an annual report with respect to the agency's compliance with the verification requirements; and (2) the secretary of state to file an annual report concerning the reported errors and significant delays in the SAVE program. Requires a state agency or political subdivision (public employer) to use a status verification system to verify the work eligibility status of all employees hired after June 30, 2008. Prohibits: (1) a public employer from entering into a public contract for services  
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**Effective:** January 1, 2008 (retroactive); July 1, 2008; January 1, 2009.

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## Tincher, Turner

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January 15, 2008, read first time and referred to Committee on Interstate and International Cooperation.



with a contractor unless the contractor uses a status verification system; and (2) an employer from discharging from employment a person who is a United States citizen or has lawful employment status and hire or continue to employ an unauthorized alien in a similar job category as that of the discharged person. Allows a: (1) person discharged from employment in violation of these prohibitions to bring a civil action against the employer; and (2) court to award attorney's fees and court costs to the person. Provides that an employer that is using a status verification system to verify the employment eligibility of employees is immune from liability under these provisions. Prohibits an individual who is not lawfully present in the United States from being eligible for any postsecondary education benefit or to pay the resident tuition rate. Requires a sheriff to make a reasonable effort to determine the citizenship or immigration status of a person who is: (1) charged with a felony or with operating a vehicle while intoxicated; and (2) confined, for any period, in a county jail. Requires a payor to: (1) deduct and retain from a payment for services an amount equal to the amount of the payment multiplied by the tax rate applicable to the payee if the payee is unable to provide certain identification numbers; and (2) meet other requirements concerning the deduction and retention from the payment of services. Requires a taxpayer to add to the taxpayer's adjusted gross income any amount in excess of \$600 that is paid in the taxpayer's taxable year to an unauthorized alien and deducted by the taxpayer to determine the taxpayer's adjusted gross income, taxable income, or life insurance taxable income. Makes it a: (1) Class A misdemeanor to transport or move (and a Class D felony for a subsequent offense); and (2) Class A misdemeanor to conceal, harbor, or shield from detection (and a Class D felony for a subsequent offense); an alien, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

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## HOUSE BILL No. 1274

A BILL FOR AN ACT to amend the Indiana Code concerning general provisions.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.144-2007,
- 2 SECTION 3, AS AMENDED BY P.L.211-2007, SECTION 19, AND
- 3 AS AMENDED BY P.L.223-2007, SECTION 1, IS CORRECTED
- 4 AND AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JANUARY 1, 2008 (RETROACTIVE)]; Sec. 3.5. When used in this
- 6 article, the term "adjusted gross income" shall mean the following:
- 7 (a) In the case of all individuals, "adjusted gross income" (as
- 8 defined in Section 62 of the Internal Revenue Code), modified as
- 9 follows:
- 10 (1) Subtract income that is exempt from taxation under this article
- 11 by the Constitution and statutes of the United States.
- 12 (2) Add an amount equal to any deduction or deductions allowed
- 13 or allowable pursuant to Section 62 of the Internal Revenue Code
- 14 for taxes based on or measured by income and levied at the state
- 15 level by any state of the United States.



- 1 (3) Subtract one thousand dollars (\$1,000), or in the case of a  
2 joint return filed by a husband and wife, subtract for each spouse  
3 one thousand dollars (\$1,000).  
4 (4) Subtract one thousand dollars (\$1,000) for:  
5 (A) each of the exemptions provided by Section 151(c) of the  
6 Internal Revenue Code;  
7 (B) each additional amount allowable under Section 63(f) of  
8 the Internal Revenue Code; and  
9 (C) the spouse of the taxpayer if a separate return is made by  
10 the taxpayer and if the spouse, for the calendar year in which  
11 the taxable year of the taxpayer begins, has no gross income  
12 and is not the dependent of another taxpayer.  
13 (5) Subtract:  
14 (A) for taxable years beginning after December 31, 2004, one  
15 thousand five hundred dollars (\$1,500) for each of the  
16 exemptions allowed under Section 151(c)(1)(B) of the Internal  
17 Revenue Code (as effective January 1, 2004); and  
18 (B) five hundred dollars (\$500) for each additional amount  
19 allowable under Section 63(f)(1) of the Internal Revenue Code  
20 if the adjusted gross income of the taxpayer, or the taxpayer  
21 and the taxpayer's spouse in the case of a joint return, is less  
22 than forty thousand dollars (\$40,000).  
23 This amount is in addition to the amount subtracted under  
24 subdivision (4).  
25 (6) Subtract an amount equal to the lesser of:  
26 (A) that part of the individual's adjusted gross income (as  
27 defined in Section 62 of the Internal Revenue Code) for that  
28 taxable year that is subject to a tax that is imposed by a  
29 political subdivision of another state and that is imposed on or  
30 measured by income; or  
31 (B) two thousand dollars (\$2,000).  
32 (7) Add an amount equal to the total capital gain portion of a  
33 lump sum distribution (as defined in Section 402(e)(4)(D) of the  
34 Internal Revenue Code) if the lump sum distribution is received  
35 by the individual during the taxable year and if the capital gain  
36 portion of the distribution is taxed in the manner provided in  
37 Section 402 of the Internal Revenue Code.  
38 (8) Subtract any amounts included in federal adjusted gross  
39 income under Section 111 of the Internal Revenue Code as a  
40 recovery of items previously deducted as an itemized deduction  
41 from adjusted gross income.  
42 (9) Subtract any amounts included in federal adjusted gross

