

1 SB140  
2 135923-1  
3 By Senator Dial  
4 RFD: Judiciary  
5 First Read: 07-FEB-12  
6 PFD: 02/02/2012

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: This bill would make revisions to the  
9 Beason-Hammon Alabama Taxpayer and Citizen  
10 Protection Act.

11 This bill would clarify the provision  
12 barring aliens who are unlawfully present from  
13 attending a public postsecondary institution.

14 This bill would repeal the provision making  
15 the rental of a dwelling to an alien who is  
16 unlawfully present criminal harboring, create an  
17 exemption for certain religious activities from the  
18 criminal harboring and transporting provisions,  
19 repeal the provision making it a crime to encourage  
20 or induce an illegal alien to reside in this state,  
21 and require the harboring and transportation  
22 provisions to be interpreted in the same manner  
23 that the federal courts interpret the parallel  
24 federal provision.

1           This bill would clarify the admissibility of  
2 a determination by the federal government of alien  
3 status for the purposes of criminal proceedings.

4           This bill would repeal provisions that deny  
5 bail based on a person's status as an illegal  
6 alien.

7           This bill would clarify that the provision  
8 governing the transfer of aliens who are unlawfully  
9 present to federal custody only applies to illegal  
10 aliens already in custody.

11           This bill would specify that the provision  
12 concerning contracting with illegal aliens applies  
13 prospectively to contracts entered into after the  
14 effective date of the provision.

15           This bill would delete the provisions  
16 relating to voter eligibility requirements and  
17 require the Secretary of State's office to educate  
18 and provide information to the district attorneys  
19 regarding state and federal laws and requirements,  
20 including criminal penalties, associated with  
21 attempts to register to vote by noncitizens.

22           This bill would require district attorneys  
23 to notify the Secretary of State of prosecutions  
24 brought against noncitizens who attempt to register  
25 to vote and would require the Secretary of State to  
26 compile an annual report regarding issues related

1 to this issue, including the information provided  
2 by the district attorneys.

3 This bill would clarify which "business  
4 transactions" unlawfully present aliens are  
5 prohibited from entering into with the state or a  
6 political subdivision of the state.

7 This bill also would repeal sections of the  
8 act relating to authorization of private lawsuits  
9 against public officials to compel enforcement of  
10 immigration laws and alien public education  
11 enrollment data.

12 Amendment 621 of the Constitution of Alabama  
13 of 1901, now appearing as Section 111.05 of the  
14 Official Recompilation of the Constitution of  
15 Alabama of 1901, as amended, prohibits a general  
16 law whose purpose or effect would be to require a  
17 new or increased expenditure of local funds from  
18 becoming effective with regard to a local  
19 governmental entity without enactment by a 2/3 vote  
20 unless: it comes within one of a number of  
21 specified exceptions; it is approved by the  
22 affected entity; or the Legislature appropriates  
23 funds, or provides a local source of revenue, to  
24 the entity for the purpose.

25 The purpose or effect of this bill would be  
26 to require a new or increased expenditure of local

1 funds within the meaning of the amendment. However,  
2 the bill does not require approval of a local  
3 governmental entity or enactment by a 2/3 vote to  
4 become effective because it comes within one of the  
5 specified exceptions contained in the amendment.

6  
7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 To amend Sections 8, 10, 11, 13, 19, 20, 27, 29, and  
12 30 of Act 2011-535, 2011 Regular Session, now appearing as  
13 Sections 31-13-8, 31-13-10, 31-13-11, 31-13-13, 31-13-18,  
14 31-13-19, 31-13-26, 31-13-28, and 31-13-29, Code of Alabama  
15 1975, and Section 32-6-9, Code of Alabama 1975, as amended by  
16 Section 18 of Act 2011-535, 2011 Regular Session, to: clarify  
17 the provision prohibiting illegal aliens from attending a  
18 public postsecondary institution; repeal the provision making  
19 the rental of a dwelling to an illegal alien criminal  
20 harboring; exempt certain religious activities from the  
21 criminal harboring and transporting provisions; repeal the  
22 provisions making it a crime of encouraging or inducing an  
23 illegal alien to reside in this state; require the harboring  
24 and transportation provisions to be interpreted in the same  
25 manner that federal courts interpret parallel federal  
26 provision; clarify the admissibility of a determination by the

1 federal government of alien status in criminal proceedings;  
2 repeal provisions that deny bail based on a person's status as  
3 an illegal alien; clarify that the provision governing the  
4 transfer of unlawfully present aliens to federal custody  
5 applies only to unauthorized aliens already in custody;  
6 specify that the provision barring enforcement in state court  
7 of contracts with illegal aliens applies prospectively to  
8 contracts entered into after the effective date of the  
9 provision; delete provisions relating to voter eligibility  
10 requirements; require the Secretary of State's office to  
11 educate and provide information to district attorneys  
12 regarding attempts to vote by noncitizens; require district  
13 attorneys to notify the Secretary of State of prosecutions  
14 brought against noncitizens who attempt to register to vote;  
15 require the Secretary of State to report to the Legislature  
16 regarding voting and immigration issues; modify the definition  
17 of "business transaction"; and repeal Sections 5 and 6,  
18 relating to the authorization of private lawsuits against  
19 public officials to compel enforcement of immigration laws,  
20 and Section 28, relating to alien public education enrollment  
21 data, of Act 2011-535, 2011 Regular Session, now appearing as  
22 Sections 31-13-5, 31-13-6, and 31-13-27, Code of Alabama 1975;  
23 and in connection therewith would have as its purpose or  
24 effect the requirement of a new or increased expenditure of  
25 local funds within the meaning of Amendment 621 of the  
26 Constitution of Alabama of 1901, now appearing as Section

