

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 48**

Introduced by Janssen, 15.

Read first time January 06, 2011

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to immigration; to adopt the Illegal Immigration
- 2 Enforcement Act; to provide penalties; and to provide
- 3 severability.
- 4 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 8 of this act shall be known and  
2 may be cited as the Illegal Immigration Enforcement Act.

3           Sec. 2. The Illegal Immigration Enforcement Act shall be  
4 implemented in a manner consistent with federal laws regulating  
5 immigration, protecting the civil rights of all persons, and  
6 respecting the privileges and immunities of United States citizens.  
7 For purposes of the act, a peace officer's reasonable suspicion shall  
8 not be based solely upon a person's race, color, religion, sex, or  
9 national origin.

10           Sec. 3. (1) No official or agency of this state or a  
11 county, city, or other political subdivision of this state may limit  
12 or restrict the enforcement of federal immigration laws to less than  
13 the full extent permitted by federal law. Furthermore, except as  
14 provided in federal law, no official or agency of this state or a  
15 county, city, or other political subdivision of this state shall  
16 prohibit or in any way restrict the sending, receiving, or  
17 maintaining of information related to a person's immigration status  
18 for the following official purposes:

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

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

1           (c) Determining whether the person is in compliance with  
2 the federal registration laws prescribed by Title II, Chapter 7 of  
3 the federal Immigration and Nationality Act, as amended; or

4           (d) Pursuant to 8 U.S.C. 1373 and 8 U.S.C. 1644, as  
5 amended.

6           (2)(a) A peace officer shall determine the immigration  
7 status of a person who has been lawfully stopped, detained, or  
8 arrested when reasonable suspicion exists that the person is  
9 unlawfully present in the United States.

10           (b) If reasonable suspicion exists that an incarcerated  
11 person is unlawfully present in the United States, then the custodial  
12 authority shall determine the person's immigration status prior to  
13 his or her release from custody.

14           (c) If it is determined that a person is unlawfully  
15 present in the United States, the peace officer or custodial  
16 authority shall immediately notify the United States Immigration and  
17 Customs Enforcement or the United States Customs and Border  
18 Protection of the person's unlawful presence.

19           (d) A person's lawful presence in the United States can  
20 be demonstrated by his or her production of one of the following  
21 documents:

22           (i) A valid state motor vehicle operator's license;

23           (ii) A valid state or tribal identification card; or

24           (iii) Any valid federal, state, or tribal government  
25 issued identification when such entity requires proof of lawful

1 presence in the United States prior to issuance.

2 (3) Notwithstanding any other law, a law enforcement  
3 agency may securely transport a person who is unlawfully present in  
4 the United States and who is in the law enforcement agency's custody  
5 to a federal facility in this state or to any other point of transfer  
6 into federal custody that is outside the jurisdiction of the law  
7 enforcement agency.

8 (4) For purposes of this section, law enforcement agency  
9 means a police department, a town marshal, the office of sheriff, and  
10 the Nebraska State Patrol.

11 Sec. 4. (1)(a) Any person in this state who is required  
12 by federal law to register pursuant to 8 U.S.C. 1306(a), as amended,  
13 and fails to do so is guilty of a Class II misdemeanor.

14 (b) Any person in this state who is required to carry any  
15 certificate of alien registration or alien registration receipt card  
16 issued to him or her pursuant to 8 U.S.C. 1304(d), as amended, as  
17 required by 8 U.S.C. 1304(e), as amended, and fails to do so is  
18 guilty of a Class V misdemeanor.

19 (2) Any record that relates to the immigration status of  
20 a person is admissible in any court without further foundation or  
21 testimony from a custodian of records and judicial notice may be  
22 taken of the record if it is certified as authentic by the government  
23 agency that is responsible for maintaining the record.

24 Sec. 5. (1) It is unlawful for a person who is unlawfully  
25 present in the United States to work as an employee or independent

1 contractor in this state.

2 (2) A violation of this section is a Class I misdemeanor.

3 Sec. 6. (1) No person shall knowingly or recklessly  
4 conceal, harbor, transport, move, or attempt to conceal, harbor,  
5 transport, or move, in this state for the purpose of shielding from  
6 detection, a person who is unlawfully present in the United States.

7 (2) No person shall knowingly or recklessly encourage or  
8 induce a person who is unlawfully present in the United States to  
9 come to or reside in this state.

10 (3) A violation of subsection (1) or (2) of this section  
11 is a Class I misdemeanor. A separate offense may be charged for each  
12 unlawfully present person involved in the violation of such  
13 subsections.

14 Sec. 7. In the implementation of the Illegal Immigration  
15 Enforcement Act, a person's immigration status may be determined by:  
16 (1) A peace officer who is authorized by the federal government to  
17 verify or ascertain a person's immigration status; or (2) the United  
18 States Immigration and Customs Enforcement or the United States  
19 Customs and Border Protection pursuant to 8 U.S.C. 1373, as amended.

20 Sec. 8. If any one or more provisions, sections,  
21 subsections, sentences, clauses, phrases, or words of the Illegal  
22 Immigration Enforcement Act or the application thereof to any person  
23 or circumstance is found to be unconstitutional, the same is hereby  
24 declared to be severable and the balance of the Illegal Immigration  
25 Enforcement Act shall remain effective notwithstanding such

1 unconstitutionality. The Legislature hereby declares that it would  
2 have passed the Illegal Immigration Enforcement Act, and each  
3 provision, section, subsection, sentence, clause, phrase, or word  
4 thereof, irrespective of the fact that any one or more provisions,  
5 sections, subsections, sentences, clauses, phrases, or words of the  
6 Illegal Immigration Enforcement Act, or the application of the  
7 Illegal Immigration Enforcement Act, would be declared  
8 unconstitutional.