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- 1 income under the Internal Revenue Code which amounts were  
 2 received by the individual as supplemental railroad retirement  
 3 annuities under 45 U.S.C. 231 and which are not deductible under  
 4 subdivision (1).  
 5 (10) Add an amount equal to the deduction allowed under Section  
 6 221 of the Internal Revenue Code for married couples filing joint  
 7 returns if the taxable year began before January 1, 1987.  
 8 (11) Add an amount equal to the interest excluded from federal  
 9 gross income by the individual for the taxable year under Section  
 10 128 of the Internal Revenue Code if the taxable year began before  
 11 January 1, 1985.  
 12 (12) Subtract an amount equal to the amount of federal Social  
 13 Security and Railroad Retirement benefits included in a taxpayer's  
 14 federal gross income by Section 86 of the Internal Revenue Code.  
 15 (13) In the case of a nonresident taxpayer or a resident taxpayer  
 16 residing in Indiana for a period of less than the taxpayer's entire  
 17 taxable year, the total amount of the deductions allowed pursuant  
 18 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount  
 19 which bears the same ratio to the total as the taxpayer's income  
 20 taxable in Indiana bears to the taxpayer's total income.  
 21 (14) In the case of an individual who is a recipient of assistance  
 22 under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7,  
 23 subtract an amount equal to that portion of the individual's  
 24 adjusted gross income with respect to which the individual is not  
 25 allowed under federal law to retain an amount to pay state and  
 26 local income taxes.  
 27 (15) In the case of an eligible individual, subtract the amount of  
 28 a Holocaust victim's settlement payment included in the  
 29 individual's federal adjusted gross income.  
 30 (16) For taxable years beginning after December 31, 1999,  
 31 subtract an amount equal to the portion of any premiums paid  
 32 during the taxable year by the taxpayer for a qualified long term  
 33 care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the  
 34 taxpayer's spouse, or both.  
 35 (17) Subtract an amount equal to the lesser of:  
 36 (A) for a taxable year:  
 37 (i) including any part of 2004, the amount determined under  
 38 subsection (f); and  
 39 (ii) beginning after December 31, 2004, two thousand five  
 40 hundred dollars (\$2,500); or  
 41 (B) the amount of property taxes that are paid during the  
 42 taxable year in Indiana by the individual on the individual's

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- 1 principal place of residence.
- 2 (18) Subtract an amount equal to the amount of a September 11
- 3 terrorist attack settlement payment included in the individual's
- 4 federal adjusted gross income.
- 5 (19) Add or subtract the amount necessary to make the adjusted
- 6 gross income of any taxpayer that owns property for which bonus
- 7 depreciation was allowed in the current taxable year or in an
- 8 earlier taxable year equal to the amount of adjusted gross income
- 9 that would have been computed had an election not been made
- 10 under Section 168(k) of the Internal Revenue Code to apply bonus
- 11 depreciation to the property in the year that it was placed in
- 12 service.
- 13 (20) Add an amount equal to any deduction allowed under
- 14 Section 172 of the Internal Revenue Code.
- 15 (21) Add or subtract the amount necessary to make the adjusted
- 16 gross income of any taxpayer that placed Section 179 property (as
- 17 defined in Section 179 of the Internal Revenue Code) in service
- 18 in the current taxable year or in an earlier taxable year equal to
- 19 the amount of adjusted gross income that would have been
- 20 computed had an election for federal income tax purposes not
- 21 been made for the year in which the property was placed in
- 22 service to take deductions under Section 179 of the Internal
- 23 Revenue Code in a total amount exceeding twenty-five thousand
- 24 dollars (\$25,000).
- 25 (22) Add an amount equal to the amount that a taxpayer claimed
- 26 as a deduction for domestic production activities for the taxable
- 27 year under Section 199 of the Internal Revenue Code for federal
- 28 income tax purposes.
- 29 *(23) Subtract an amount equal to the amount of the taxpayer's*
- 30 *qualified military income that was not excluded from the*
- 31 *taxpayer's gross income for federal income tax purposes under*
- 32 *Section 112 of the Internal Revenue Code.*
- 33 ~~(23)~~ **(24) Subtract income that is:**
- 34 *(A) exempt from taxation under IC 6-3-2-21.7; and*
- 35 *(B) included in the individual's federal adjusted gross income*
- 36 *under the Internal Revenue Code.*
- 37 **(25) Add any amount required by IC 6-3-2-22 to be added**
- 38 **back for state adjusted gross income purposes.**
- 39 (b) In the case of corporations, the same as "taxable income" (as
- 40 defined in Section 63 of the Internal Revenue Code) adjusted as
- 41 follows:
- 42 (1) Subtract income that is exempt from taxation under this article