1 111.05 of the Official Recompilation of the Constitution of  
2 Alabama of 1901, as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 8, 10, 11, and 13 of Act  
5 2011-535, 2011 Regular Session, now appearing as Sections  
6 31-13-8, 31-13-10, 31-13-11, and 31-13-13, Code of Alabama  
7 1975, are amended to read as follows:

8 "§31-13-8.

9 "An alien who is not lawfully present in the United  
10 States shall not be permitted to enroll in or attend any  
11 public postsecondary education institution in this state. ~~An~~  
12 ~~alien attending any public postsecondary institution in this~~  
13 ~~state must either possess lawful permanent residence or an~~  
14 ~~appropriate nonimmigrant visa under 8 U.S.C. § 1101, et seq.~~  
15 For the purposes of this section, a public postsecondary  
16 education institution officer may seek federal verification of  
17 an alien's immigration status with the federal government  
18 pursuant to 8 U.S.C. § 1373(c). A public postsecondary  
19 education institution officer or official shall not attempt to  
20 independently make a final determination of whether an alien  
21 is lawfully present in the United States. Except as otherwise  
22 provided by law, an alien who is not lawfully present in the  
23 United States shall not be eligible for any postsecondary  
24 education benefit, including, but not limited to,  
25 scholarships, grants, or financial aid.

26 "§31-13-10.

1           "(a) In addition to any violation of federal law, a  
2 person is guilty of willful failure to complete or carry an  
3 alien registration document if the person is in violation of 8  
4 U.S.C. § 1304(e) or 8 U.S.C. § 1306(a), and the person is an  
5 alien unlawfully present in the United States.

6           "(b) In the enforcement of this section, an alien's  
7 immigration status shall be determined by verification of the  
8 alien's immigration status with the federal government  
9 pursuant to 8 U.S.C. § 1373(c). A law enforcement officer  
10 shall not attempt to independently make a final determination  
11 of whether an alien is lawfully present in the United States.

12           "(c) A law enforcement official or agency of this  
13 state or a county, city, or other political subdivision of  
14 this state may not consider race, color, or national origin in  
15 the enforcement of this section except to the extent permitted  
16 by the United States Constitution and the Constitution of  
17 Alabama of 1901.

18           "(d) This section does not apply to a person who  
19 maintains authorization from the federal government to be  
20 present in the United States.

21           "(e) Any record that relates to the immigration  
22 status of a person is admissible in any court of this state  
23 without further foundation or testimony from a custodian of  
24 records if the record is certified as authentic by the federal  
25 government agency that is responsible for maintaining the  
26 record. A verification of an alien's immigration status



1 received from the federal government pursuant to 8 U.S.C. §  
2 1373(c) shall constitute proof of that alien's status. ~~A court~~  
3 ~~of this state shall consider only the federal government's~~  
4 ~~verification in determining whether an alien is lawfully~~  
5 ~~present in the United States.~~ A verification of an alien's  
6 immigration status received from the federal government  
7 pursuant to 8 U.S.C. § 1373(c) shall constitute evidence of  
8 that alien's status and is the only evidence of an alien's  
9 status upon which the state may rely.

10 "(f) An alien unlawfully present in the United  
11 States who is in violation of this section shall be guilty of  
12 a Class C misdemeanor and subject to a fine of not more than  
13 one hundred dollars (\$100) and not more than 30 days in jail.

14 "(g) A court shall collect the assessments  
15 prescribed in subsection (f) and remit 50 percent of the  
16 assessments to the general fund of the local government where  
17 the person was apprehended to be earmarked for law enforcement  
18 purposes, 25 percent of the assessments to the Alabama  
19 Department of Homeland Security, and 25 percent of the  
20 assessments to the Department of Public Safety.

21 "§31-13-11.

22 "(a) It is unlawful for a person who is an  
23 unauthorized alien to knowingly apply for work, solicit work  
24 in a public or private place, or perform work as an employee  
25 or independent contractor in this state.

1           "(b) In the enforcement of this section, an alien's  
2 immigration status shall be determined by verification of the  
3 alien's immigration status with the federal government  
4 pursuant to 8 U.S.C. § 1373(c). A law enforcement officer  
5 shall not attempt to independently make a final determination  
6 on whether an alien is authorized to work in the United  
7 States.

