A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO UNAUTHORIZED ALIENS.

(TEXT OF BILL begins on next page)
Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

1. Under the power of the referendum, as vested in the Legislature, the following measure, relating to unauthorized aliens, is enacted to become valid as a law if approved by the voters and on proclamation of the Governor:

   AN ACT

   AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.50; AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-269.29; AMENDING TITLE 13, CHAPTER 37, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 23-211 AND 23-214, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 6, ARTICLE 7.2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1080.02; RELATING TO UNAUTHORIZED ALIENS.

   Be it enacted by the Legislature of the State of Arizona:

   Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes, is amended by adding section 9-500.50, to read:

   9-500.50. E-verify program; public welfare monies; disbursement requirement; statewide concern

   A. If a city or town receives state monies for which a portion is used to fund any public welfare program, the city or town shall verify that an adult recipient is lawfully present in the United States under federal law by using the E-VERIFY program before disbursing public welfare monies and shall keep a record of the verification for at least three years.

   B. Due to the economic and fiscal impact of illegal immigration on this State, regulation of public welfare programs that use state monies is a matter of statewide concern.

   Sec. 2. Title 11, chapter 2, article 4, Arizona Revised Statutes, is amended by adding section 11-269.29, to read:

   11-269.29. E-verify program; public welfare monies; disbursement requirement; statewide concern

   A. If a county receives state monies for which a portion is used to fund any public welfare program, the county shall verify that an adult recipient is lawfully present in the United States under federal law by using the E-VERIFY program before disbursing public welfare monies and shall keep a record of the verification for at least three years.
B. DUE TO THE ECONOMIC AND FISCAL IMPACT OF ILLEGAL
IMMIGRATION ON THIS STATE, REGULATION OF PUBLIC WELFARE
PROGRAMS THAT USE STATE MONIES IS A MATTER OF STATEWIDE
CONCERN.

Sec. 3. Title 13, chapter 37, Arizona Revised Statutes, is amended by adding section 13-3733, to read:

13-3733. Obstruction of legal duty to use e-verify; unauthorized alien; classification

A. A PERSON COMMITS OBSTRUCTION OF THE LEGAL DUTY TO
USE E-VERIFY BY COMMITTING ANY COMPLETED OR PREPARATORY
OFFENSE FOR THE BENEFIT OF, AT THE DIRECTION OF OR IN
ASSOCIATION WITH ANY PERSON WHO HAS THE INTENT TO OBSTRUCT,
IMPAIR OR HINDER ANY PERSON FROM USING THE E-VERIFY PROGRAM AS
REQUIRED BY LAW.

B. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
CLASS 6 FELONY.

Sec. 4. Section 23-211, Arizona Revised Statutes, is amended to read:

23-211. Definitions

In this article, 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 after December 31,
2007.

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 INCLUDES the person or organization that uses the
contract labor.

5. "E-verify program" means the employment verification
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" has the same meaning prescribed in section 13-105.
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:
(i) Articles of incorporation under title 10.
(ii) A certificate of partnership, a partnership registration or articles of organization under title 29.
(iii) A grant of authority issued under title 10, chapter 15.
(iv) Any transaction privilege tax license.
(c) Does not include:
(i) Any license issued pursuant to title 45 or 49 or rules adopted pursuant to those titles.
(ii) Any professional license.
10. "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. 5. Section 23-214, Arizona Revised Statutes, is amended to read:

23-214. Verification of employment eligibility; e-verify program; economic development incentives; list of registered employers

A. After December 31, 2007, every employer, after hiring an employee, INDEPENDENT CONTRACTOR OR SUBCONTRACTOR shall verify the employment eligibility of the employee, INDEPENDENT CONTRACTOR OR SUBCONTRACTOR through the e-verify program and shall keep a record of the verification for the duration of the employee's, INDEPENDENT CONTRACTOR'S OR SUBCONTRACTOR'S employment or at least three years, whichever is longer.

B. 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:

1. "Economic development incentive" means any grant, loan or performance-based incentive from any government entity that is awarded after September 30, 2008. Economic development incentive does not include any tax provision under title 42 or 43.

2. "Government entity" means this state and any political subdivision of this state that receives and uses tax revenues.

C. 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. 6. Title 41, chapter 6, article 7.2, Arizona Revised Statutes, is amended by adding section 41-1080.02, to read:

41-1080.02. Agencies; licenses; e-verify program; definitions

A. NOTWITHSTANDING ANY OTHER LAW, ANY AGENCY THAT ISSUES LICENSES SHALL VERIFY THAT THE APPLICANT THAT IS SEEKING A LICENSE IS LAWFULLY PRESENT IN THE UNITED STATES AS AUTHORIZED BY FEDERAL LAW BY USING THE E-VERIFY PROGRAM BEFORE ISSUING THE DOCUMENT OR LICENSE AND SHALL KEEP A RECORD OF THE VERIFICATION FOR AT LEAST THREE YEARS.

B. FOR THE PURPOSES OF THIS SECTION:
    1. "AGENCY" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-1080.
    2. "LICENSE" HAS THE SAME MEANING PRESCRIBED IN SECTION 41-1080.

Sec. 7. Short title

This act shall be known and may be cited as the "Protecting Arizona Against Illegal Immigration Act".

2. The Secretary of State shall submit this proposition to the voters at the next general election as provided by article IV, part 1, section 1, Constitution of Arizona.