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- 1 by the Constitution and statutes of the United States.
- 2 (2) Add an amount equal to any deduction or deductions allowed
- 3 or allowable pursuant to Section 170 of the Internal Revenue
- 4 Code.
- 5 (3) Add an amount equal to any deduction or deductions allowed
- 6 or allowable pursuant to Section 63 of the Internal Revenue Code
- 7 for taxes based on or measured by income and levied at the state
- 8 level by any state of the United States.
- 9 (4) Subtract an amount equal to the amount included in the
- 10 corporation's taxable income under Section 78 of the Internal
- 11 Revenue Code.
- 12 (5) Add or subtract the amount necessary to make the adjusted
- 13 gross income of any taxpayer that owns property for which bonus
- 14 depreciation was allowed in the current taxable year or in an
- 15 earlier taxable year equal to the amount of adjusted gross income
- 16 that would have been computed had an election not been made
- 17 under Section 168(k) of the Internal Revenue Code to apply bonus
- 18 depreciation to the property in the year that it was placed in
- 19 service.
- 20 (6) Add an amount equal to any deduction allowed under Section
- 21 172 of the Internal Revenue Code.
- 22 (7) Add or subtract the amount necessary to make the adjusted
- 23 gross income of any taxpayer that placed Section 179 property (as
- 24 defined in Section 179 of the Internal Revenue Code) in service
- 25 in the current taxable year or in an earlier taxable year equal to
- 26 the amount of adjusted gross income that would have been
- 27 computed had an election for federal income tax purposes not
- 28 been made for the year in which the property was placed in
- 29 service to take deductions under Section 179 of the Internal
- 30 Revenue Code in a total amount exceeding twenty-five thousand
- 31 dollars (\$25,000).
- 32 (8) Add an amount equal to the amount that a taxpayer claimed as
- 33 a deduction for domestic production activities for the taxable year
- 34 under Section 199 of the Internal Revenue Code for federal
- 35 income tax purposes.
- 36 (9) Add to the extent required by IC 6-3-2-20 the amount of
- 37 intangible expenses (as defined in IC 6-3-2-20) and any directly
- 38 related intangible interest expenses (as defined in IC 6-3-2-20) for
- 39 the taxable year that reduced the corporation's taxable income (as
- 40 defined in Section 63 of the Internal Revenue Code) for federal
- 41 income tax purposes.
- 42 (10) *Add an amount equal to any deduction for dividends paid (as*

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1 *defined in Section 561 of the Internal Revenue Code) to*  
2 *shareholders of a captive real estate investment trust (as defined*  
3 *in section 34.5 of this chapter).*

4 ~~(10)~~ **(11)** *Subtract income that is:*

5 *(A) exempt from taxation under IC 6-3-2-21.7; and*

6 *(B) included in the corporation's taxable income under the*  
7 *Internal Revenue Code.*

8 **(12) Add any amount required by IC 6-3-2-22 to be added**  
9 **back for state adjusted gross income purposes.**

10 (c) In the case of life insurance companies (as defined in Section  
11 816(a) of the Internal Revenue Code) that are organized under Indiana  
12 law, the same as "life insurance company taxable income" (as defined  
13 in Section 801 of the Internal Revenue Code), adjusted as follows:

14 (1) Subtract income that is exempt from taxation under this article  
15 by the Constitution and statutes of the United States.

16 (2) Add an amount equal to any deduction allowed or allowable  
17 under Section 170 of the Internal Revenue Code.

18 (3) Add an amount equal to a deduction allowed or allowable  
19 under Section 805 or Section 831(c) of the Internal Revenue Code  
20 for taxes based on or measured by income and levied at the state  
21 level by any state.

22 (4) Subtract an amount equal to the amount included in the  
23 company's taxable income under Section 78 of the Internal  
24 Revenue Code.

25 (5) Add or subtract the amount necessary to make the adjusted  
26 gross income of any taxpayer that owns property for which bonus  
27 depreciation was allowed in the current taxable year or in an  
28 earlier taxable year equal to the amount of adjusted gross income  
29 that would have been computed had an election not been made  
30 under Section 168(k) of the Internal Revenue Code to apply bonus  
31 depreciation to the property in the year that it was placed in  
32 service.

33 (6) Add an amount equal to any deduction allowed under Section  
34 172 or Section 810 of the Internal Revenue Code.

35 (7) Add or subtract the amount necessary to make the adjusted  
36 gross income of any taxpayer that placed Section 179 property (as  
37 defined in Section 179 of the Internal Revenue Code) in service  
38 in the current taxable year or in an earlier taxable year equal to  
39 the amount of adjusted gross income that would have been  
40 computed had an election for federal income tax purposes not  
41 been made for the year in which the property was placed in  
42 service to take deductions under Section 179 of the Internal

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1 Revenue Code in a total amount exceeding twenty-five thousand  
 2 dollars (\$25,000).  
 3 (8) Add an amount equal to the amount that a taxpayer claimed as  
 4 a deduction for domestic production activities for the taxable year  
 5 under Section 199 of the Internal Revenue Code for federal  
 6 income tax purposes.  
 7 (9) *Subtract income that is:*  
 8 (A) *exempt from taxation under IC 6-3-2-21.7; and*  
 9 (B) *included in the insurance company's taxable income under*  
 10 *the Internal Revenue Code.*  
 11 **(10) Add any amount required by IC 6-3-2-22 to be added**  
 12 **back for state adjusted gross income purposes.**  
 13 (d) In the case of insurance companies subject to tax under Section  
 14 831 of the Internal Revenue Code and organized under Indiana law, the  
 15 same as "taxable income" (as defined in Section 832 of the Internal  
 16 Revenue Code), adjusted as follows:  
 17 (1) Subtract income that is exempt from taxation under this article  
 18 by the Constitution and statutes of the United States.  
 19 (2) Add an amount equal to any deduction allowed or allowable  
 20 under Section 170 of the Internal Revenue Code.  
 21 (3) Add an amount equal to a deduction allowed or allowable  
 22 under Section 805 or Section 831(c) of the Internal Revenue Code  
 23 for taxes based on or measured by income and levied at the state  
 24 level by any state.  
 25 (4) Subtract an amount equal to the amount included in the  
 26 company's taxable income under Section 78 of the Internal  
 27 Revenue Code.  
 28 (5) Add or subtract the amount necessary to make the adjusted  
 29 gross income of any taxpayer that owns property for which bonus  
 30 depreciation was allowed in the current taxable year or in an  
 31 earlier taxable year equal to the amount of adjusted gross income  
 32 that would have been computed had an election not been made  
 33 under Section 168(k) of the Internal Revenue Code to apply bonus  
 34 depreciation to the property in the year that it was placed in  
 35 service.  
 36 (6) Add an amount equal to any deduction allowed under Section  
 37 172 of the Internal Revenue Code.  
 38 (7) Add or subtract the amount necessary to make the adjusted  
 39 gross income of any taxpayer that placed Section 179 property (as  
 40 defined in Section 179 of the Internal Revenue Code) in service  
 41 in the current taxable year or in an earlier taxable year equal to  
 42 the amount of adjusted gross income that would have been