8           "(c) A law enforcement official or agency of this  
9 state or a county, city, or other political subdivision of  
10 this state may not consider race, color, or national origin in  
11 the enforcement of this section except to the extent permitted  
12 by the United States Constitution and the Constitution of  
13 Alabama of 1901.

14           "(d) This section does not apply to a person who  
15 maintains authorization from the federal government to be  
16 employed in the United States.

17           "(e) Any record that relates to the employment  
18 authorization of a person is admissible in any court of this  
19 state without further foundation or testimony from a custodian  
20 of records if the record is certified as authentic by the  
21 federal government agency that is responsible for maintaining  
22 the record. A verification of an alien's immigration status  
23 received from the federal government pursuant to 8 U.S.C. §  
24 1373(c) shall constitute proof of that alien's status. ~~A court~~  
25 ~~of this state shall consider only the federal government's~~  
26 ~~verification in determining whether a person is an~~

1 ~~unauthorized alien.~~ A verification of an alien's immigration  
2 status received from the federal government pursuant to 8  
3 U.S.C. § 1373(c) shall constitute evidence of that alien's  
4 status and is the only evidence of an alien's status upon  
5 which the state may rely.

6 "(f) It is unlawful for an occupant of a motor  
7 vehicle that is stopped on a street, roadway, or highway to  
8 attempt to hire or hire and pick up passengers for work at a  
9 different location if the motor vehicle blocks or impedes the  
10 normal movement of traffic.

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

16 "(h) A person who is in violation of this section  
17 shall be guilty of a Class C misdemeanor and subject to a fine  
18 of not more than five hundred dollars (\$500).

19 "(i) A court shall collect the assessments  
20 prescribed in subsection (h) and remit 50 percent of the  
21 assessments to the general fund of the local government where  
22 the person was apprehended to be earmarked for law enforcement  
23 purposes, 25 percent of the assessments to the Alabama  
24 Department of Homeland Security, and 25 percent of the  
25 assessments to the Department of Public Safety.

1           "(j) The terms of this section shall be interpreted  
2 consistently with 8 U.S.C. § 1324a and any applicable federal  
3 rules and regulations.

4           "§31-13-13.

5           "(a) It shall be unlawful for a person to do any of  
6 the following:

7           "(1) Conceal, harbor, or shield or attempt to  
8 conceal, harbor, or shield or conspire to conceal, harbor, or  
9 shield an alien from detection in any place in this state,  
10 including any building or any means of transportation, if the  
11 person knows or recklessly disregards the fact that the alien  
12 has come to, has entered, or remains in the United States in  
13 violation of federal law.

14           "~~(2) Encourage or induce an alien to come to or~~  
15 ~~reside in this state if the person knows or recklessly~~  
16 ~~disregards the fact that such coming to, entering, or residing~~  
17 ~~in the United States is or will be in violation of federal~~  
18 ~~law.~~

19           "~~(3)~~ (2) Transport, or attempt to transport, or  
20 conspire to transport in this state an alien in furtherance of  
21 the unlawful presence of the alien in the United States,  
22 knowingly, or in reckless disregard of the fact, that the  
23 alien has come to, entered, or remained in the United States  
24 in violation of federal law. ~~Conspiracy to be so transported~~  
25 ~~shall be a violation of this subdivision.~~

1           ~~"(4) Harbor an alien unlawfully present in the~~  
2 ~~United States by entering into a rental agreement, as defined~~  
3 ~~by Section 35-9A-141, with an alien to provide accommodations,~~  
4 ~~if the person knows or recklessly disregards the fact that the~~  
5 ~~alien is unlawfully present in the United States.~~

6           "(b) Any person violating this section is guilty of  
7 a Class A misdemeanor for each unlawfully present alien, the  
8 illegal presence of which in the United States and the State  
9 of Alabama, he or she is facilitating or is attempting to  
10 facilitate.

11           "(c) A person violating this section is guilty of a  
12 Class C felony when the violation involves 10 or more aliens,  
13 the illegal presence of which in the United States and the  
14 State of Alabama, he or she is facilitating or is attempting  
15 to facilitate.

16           "(d) Notwithstanding any other law, a law  
17 enforcement agency may securely transport an alien whom the  
18 agency has received verification from the federal government  
19 pursuant to 8 U.S.C. § 1373(c) is unlawfully present in the  
20 United States and who is in the agency's custody to a state  
21 approved facility, to a federal facility in this state, or to  
22 any other point of transfer into federal custody that is  
23 outside the jurisdiction of the law enforcement agency. A law  
24 enforcement agency shall obtain judicial or executive  
25 authorization from the Governor before securely transporting

1 an alien who is unlawfully present in the United States to a  
2 point of transfer that is outside this state.

3 "(e) Notwithstanding any other law, any person  
4 acting in his or her official capacity as a first responder or  
5 protective services provider may harbor, shelter, move, or  
6 transport an alien unlawfully present in the United States  
7 pursuant to state law.

8 "(f) Any conveyance, including any vessel, vehicle,  
9 or aircraft, that has been or is being used in the commission  
10 of a violation of this section, and the gross proceeds of such  
11 a violation, shall be subject to civil forfeiture under the  
12 procedures of Section 20-2-93.