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1 computed had an election for federal income tax purposes not  
2 been made for the year in which the property was placed in  
3 service to take deductions under Section 179 of the Internal  
4 Revenue Code in a total amount exceeding twenty-five thousand  
5 dollars (\$25,000).

6 (8) Add an amount equal to the amount that a taxpayer claimed as  
7 a deduction for domestic production activities for the taxable year  
8 under Section 199 of the Internal Revenue Code for federal  
9 income tax purposes.

10 (9) Subtract income that is:

11 (A) exempt from taxation under IC 6-3-2-21.7; and

12 (B) included in the insurance company's taxable income under  
13 the Internal Revenue Code.

14 **(10) Add any amount required by IC 6-3-2-22 to be added**  
15 **back for state adjusted gross income purposes.**

16 (e) In the case of trusts and estates, "taxable income" (as defined for  
17 trusts and estates in Section 641(b) of the Internal Revenue Code)  
18 adjusted as follows:

19 (1) Subtract income that is exempt from taxation under this article  
20 by the Constitution and statutes of the United States.

21 (2) Subtract an amount equal to the amount of a September 11  
22 terrorist attack settlement payment included in the federal  
23 adjusted gross income of the estate of a victim of the September  
24 11 terrorist attack or a trust to the extent the trust benefits a victim  
25 of the September 11 terrorist attack.

26 (3) Add or subtract the amount necessary to make the adjusted  
27 gross income of any taxpayer that owns property for which bonus  
28 depreciation was allowed in the current taxable year or in an  
29 earlier taxable year equal to the amount of adjusted gross income  
30 that would have been computed had an election not been made  
31 under Section 168(k) of the Internal Revenue Code to apply bonus  
32 depreciation to the property in the year that it was placed in  
33 service.

34 (4) Add an amount equal to any deduction allowed under Section  
35 172 of the Internal Revenue Code.

36 (5) Add or subtract the amount necessary to make the adjusted  
37 gross income of any taxpayer that placed Section 179 property (as  
38 defined in Section 179 of the Internal Revenue Code) in service  
39 in the current taxable year or in an earlier taxable year equal to  
40 the amount of adjusted gross income that would have been  
41 computed had an election for federal income tax purposes not  
42 been made for the year in which the property was placed in

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1 service to take deductions under Section 179 of the Internal  
 2 Revenue Code in a total amount exceeding twenty-five thousand  
 3 dollars (\$25,000).

4 (6) Add an amount equal to the amount that a taxpayer claimed as  
 5 a deduction for domestic production activities for the taxable year  
 6 under Section 199 of the Internal Revenue Code for federal  
 7 income tax purposes.

8 (7) *Subtract income that is:*

9 (A) *exempt from taxation under IC 6-3-2-21.7; and*

10 (B) *included in the taxpayer's taxable income under the*  
 11 *Internal Revenue Code.*

12 **(8) Add any amount required by IC 6-3-2-22 to be added back**  
 13 **for state adjusted gross income purposes.**

14 (f) This subsection applies only to the extent that an individual paid  
 15 property taxes in 2004 that were imposed for the March 1, 2002,  
 16 assessment date or the January 15, 2003, assessment date. The  
 17 maximum amount of the deduction under subsection (a)(17) is equal  
 18 to the amount determined under STEP FIVE of the following formula:

19 STEP ONE: Determine the amount of property taxes that the  
 20 taxpayer paid after December 31, 2003, in the taxable year for  
 21 property taxes imposed for the March 1, 2002, assessment date  
 22 and the January 15, 2003, assessment date.

23 STEP TWO: Determine the amount of property taxes that the  
 24 taxpayer paid in the taxable year for the March 1, 2003,  
 25 assessment date and the January 15, 2004, assessment date.

26 STEP THREE: Determine the result of the STEP ONE amount  
 27 divided by the STEP TWO amount.

28 STEP FOUR: Multiply the STEP THREE amount by two  
 29 thousand five hundred dollars (\$2,500).

30 STEP FIVE: Determine the sum of the STEP FOUR amount and  
 31 two thousand five hundred dollars (\$2,500).

32 SECTION 2. IC 6-3-2-22 IS ADDED TO THE INDIANA CODE  
 33 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
 34 JANUARY 1, 2009]: **Sec. 22. (a) This section does not apply to**  
 35 **wages or other remuneration paid:**

36 **(1) by a taxpayer that is exempt from compliance with**  
 37 **employment verification procedures under federal law that**  
 38 **makes the employment of unauthorized aliens unlawful;**

39 **(2) to an individual hired by the taxpayer before January 1,**  
 40 **2009;**

41 **(3) to an individual who is not directly compensated or**  
 42 **employed by the taxpayer; or**

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1 (4) to an individual who holds and presents to the taxpayer a  
2 valid license or identification card issued by the bureau of  
3 motor vehicles.

4 (b) In determining its adjusted gross income under IC 6-3-1-3.5,  
5 a taxpayer subject to the tax imposed by IC 6-3-2-1 shall add to the  
6 taxpayer's Indiana adjusted gross income any amount that exceeds  
7 six hundred dollars (\$600) that is:

8 (1) paid in the taxpayer's taxable year to an unauthorized  
9 alien (as defined in 8 U.S.C. 1324a) as wages or other  
10 remuneration for the physical performance of services in  
11 Indiana; and

12 (2) deducted by the taxpayer to determine the taxpayer's  
13 adjusted gross income, taxable income, or life insurance  
14 taxable income for the taxable year under Section 62, 63, 641,  
15 816, or 831 of the Internal Revenue Code for federal adjusted  
16 gross income tax purposes.

17 (c) The department may adopt rules under IC 4-22-2 and  
18 prescribe forms as the department determines necessary to carry  
19 out this section.

20 SECTION 3. IC 6-3-4-16 IS ADDED TO THE INDIANA CODE  
21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
22 JANUARY 1, 2009]: **Sec. 16. (a) As used in this section, "payment"**  
23 **refers to a payment made for services that is required to be**  
24 **included in the aggregate amount reported on Internal Revenue**  
25 **Service Form 1099.**

26 (b) If a payee of a payment fails to provide to the payor:

27 (1) a Social Security number (SSN), a federal taxpayer  
28 identification number (TIN), or a federal individual taxpayer  
29 identification number (ITIN); or

30 (2) a correct Social Security number (SSN), federal taxpayer  
31 identification number (TIN), or federal individual taxpayer  
32 identification number (ITIN);

33 the payor shall deduct and retain from the payment an amount  
34 equal to the amount of the payment multiplied by the tax rate  
35 applicable to the payee under IC 6-3-2-1 and IC 6-3.5.

36 (c) The filing with the department, at the time and in the  
37 manner prescribed by the department, of a copy of a properly  
38 completed Internal Revenue Service Form 8233 for the payee shall  
39 be treated as proof that the payor is not required to report the  
40 payment on Internal Revenue Service Form 1099.

41 (d) The payor of the payment:

42 (1) is liable to the state for the payment of the tax required to

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1           **be deducted and retained under this section;**  
2           **(2) is not liable to the payee for the amount deducted from the**  
3           **payment deposited with the department in compliance or**  
4           **intended compliance with this section; and**  
5           **(3) shall make a return of and deposit the payment with the**  
6           **department on the dates and in the manner prescribed by the**  
7           **department.**  
8           **(e) A payor shall, at the time of each deposit made to the**  
9           **department under this section, deliver to the department a return**  
10          **upon the form prescribed by the department that:**  
11           **(1) shows the total amounts paid to payees;**  
12           **(2) shows the amount deducted from payments in accordance**  
13           **with this section; and**  
14           **(3) includes any other information required by the**  
15           **department.**  
16          **A payor making a deduction and retention under this section from**  
17          **a payee shall furnish to the payee annually, at the time and in the**  
18          **manner prescribed by the department, a record of the amount of**  
19          **tax deducted and retained from the payee.**  
20          **(f) All money deducted and retained by the payor, as provided**  
21          **in this section, shall immediately upon the deduction be the money**  
22          **of the state. Every payor that deducts and retains any amount of**  
23          **money under this section shall hold the money in trust for the state**  
24          **and for deposit with the department in the manner and at the times**  
25          **provided in this section and the instructions prescribed by the**  
26          **department. A payor may be required to post a surety bond in the**  
27          **sum that the department determines to be appropriate to protect**  
28          **the state with respect to money deducted and retained under this**  
29          **section.**  
30          **(g) The provisions of IC 6-8.1 relating to additions to tax in case**  
31          **of delinquency and penalties apply to payors subject to this section.**  
32          **For this purpose any amount deducted, or required to be deducted**  
33          **and remitted to the department under this section, shall be**  
34          **considered to be the tax of the payor. With respect to the amount,**  
35          **the payor shall be considered the taxpayer.**  
36          **(h) Amounts deducted from payments to a payee during any**  
37          **taxable year of the payor in accordance with this section shall be**  
38          **considered to be in part payment of the tax imposed on the payee**  
39          **for the payee's taxable year. A return made by the payor under**  
40          **this section shall be accepted by the department as evidence in**  
41          **favor of the payee of the amount deducted for the payee's payment.**  
42          **(i) This section does not relieve a payee from:**

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- 1           **(1) the payee's obligation of filing a return or returns at the**
- 2           **time required under IC 6-3 or IC 6-3.5; and**
- 3           **(2) any unpaid tax at the time prescribed by section 5 of this**
- 4           **chapter.**

5           SECTION 4. IC 12-7-2-9, AS AMENDED BY P.L.93-2006,  
 6           SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7           JULY 1, 2008]: Sec. 9. "Agency" means the following:

- 8           (1) For purposes of IC 12-10-12, the meaning set forth in
- 9           IC 12-10-12-1.
- 10          (2) For purposes of IC 12-12.7-2, the meaning set forth in
- 11          IC 12-12.7-2-1.