13 "(g) In the enforcement of this section, an alien's  
14 immigration status shall be determined by verification of the  
15 alien's immigration status with the federal government  
16 pursuant to 8 U.S.C. § 1373(c). A law enforcement officer  
17 shall not attempt to independently make a final determination  
18 of whether an alien is lawfully present in the United States.

19 "(h) Any record that relates to the immigration  
20 status of a person is admissible in any court of this state  
21 without further foundation or testimony from a custodian of  
22 records if the record is certified as authentic by the federal  
23 government agency that is responsible for maintaining the  
24 record. A verification of an alien's immigration status  
25 received from the federal government pursuant to 8 U.S.C. §  
26 1373(c) shall constitute proof of that alien's status. ~~A court~~

1 ~~of this state shall consider only the federal government's~~  
2 ~~verification in determining whether an alien is lawfully~~  
3 ~~present in the United States. A verification of an alien's~~  
4 ~~immigration status received from the federal government~~  
5 ~~pursuant to 8 U.S.C. § 1373(c) shall constitute evidence of~~  
6 ~~that alien's status and is the only evidence of an alien's~~  
7 ~~status upon which the state may rely.~~

8 "(i) It is not a violation of this section for a  
9 religious denomination having a bona fide nonprofit, religious  
10 organization in the United States, or the agents or officers  
11 of such denomination or organization, to encourage, invite,  
12 call, allow, or enable an alien who is present in the United  
13 States to perform the vocation of a minister or missionary for  
14 the denomination or organization in the United States as a  
15 volunteer who is not compensated as an employee,  
16 notwithstanding the provision of room, board, travel, medical  
17 assistance, and other basic living expenses, provided the  
18 minister or missionary has been a member of the denomination  
19 for at least one year.

20 "(j) This section shall be interpreted in a manner  
21 consistent with federal courts' interpretation of 8 U.S.C. §  
22 1324."

23 Section 2. Section 18 of Act 2011-535 of the 2011  
24 Regular Session, amending Section 32-6-9, Code of Alabama  
25 1975, is amended to read as follows:

26 "§32-6-9.

1           "(a) Every licensee shall have his or her license in  
2 his or her immediate possession at all times when driving a  
3 motor vehicle and shall display the same, upon demand of a  
4 judge of any court, a peace officer or a state trooper.  
5 However, no person charged with violating this section shall  
6 be convicted if he or she produces in court or the office of  
7 the arresting officer a driver's license theretofore issued to  
8 him or her and valid at the time of his or her arrest.

9           "(b) Notwithstanding Section 32-1-4, if a law  
10 officer arrests a person for a violation of this section and  
11 the officer is unable to determine by any other means that the  
12 person has a valid driver's license, the officer shall  
13 transport the person to the nearest or most accessible  
14 magistrate.

15           "(c) A reasonable effort shall be made to determine  
16 the citizenship of the person and if an alien, whether the  
17 alien is lawfully present in the United States by verification  
18 with the federal government pursuant to 8 U.S.C. § 1373(c). An  
19 officer shall not attempt to independently make a final  
20 determination of whether an alien is lawfully present in the  
21 United States.

22           "(d) A verification inquiry, pursuant to 8 U.S.C. §  
23 1373(c), shall be made within 48 hours to the Law Enforcement  
24 Support Center of the United States Department of Homeland  
25 Security or other office or agency designated for that purpose  
26 by the federal government. ~~If the person is determined to be~~



1 ~~an alien unlawfully present in the United States, the person~~  
2 ~~shall be considered a flight risk and shall be detained until~~  
3 ~~prosecution or until handed over to federal immigration~~  
4 ~~authorities."~~

5 Section 3. Sections 19, 20, 27, 29, and 30 of Act  
6 2011-535, 2011 Regular Session, now appearing as Sections  
7 31-13-18, 31-13-19, 31-13-26, 31-13-28, and 31-13-29, Code of  
8 Alabama 1975, are amended to read as follows:

9 "§31-13-18.

10 "(a) When a person is charged with a crime for which  
11 bail is required, or is confined for any period in a state,  
12 county, or municipal jail, a reasonable effort shall be made  
13 to determine if the person is an alien unlawfully present in  
14 the United States by verification with the federal government  
15 pursuant to 8 U.S.C. § 1373(c).

16 "(b) A verification inquiry, pursuant to 8 U.S.C. §  
17 1373(c), shall be made within 48 hours to the Law Enforcement  
18 Support Center of the United States Department of Homeland  
19 Security or other office or agency designated for that purpose  
20 by the federal government. ~~If the person is determined to be~~  
21 ~~an alien unlawfully present in the United States, the person~~  
22 ~~shall be considered a flight risk and shall be detained until~~  
23 ~~prosecution or until handed over to federal immigration~~  
24 ~~authorities.~~

25 "§31-13-19.

1            "If an alien who is unlawfully present in the United  
2 States is convicted of a violation of state or local law and  
3 is within 30 days of release ~~or has paid any fine as required~~  
4 ~~by operation of law~~, the agency responsible for his or her  
5 incarceration shall notify the United States Bureau of  
6 Immigration and Customs Enforcement and the Alabama Department  
7 of Homeland Security, pursuant to 8 U.S.C. § 1373. The Alabama  
8 Department of Homeland Security shall assist in the  
9 coordination of the transfer of the prisoner to the  
10 appropriate federal immigration authorities; however, the  
11 ~~Alabama Department of Corrections~~ agency responsible for his  
12 or her incarceration shall maintain custody during any  
13 transfer of the individual.

14            "§31-13-26.

15            "(a) No court of this state shall enforce the terms  
16 of, or otherwise regard as valid, any contract between a party  
17 and an alien unlawfully present in the United States, if the  
18 party had direct or constructive knowledge that the alien was  
19 unlawfully present in the United States at the time the  
20 contract was entered into, and the performance of the contract  
21 required the alien to remain unlawfully present in the United  
22 States for more than 24 hours after the time the contract was  
23 entered into or performance could not reasonably be expected  
24 to occur without such remaining.

25            "(b) This section shall not apply to a contract for  
26 lodging for one night, a contract for the purchase of food to

1 be consumed by the alien, a contract for medical services, or  
2 a contract for transportation of the alien that is intended to  
3 facilitate the alien's return to his or her country of origin.

4 "(c) This section shall not apply to a contract  
5 authorized by federal law.

6 "(d) In proceedings of the court, the determination  
7 of whether an alien is unlawfully present in the United States  
8 shall be made by the federal government, pursuant to 8 U.S.C.  
9 § 1373(c). The court shall consider only the federal  
10 government's determination when deciding whether an alien is  
11 unlawfully present in the United States. The court may take  
12 judicial notice of any verification of an individual's  
13 immigration status previously provided by the federal  
14 government and may request the federal government to provide  
15 further automated or testimonial verification.

16 "(e) This section only applies to contracts entered  
17 into after September 1, 2011.

18 "§31-13-28.

19 "~~(a) Applications for voter registration shall~~  
20 ~~contain voter eligibility requirements and such information as~~  
21 ~~is necessary to prevent duplicative voter registrations and~~  
22 ~~enable the relevant election officer to assess the eligibility~~  
23 ~~of the applicant and to administer voter registration,~~  
24 ~~identify the applicant and to determine the qualifications of~~  
25 ~~the applicant as an elector and the facts authorizing such~~  
26 ~~person to be registered. Applications shall contain a~~

1 ~~statement that the applicant shall be required to provide~~  
2 ~~qualifying identification when voting.~~

3 ~~"(b) The Secretary of State shall create a process~~  
4 ~~for the county election officer to check to indicate whether~~  
5 ~~an applicant has provided with the application the information~~  
6 ~~necessary to assess the eligibility of the applicant,~~  
7 ~~including the applicant's United States citizenship. This~~  
8 ~~section shall be interpreted and applied in accordance with~~  
9 ~~federal law. No eligible applicant whose qualifications have~~  
10 ~~been assessed shall be denied registration.~~

11 ~~"(c) The county election officer or Secretary of~~  
12 ~~State's office shall accept any completed application for~~  
13 ~~registration, but an applicant shall not be registered until~~  
14 ~~the applicant has provided satisfactory evidence of United~~  
15 ~~States citizenship. Satisfactory evidence of United States~~  
16 ~~citizenship shall be provided in person at the time of filing~~  
17 ~~the application for registration or by including, with a~~  
18 ~~mailed registration application, a photocopy of one of the~~  
19 ~~documents listed as evidence of United States citizenship in~~  
20 ~~subsection (k). After a person has submitted satisfactory~~  
21 ~~evidence of citizenship, the county election officer shall~~  
22 ~~indicate this information in the person's permanent voter~~  
23 ~~file.~~

24 ~~"(d) Any person who is registered in this state on~~  
25 ~~September 1, 2011, is deemed to have provided satisfactory~~

1 ~~evidence of United States citizenship and shall not be~~  
2 ~~required to submit evidence of citizenship.~~

3 ~~"(e) For purposes of this section, proof of voter~~  
4 ~~registration from another state is not satisfactory evidence~~  
5 ~~of United States citizenship.~~

6 ~~"(f) A registered voter who moves from one residence~~  
7 ~~to another within the state or who modifies his or her voter~~  
8 ~~registration records for any other reason shall not be~~  
9 ~~required to submit evidence of United States citizenship.~~

10 ~~"(g) If evidence of United States citizenship is~~  
11 ~~deemed to be unsatisfactory due to an inconsistency between~~  
12 ~~the document submitted as evidence and the name or sex~~  
13 ~~provided on the application for registration, such applicant~~  
14 ~~may sign an affidavit containing both of the following:~~

15 ~~"(1) Stating the inconsistency or inconsistencies~~  
16 ~~related to the name or sex, and the reason therefor.~~