12          **(3) For purposes of IC 12-31-1, the meaning set forth in**  
 13          **IC 12-31-1-1.**

14          SECTION 5. IC 12-7-2-76.6 IS AMENDED TO READ AS  
 15          FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 76.6. **(a)** "Emergency  
 16          medical condition", for purposes of IC 12-15-12, has the meaning set  
 17          forth in IC 12-15-12-0.3.

18          **(b) "Emergency medical condition", for purposes of IC 12-31-1,**  
 19          **has the meaning set forth in IC 12-31-1-2.**

20          SECTION 6. IC 12-7-2-85.1 IS ADDED TO THE INDIANA CODE  
 21          AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 22          1, 2008]: **Sec. 85.1. "Federal public benefit", for purposes of**  
 23          **IC 12-31-1, has the meaning set forth in IC 12-31-1-3.**

24          SECTION 7. IC 12-7-2-142 IS AMENDED TO READ AS  
 25          FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 142. "Political  
 26          subdivision", for purposes of the following statutes, has the meaning  
 27          set forth in IC 36-1-2-13:

- 28          (1) IC 12-8.
- 29          (2) IC 12-13-4.
- 30          **(3) IC 12-31-1.**

31          SECTION 8. IC 12-7-2-169.7 IS ADDED TO THE INDIANA  
 32          CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 33          [EFFECTIVE JULY 1, 2008]: **Sec. 169.7. "SAVE program", for**  
 34          **purposes of IC 12-31-1, has the meaning set forth in IC 12-31-1-4.**

35          SECTION 9. IC 12-7-2-185.5 IS ADDED TO THE INDIANA  
 36          CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 37          [EFFECTIVE JULY 1, 2008]: **Sec. 185.5. "State or local public**  
 38          **benefit", for purposes of IC 12-31-1, has the meaning set forth in**  
 39          **IC 12-31-1-5.**

40          SECTION 10. IC 12-31 IS ADDED TO THE INDIANA CODE AS  
 41          A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 42          2008]:

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**ARTICLE 31. RESTRICTIONS ON PUBLIC BENEFITS**

**Chapter 1. Restrictions on Public Benefits to Illegal Aliens**

**Sec. 1. As used in this chapter, "agency" means any state administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of state government.**

**Sec. 2. As used in this chapter, "emergency medical condition" has the meaning set forth in 42 U.S.C. 1396b(v)(3).**

**Sec. 3. As used in this chapter, "federal public benefit" has the meaning set forth in 8 U.S.C. 1611.**

**Sec. 4. As used in this chapter, "SAVE program" means the Systematic Alien Verification of Entitlements program operated by the United States Department of Homeland Security or a successor program designated by the United States Department of Homeland Security.**

**Sec. 5. As used in this chapter, "state or local public benefit" has the meaning set forth in 8 U.S.C. 1621.**

**Sec. 6. This chapter shall be enforced without regard to race, religion, gender, ethnicity, or national origin.**

**Sec. 7. Except as provided in section 9 of this chapter or in federal law, an agency or a political subdivision may not provide federal public benefits or state or local public benefits to an individual who is not:**

- (1) a United States citizen; or**
- (2) a qualified alien under the federal Immigration and Nationality Act who is lawfully present in the United States.**

**Sec. 8. Except as provided in section 9 of this chapter or in federal law, an agency or a political subdivision shall verify, in the manner provided in section 10 of this chapter, the lawful presence in the United States of each individual who:**

- (1) is at least eighteen (18) years of age; and**
- (2) applies for:**
  - (A) federal public benefits; or**
  - (B) state or local public benefits;**

**that are administered by the agency or political subdivision; before the agency or political subdivision may provide federal public benefits or state or local public benefits to the individual.**

**Sec. 9. An agency or a political subdivision is not required to meet the requirements of sections 7 and 8 of this chapter for any of the following:**

- (1) A purpose for which lawful presence in the United States is not required by law, ordinance, or regulation.**

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- 1           **(2) Assistance for health care items and services that are**
- 2           **necessary for the treatment of an emergency medical**
- 3           **condition of the individual involved and are not related to an**
- 4           **organ transplant procedure.**
- 5           **(3) Short term, noncash, in-kind emergency disaster relief.**
- 6           **(4) Public health assistance for:**
  - 7           **(A) immunizations with respect to a disease for which an**
  - 8           **individual may be immunized; and**
  - 9           **(B) testing and treatment of symptoms of communicable**
  - 10           **diseases regardless of whether symptoms are caused by a**
  - 11           **communicable disease.**
  - 12           **(5) Programs, services, or assistance, including soup kitchens,**
  - 13           **crisis counseling and intervention, and short term shelter,**
  - 14           **specified by the United States Attorney General in the United**
  - 15           **States Attorney General's sole and unreviewable discretion**
  - 16           **after consultation with appropriate federal agencies and**
  - 17           **departments, that:**
    - 18           **(A) deliver in-kind services at the community level,**
    - 19           **including services through public or private nonprofit**
    - 20           **agencies;**
    - 21           **(B) do not condition the:**
      - 22           **(i) provision of assistance;**
      - 23           **(ii) amount of assistance provided; or**
      - 24           **(iii) cost of assistance provided;**
      - 25           **on a recipient's income or resources; and**
      - 26           **(C) are necessary for the protection of life or safety.**
    - 27           **(6) Prenatal care.**
  - 28           **Sec. 10. An agency or a political subdivision shall verify the**
  - 29           **lawful presence in the United States of an individual described in**
  - 30           **section 8 of this chapter by requiring the individual to execute a**
  - 31           **verified affidavit stating that the individual is:**
    - 32           **(1) at least eighteen (18) years of age; and**
    - 33           **(2) either of the following:**
      - 34           **(A) A United States citizen.**
      - 35           **(B) A qualified alien under the federal Immigration and**
      - 36           **Nationality Act who is lawfully present in the United**
      - 37           **States.**
    - 38           **Sec. 11. (a) If an individual executes an affidavit under section**
    - 39           **10 of this chapter stating that the individual is a qualified alien**
    - 40           **lawfully present in the United States, an agency or a political**
    - 41           **subdivision shall verify the lawful presence of the individual to**
    - 42           **determine eligibility for federal public benefits or state or local**