17 ~~"(2) Swearing under oath that, despite the~~  
18 ~~inconsistency, the applicant is the individual reflected in~~  
19 ~~the document provided as evidence of citizenship.~~

20 ~~"(h) There shall be no inconsistency between the~~  
21 ~~date of birth on the document provided as evidence of~~  
22 ~~citizenship and the date of birth provided on the application~~  
23 ~~for registration. If such an affidavit is submitted by the~~  
24 ~~applicant, the county election officer or Secretary of State~~  
25 ~~shall assess the eligibility of the applicant without regard~~  
26 ~~to any inconsistency stated in the affidavit.~~

1           ~~"(i) All documents submitted as evidence of United~~  
2 ~~States citizenship shall be kept confidential by the county~~  
3 ~~election officer or the Secretary of State and maintained as~~  
4 ~~provided by record retention laws.~~

5           ~~"(j) Nothing in this section shall prohibit an~~  
6 ~~applicant from providing, or the Secretary of State or county~~  
7 ~~election officer from obtaining, satisfactory evidence of~~  
8 ~~United States citizenship, as described in this section, at a~~  
9 ~~different time or in a different manner than an application~~  
10 ~~for registration is provided, as long as the applicant's~~  
11 ~~eligibility can be adequately assessed by the Secretary of~~  
12 ~~State or county election officer as required by this section.~~

13           ~~"(k) Evidence of United States citizenship shall be~~  
14 ~~demonstrated by one of the following documents, or a legible~~  
15 ~~photocopy of one of the following documents:~~

16           ~~"(1) The applicant's driver's license or nondriver's~~  
17 ~~identification card issued by the division of motor vehicles~~  
18 ~~or the equivalent governmental agency of another state within~~  
19 ~~the United States if the agency indicates on the applicant's~~  
20 ~~driver's license or nondriver's identification card that the~~  
21 ~~person has provided satisfactory proof of United States~~  
22 ~~citizenship.~~

23           ~~"(2) The applicant's birth certificate that verifies~~  
24 ~~United States citizenship to the satisfaction of the county~~  
25 ~~election officer or Secretary of State.~~

1           ~~"(3) Pertinent pages of the applicant's United~~  
2           ~~States valid or expired passport identifying the applicant and~~  
3           ~~the applicant's passport number, or presentation to the county~~  
4           ~~election officer of the applicant's United States passport.~~

5           ~~"(4) The applicant's United States naturalization~~  
6           ~~documents or the number of the certificate of naturalization.~~  
7           ~~If only the number of the certificate of naturalization is~~  
8           ~~provided, the applicant shall not be included in the~~  
9           ~~registration rolls until the number of the certificate of~~  
10           ~~naturalization is verified with the United States Bureau of~~  
11           ~~Citizenship and Immigration Services by the county election~~  
12           ~~officer or the Secretary of State, pursuant to 8 U.S.C. §~~  
13           ~~1373(c).~~

14           ~~"(5) Other documents or methods of proof of United~~  
15           ~~States citizenship issued by the federal government pursuant~~  
16           ~~to the Immigration and Nationality Act of 1952, and amendments~~  
17           ~~thereto.~~

18           ~~"(6) The applicant's Bureau of Indian Affairs card~~  
19           ~~number, tribal treaty card number, or tribal enrollment~~  
20           ~~number.~~

21           ~~"(7) The applicant's consular report of birth abroad~~  
22           ~~of a citizen of the United States of America.~~

23           ~~"(8) The applicant's certificate of citizenship~~  
24           ~~issued by the United States Citizenship and Immigration~~  
25           ~~Services.~~

1           ~~"(9) The applicant's certification of report of~~  
2 ~~birth issued by the United States Department of State.~~

3           ~~"(10) The applicant's American Indian card, with KIC~~  
4 ~~classification, issued by the United States Department of~~  
5 ~~Homeland Security.~~

6           ~~"(11) The applicant's final adoption decree showing~~  
7 ~~the applicant's name and United States birthplace.~~

8           ~~"(12) The applicant's official United States~~  
9 ~~military record of service showing the applicant's place of~~  
10 ~~birth in the United States.~~

11           ~~"(13) An extract from a United States hospital~~  
12 ~~record of birth created at the time of the applicant's birth~~  
13 ~~indicating the applicant's place of birth in the United~~  
14 ~~States.~~

15           ~~"(1) There is hereby established the State Election~~  
16 ~~Board, consisting of the Secretary of State, the Attorney~~  
17 ~~General, and the Lieutenant Governor. The State Election Board~~  
18 ~~shall meet on the call of the Secretary of State. The State~~  
19 ~~Election Board shall do both of the following:~~

20           ~~"(1) Assess information provided by any applicant~~  
21 ~~for voter registration as evidence of citizenship pursuant to~~  
22 ~~subsection (m).~~

23           ~~"(2) Adopt rules to implement subsection (m).~~

24           ~~"(m) (1) If an applicant is a United States citizen~~  
25 ~~but does not have any of the documentation listed in this~~  
26 ~~section as satisfactory evidence of United States citizenship,~~



1 ~~the applicant may submit any evidence that the applicant~~  
2 ~~believes demonstrates the applicant's United States~~  
3 ~~citizenship.~~

4 ~~"(2) Any applicant seeking an assessment of evidence~~  
5 ~~under this section may directly contact the office of the~~  
6 ~~Secretary of State by submitting a voter registration~~  
7 ~~application or the national voter registration form and any~~  
8 ~~supporting evidence of United States citizenship. Upon receipt~~  
9 ~~of this information, the Secretary of State shall notify the~~  
10 ~~State Election Board that such application is pending.~~

11 ~~"(3) The State Election Board shall give the~~  
12 ~~applicant an opportunity for a hearing, upon the applicant's~~  
13 ~~request in writing, and an opportunity to present any~~  
14 ~~additional evidence to the State Election Board. Notice of~~  
15 ~~such hearing shall be given to the applicant at least five~~  
16 ~~days prior to the hearing date. An applicant shall have the~~  
17 ~~opportunity to be represented by counsel at such hearing.~~

18 ~~"(4) The State Election Board shall assess the~~  
19 ~~evidence provided by the applicant to determine whether the~~  
20 ~~applicant has provided satisfactory evidence of United States~~  
21 ~~citizenship. A decision of the State Election Board shall be~~  
22 ~~determined by a majority vote of the board.~~

23 ~~"(5) If an applicant submits an application and any~~  
24 ~~supporting evidence prior to the close of registration for an~~  
25 ~~election cycle, a determination by the State Election Board~~  
26 ~~shall be issued at least five days before such election date.~~

1           ~~"(6) If the State Election Board finds that the~~  
2 ~~evidence presented by the applicant constitutes satisfactory~~  
3 ~~evidence of United States citizenship, the applicant shall~~  
4 ~~meet the requirements under this section to provide~~  
5 ~~satisfactory evidence of United States citizenship.~~

6           ~~"(7) If the State Election Board finds that the~~  
7 ~~evidence presented by an applicant does not constitute~~  
8 ~~satisfactory evidence of United States citizenship, the~~  
9 ~~applicant shall have the right to appeal such determination by~~  
10 ~~the State Election Board by instituting an action under 8~~  
11 ~~U.S.C. § 1503. Any negative assessment of an applicant's~~  
12 ~~eligibility by the State Election Board shall be reversed if~~  
13 ~~the applicant obtains a declaratory judgment pursuant to 8~~  
14 ~~U.S.C. § 1503, demonstrating that the applicant is a national~~  
15 ~~of the United States.~~

16           ~~"(n) (1) The Department of Public Health shall not~~  
17 ~~charge or accept any fee for a certified copy of a birth~~  
18 ~~certificate if the certificate is requested by any person who~~  
19 ~~is 17 years of age or older for purposes of meeting the voter~~  
20 ~~registration requirements of this chapter. The person~~  
21 ~~requesting a certified copy of a birth certificate shall swear~~  
22 ~~under oath to both of the following:~~

23           ~~"a. That the person plans to register to vote in~~  
24 ~~this state.~~

1           ~~"b. That the person does not possess any of the~~  
2 ~~documents that constitute evidence of United States~~  
3 ~~citizenship as defined in this chapter.~~

4           ~~"(2) The affidavit shall specifically list the~~  
5 ~~documents that constitute evidence of United States~~  
6 ~~citizenship as defined in this chapter.~~

7           "(a) The Secretary of State's office shall educate  
8 and provide information to the district attorneys regarding  
9 state and federal laws and requirements, including criminal  
10 penalties, associated with noncitizens attempting to register  
11 to vote in this state.

12           "(b) (1) The district attorneys shall notify the  
13 Secretary of State of any prosecutions for perjury brought  
14 against noncitizens who attempt to register to vote in  
15 violation of state law.

16           "(2) The Secretary of State shall compile an annual  
17 report regarding issues related to noncitizens attempting to  
18 register to vote, including the information provided by the  
19 district attorneys under subdivision (1), to the Legislature  
20 by October 1 of each year.

21           "§31-13-29.

22           "(a) For the purposes of this section, a business  
23 transaction includes any is a transaction between a person and  
24 the state or a political subdivision of the state, ~~including,~~  
25 ~~but not limited to, applying for or renewing a motor vehicle~~  
26 ~~license plate, applying for or renewing a driver's license or~~

1 ~~nondriver identification card, or applying for or renewing a~~  
2 ~~business license. Business transaction does not include~~  
3 ~~applying for a marriage license. concerning the issuance of~~  
4 any of the following:

5 "(1) Driver's license or nondriver identification  
6 card.

7 "(2) Motor vehicle license plate.

8 "(3) Business license.

9 "(b) An alien not lawfully present in the United  
10 States shall not enter into or attempt to enter into a  
11 business transaction ~~with the state or a political subdivision~~  
12 ~~of the state~~ and no person shall enter into a business  
13 transaction or attempt to enter into a business transaction on  
14 behalf of an alien not lawfully present in the United States.