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1 public benefits through the SAVE program.

2 (b) An affidavit executed under section 10 of this chapter may  
3 be presumed to be proof of an individual's lawful presence in the  
4 United States under this chapter until eligibility is verified under  
5 this section.

6 Sec. 12. (a) An agency or a political subdivision shall report any  
7 errors or significant delays by the SAVE program to the:

- 8 (1) United States Department of Homeland Security; and
- 9 (2) secretary of state.

10 (b) The secretary of state shall provide an annual report of the  
11 errors or significant delays reported under subsection (a) in an  
12 electronic format under IC 5-14-6 to the general assembly.

13 Sec. 13. An agency or a political subdivision may adopt a  
14 variation of the requirements set forth in this chapter to:

- 15 (1) improve the efficiency of verifying an individual's lawful  
16 presence in the United States under this chapter;
- 17 (2) reduce delay in verifying an individual's lawful presence  
18 in the United States under this chapter; or
- 19 (3) provide for an adjudication in the case of unique  
20 individual circumstances under which the procedures set  
21 forth in this chapter would impose unusual hardship on a  
22 legal resident of Indiana.

23 Sec. 14. A person who knowingly or intentionally makes a false,  
24 fictitious, or fraudulent statement of representation in an affidavit  
25 executed under section 10 of this chapter commits a Class D felony.

26 Sec. 15. Each agency that administers a program that provides  
27 federal public benefits or state or local public benefits shall provide  
28 an annual written report with respect to the agency's compliance  
29 with this chapter to the legislative services agency in an electronic  
30 format under IC 5-14-6.

31 Sec. 16. An agency may adopt rules and a political subdivision  
32 may adopt an ordinance or a resolution to carry out this chapter.

33 SECTION 11. IC 21-14-10 IS ADDED TO THE INDIANA CODE  
34 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
35 JULY 1, 2008]:

36 **Chapter 10. Restriction on Education Benefits and Resident**  
37 **Tuition**

38 Sec. 1. An individual who is not lawfully present in the United  
39 States is not eligible on the basis of lack of residence within  
40 Indiana:

- 41 (1) for any postsecondary education benefit, including  
42 scholarships and financial aid; or

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1           **(2) to pay the resident tuition rate (as determined by the state**  
 2           **educational institution).**  
 3           SECTION 12. IC 22-5-2.5 IS ADDED TO THE INDIANA CODE  
 4           AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 5           JULY 1, 2008]:  
 6           **Chapter 2.5. Employment of Unauthorized Aliens**  
 7           **Sec. 1. (a) As used in this chapter, "contractor" means a person**  
 8           **that has a public contract for services with a state agency or**  
 9           **political subdivision.**  
 10           **(b) The term includes a subcontractor, contract employee, or**  
 11           **staffing agency.**  
 12           **Sec. 2. As used in this chapter, "political subdivision" has the**  
 13           **meaning set forth in IC 36-1-2-13.**  
 14           **Sec. 3. As used in this chapter, "public contract for services"**  
 15           **means any type of agreement, regardless of what the agreement is**  
 16           **called, between a state agency or a political subdivision and a**  
 17           **contractor for the procurement of services.**  
 18           **Sec. 4. As used in this chapter, "public employer" means a state**  
 19           **agency or political subdivision.**  
 20           **Sec. 5. As used in this chapter, "state agency" has the meaning**  
 21           **set forth in IC 4-6-3-1.**  
 22           **Sec. 6. (a) As used in this chapter, "status verification system"**  
 23           **means an electronic system operated by the federal government,**  
 24           **through which an authorized official or employee of a state agency**  
 25           **or political subdivision may make an inquiry, by exercise of**  
 26           **authority delegated under 8 U.S.C. 1373, to verify or ascertain the**  
 27           **citizenship or immigration status of an individual within the**  
 28           **jurisdiction of the agency or political subdivision.**  
 29           **(b) The term includes the following:**  
 30           **(1) The employment verification pilot program administered**  
 31           **by the United States Department of Homeland Security and**  
 32           **the Social Security Administration or its successor program.**  
 33           **(2) Any other federal program designated by the United**  
 34           **States Department of Homeland Security or any other federal**  
 35           **agency authorized to verify the work eligibility status of newly**  
 36           **hired employees.**  
 37           **(3) The Social Security Number Verification Service or**  
 38           **similar online verification process implemented by the United**  
 39           **States Social Security Administration.**  
 40           **(4) An independent, third party system with an equal or**  
 41           **higher degree of reliability as that of other programs**  
 42           **described under this subsection.**

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**Sec. 7. As used in this chapter, "unauthorized alien" has the meaning set forth in 8 U.S.C. 1324a(h).**

**Sec. 8. A public employer shall use a status verification system to verify the work eligibility status of all employees hired after June 30, 2008.**

**Sec. 9. After June 30, 2008, a public employer may not enter into a public contract for services with a contractor unless the contractor uses a status verification system to verify the work eligibility status of the contractor's newly hired employees.**

**Sec. 10. An employer may not:**

- (1) discharge from employment a person who is a United States citizen or has lawful employment status under the federal Immigration and Nationality Act; and**
  - (2) hire or continue to employ an employee:**
    - (A) who the employer knows or reasonably should have known is an unauthorized alien; and**
    - (B) who is working in a job category that:**
      - (i) requires equal skill, effort, and responsibility; and**
      - (ii) is performed under similar working conditions;**
- as the job category held by a discharged person described in subdivision (1).**

**Sec. 11. (a) A person described under section 10(1) of this chapter may bring a civil action against an employer for a violation of section 10 of this chapter.**

**(b) A court may award a person seeking relief under this section reasonable court costs and attorney's fees.**

**Sec. 12. An employer that was using a status verification system to verify the employment eligibility of the employer's employees hired after June 30, 2008, is immune from liability for civil actions brought under section 11 of this chapter.**

**SECTION 13. IC 34-30-2-87.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 87.3. IC 22-5-2.5-12 (Concerning employers that discharge persons from employment while hiring or continuing to employ unauthorized aliens).**

**SECTION 14. IC 35-44-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:**

**Chapter 5. Offenses Relating to Illegal Aliens**

**Sec. 1. As used in this chapter, "alien" has the meaning set forth in 8 U.S.C. 1101(a).**

**Sec. 2. (a) Subject to section 4 of this chapter, a person who:**

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1           **(1) transports; or**  
 2           **(2) moves;**  
 3           **an alien knowing or in reckless disregard of the fact that the alien**  
 4           **has come to, entered, or remained in the United States in violation**  
 5           **of law commits transporting an illegal alien, a Class A**  
 6           **misdemeanor.**

7           **(b) The offense in subsection (a) is a Class D felony for a second**  
 8           **or subsequent offense.**

9           **Sec. 3. (a) Subject to section 4 of this chapter, a person who:**

10           **(1) conceals;**  
 11           **(2) harbors; or**  
 12           **(3) shields from detection;**  
 13           **an alien knowing or in reckless disregard of the fact that the alien**  
 14           **has come to, entered, or remained in the United States in violation**  
 15           **of law commits harboring an illegal alien, a Class A misdemeanor.**

16           **(b) The offense in subsection (a) is a Class D felony for a second**  
 17           **or subsequent offense.**

18           **Sec. 4. This chapter does not prohibit or restrict providing one**  
 19           **(1) or more of the following:**

20           **(1) A state or local public benefit described under 8 U.S.C.**  
 21           **1621(b).**  
 22           **(2) Regulated public health services provided by a private**  
 23           **charity using private funds.**

24           **SECTION 15. IC 36-2-13-7.5 IS ADDED TO THE INDIANA**  
 25           **CODE AS A NEW CHAPTER TO READ AS FOLLOWS**  
 26           **[EFFECTIVE JULY 1, 2008]: Sec. 7.5. (a) The sheriff shall make a**  
 27           **reasonable effort to determine the citizenship status of a person**  
 28           **who is:**

29           **(1) charged with a felony or with operating a vehicle while**  
 30           **intoxicated; and**  
 31           **(2) confined, for any period, in a county jail.**

32           **(b) If the person described under subsection (a) is a foreign**  
 33           **national, the sheriff shall make a reasonable effort to verify that:**

34           **(1) the person has been lawfully admitted to the United States;**  
 35           **and**  
 36           **(2) if the person has been lawfully admitted, the lawful status**  
 37           **of the person has not expired.**

38           **(c) If the sheriff is unable to verify the lawful status of a person**  
 39           **described under subsection (a) from documents in possession of the**  
 40           **person, the sheriff shall attempt to verify the lawful status of the**  
 41           **person not later than forty-eight (48) hours through a query to the**  
 42           **Law Enforcement Support Center of the United States Department**

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1 of Homeland Security or another office or agency designated for  
2 the purpose of verifying the lawful status of persons by the United  
3 States Department of Homeland Security.

4 (d) If the sheriff is unable to verify the lawful status of a person  
5 under this section, the sheriff shall notify the United States  
6 Department of Homeland Security that the lawful status of a  
7 person described under subsection (a) could not be verified.

8 (e) If the sheriff determines that the person is not lawfully in the  
9 United States, the sheriff shall notify the United States Department  
10 of Homeland Security.

11 (f) This section may not be construed to deny a person bond or  
12 from being released from confinement if the person is otherwise  
13 eligible for release.

14 SECTION 16. [EFFECTIVE JULY 1, 2008] IC 35-44-5-2 and  
15 IC 35-44-5-3, both as added by this act, apply only to crimes  
16 committed after June 30, 2008.

17 SECTION 17. [EFFECTIVE JANUARY 1, 2009] IC 6-3-1-3.5, as  
18 amended by this act, and IC 6-3-2-22, as added by this act, apply  
19 only to taxable years beginning after December 31, 2008.

20 SECTION 18. [EFFECTIVE JULY 1, 2008] IC 6-3-4-16, as added  
21 by this act, applies to payments made after December 31, 2008.

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