15 "(c) Any person entering into a business transaction  
16 or attempting to enter into a business transaction ~~with this~~  
17 ~~state or a political subdivision of this state~~ shall be  
18 required to demonstrate his or her United States citizenship,  
19 or if he or she is an alien, his or her lawful presence in the  
20 United States to the person conducting the business  
21 transaction on behalf of this state or a political subdivision  
22 of this state. ~~United States citizenship shall be demonstrated~~  
23 ~~by presentation of one of the documents listed in subsection~~  
24 ~~(k) of Section 31-13-28.~~ An alien's lawful presence in the  
25 United States shall be demonstrated by this state's or a  
26 political subdivision of this state's verification of the

1 alien's lawful presence through the Systematic Alien  
2 Verification for Entitlements program operated by the  
3 Department of Homeland Security, or by other verification with  
4 the Department of Homeland Security pursuant to 8 U.S.C. §  
5 1373(c). United States citizenship shall be demonstrated by  
6 presentation of one of the following documents:

7 "(1) The applicant's driver's license or nondriver's  
8 identification card issued by the division of motor vehicles  
9 or the equivalent governmental agency of another state within  
10 the United States if the agency indicates on the applicant's  
11 driver's license or nondriver's identification card that the  
12 person has provided satisfactory proof of United States  
13 citizenship.

14 "(2) The applicant's birth certificate that verifies  
15 United States citizenship.

16 "(3) Pertinent pages of the applicant's United  
17 States valid or expired passport identifying the applicant and  
18 the applicant's passport number, or presentation to the person  
19 conducting the business transaction on behalf of this state or  
20 a political subdivision of this state of the applicant's  
21 United States passport.

22 "(4) The applicant's United States naturalization  
23 documents or the number of the certificate of naturalization.  
24 If only the number of the certificate of naturalization is  
25 provided, the applicant shall not be included in the  
26 registration rolls until the number of the certificate of

1 naturalization is verified with the United States Bureau of  
2 Citizenship and Immigration Services by the federal  
3 government, pursuant to 8 U.S.C. § 1373(c), by the person  
4 conducting the business transaction on behalf of this state or  
5 a political subdivision of this state.

6 "(5) Other documents or methods of proof of United  
7 States citizenship issued by the federal government pursuant  
8 to the Immigration and Nationality Act of 1952, and amendments  
9 thereto.

10 "(6) The applicant's Bureau of Indian Affairs card  
11 number, tribal treaty card number, or tribal enrollment  
12 number.

13 "(7) The applicant's consular report of birth abroad  
14 of a citizen of the United States of America.

15 "(8) The applicant's certificate of citizenship  
16 issued by the United States Citizenship and Immigration  
17 Services.

18 "(9) The applicant's certification of report of  
19 birth issued by the United States Department of State.

20 "(10) The applicant's American Indian card, with KIC  
21 classification, issued by the United States Department of  
22 Homeland Security.

23 "(11) The applicant's final adoption decree showing  
24 the applicant's name and United States birthplace.

1           "(12) The applicant's official United States  
2 military record of service showing the applicant's place of  
3 birth in the United States.

4           "(13) An extract from a United States hospital  
5 record of birth created at the time of the applicant's birth  
6 indicating the applicant's place of birth in the United  
7 States.

8           "(d) A violation of this section is a Class C  
9 felony.

10           "(e) An ~~agency~~ official of this state or a ~~county,~~  
11 ~~city, town, or other~~ political subdivision of this state may  
12 not consider race, color, or national origin in the  
13 enforcement of this section except to the extent permitted by  
14 the United States Constitution or the Constitution of Alabama  
15 of 1901.

16           ~~"(f) In the enforcement of this section, an alien's~~  
17 ~~immigration status shall be determined by verification of the~~  
18 ~~alien's immigration status with the federal government~~  
19 ~~pursuant to 8 U.S.C. § 1373(c).~~ An official of this state or  
20 political subdivision of this state shall not attempt to  
21 independently make a final determination of whether an alien  
22 is lawfully present in the United States."

23           Section 4. Sections 5 and 6 of Act 2011-535, 2011  
24 Regular Session, now appearing as Sections 31-13-5 and  
25 31-13-6, Code of Alabama 1975, relating to the authorization  
26 of private lawsuits against public officials to compel

1 enforcement of immigration laws, are repealed. Section 28,  
2 relating to public education enrollment data, of Act 2011-535,  
3 2011 Regular Session, now appearing as Section 31-13-27, Code  
4 of Alabama 1975, is repealed.

5 Section 5. Although this bill would have as its  
6 purpose or effect the requirement of a new or increased  
7 expenditure of local funds, the bill is excluded from further  
8 requirements and application under Amendment 621, now  
9 appearing as Section 111.05 of the Official Recompilation of  
10 the Constitution of Alabama of 1901, as amended, because the  
11 bill defines a new crime or amends the definition of an  
12 existing crime.

13 Section 6. This act shall become effective  
14 immediately following its passage and approval by the  
15 Governor, or its otherwise becoming law.