

HOUSE BILL 06S-1023

**VERIFICATION OF LAWFUL PRESENCE
ANNUAL COMPLIANCE REPORT
CALENDAR YEAR 2009**

COLORADO REVISED STATUTES—TITLE 24, ARTICLE 76.5

**Submitted to the Colorado Senate State, Veterans, and Military Affairs Committee and
the House of Representatives State, Veterans, and Military Affairs Committees**

**Colorado Department of Labor and Employment
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**Prepared in compliance with Colorado Revised Statutes Title 24, Article 76.5
by staff of the Colorado Department of Labor and Employment**

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COLORADO REVISED STATUTES—TITLE 24, ARTICLE 76.5 REPORTING REQUIREMENTS

Colorado Revised Statutes Title 24, Article 76.5 requires the Colorado Department of Labor and Employment to submit this report by January 15, 2010, providing status on its compliance with this statute to verify the lawful presence in the United States of each person eighteen years of age or older who applies for state or local public benefits or for federal public benefits for the applicant.

This report complies with this requirement.

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PART I. STATUTE AND PROGRAM OVERVIEW

Colorado Revised Statutes—Title 24, Article 76.5

Effective August 1, 2006, House Bill (HB) 06S-1023 became law by amending Title 24 of the Colorado Revised Statutes and enacting Article 76.5, Restrictions on Public Benefits. This statute requires each state agency or political subdivision providing “state or local public benefits” to require persons 18 years of age or older to provide proof that they are lawfully present in the United States prior to receipt of public benefits. The law defines state or local public benefits by referring to U.S. Code 8, Section 1621.

This statute also requires a person applying for benefits to sign an affidavit stating that he or she is a U.S. citizen or legal permanent resident. The law prohibits state agencies or political subdivisions from providing benefits that are in violation of this statute. This statute establishes reporting requirements, and each state agency is required to subscribe to the U.S. Department of Homeland Security’s Systematic Alien Verification for Entitlements (SAVE) Program.

Colorado Department of Labor and Employment

The Colorado Department of Labor and Employment administers the following programs that provide state public benefits.

Workforce Investment Act Program. The federal Workforce Investment Act of 1998 requires states to design and manage training and employer programs at the local government level where the needs of businesses and individuals are best understood. Through the Workforce Investment Act Program, individuals receive core services, such as outreach, initial assessment of skills and needs, and job-search and placement assistance. Through one-stop centers, eligible individuals also receive access to intensive services such as comprehensive assessments and development of individual employment plans, and to training services such as occupational-skills training and on-the-job training.

Trade Adjustment Assistance Program. The Trade Act of 1974 provides benefits to workers who lose their jobs, whose hours of work and wages are reduced because of increased imports, or whose jobs were exported offshore (“trade-affected workers”). Trade Adjustment Assistance benefits include a variety of reemployment services designed to help trade-affected workers prepare for and obtain suitable employment. Workers may be eligible for training, a job-search allowance, a relocation allowance, health-coverage tax credit, alternative trade adjustment assistance for workers over the age of fifty, and other reemployment services.

Unemployment Insurance Program. A 1937 legislative declaration by the Colorado General Assembly provided that the purpose of the Colorado Department of Labor and Employment’s Unemployment Insurance Program is to provide economic security and stability to the citizens of Colorado by safeguarding the income and purchasing power of the unemployed worker. The Unemployment Insurance Program provides temporary and partial wage replacement to workers who have become unemployed through no fault of their own. The program is funded by employer-paid premiums and provides benefits to those who meet the eligibility requirements of the Colorado Employment Security Act.

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PART II. VERIFYING LAWFUL PRESENCE TO DETERMINE PROGRAM ELIGIBILITY

Workforce Investment Act and Trade Adjustment Assistance Programs

To comply with the requirements of HB 06S-1023, the Colorado Department of Labor and Employment issued a policy letter on August 1, 2006, mandating verification of immigration status through the federal SAVE Program. This policy was implemented by staff in the statewide system of local workforce centers, which are the providers of Workforce Investment Act and Trade Adjustment Assistance services.

In addition, the Colorado Department of Labor and Employment conducted an optional 6-month pilot project at the state level to verify the license or identification number for Workforce Investment Act and Trade Adjustment Assistance applicants with the Colorado Department of Motor Vehicle’s database. Because the Colorado Department of Labor and Employment did not identify any invalid identification numbers during the pilot project, and because resources were not provided through legislation for full-time employees at the state level or for automation of the Department of Motor Vehicle match, the pilot project was suspended after six months.

There have been no denials of services for the Workforce Investment Act and Trade Adjustment Assistance programs based on immigration status since the implementation of HB 06S-1023.

The following processes were implemented as part of determining eligibility for the Workforce Investment Act or Trade Adjustment Assistance Programs:

- Obtain one of the required forms of identification authorized by the statute.
- Require the Workforce Investment Act or Trade Adjustment Assistance applicant to complete an Affidavit of Immigration Status.
- Check the type of identification the applicant possesses, and obtain the identification number and expiration date.
- Require the applicant to sign an affirmation statement stating they understand that lawful presence in the U.S. will be verified through the SAVE Program before workforce-program services can be provided. They also affirm that they are U.S. citizens, legal permanent residents, or are otherwise lawfully present in the U.S.

If applicants do not possess one of the forms of identification or do not provide the requested information, services are denied. Provision of services is contingent on applicants providing the required documents and signing the Affidavit of Immigration Status, plus the successful verification of immigration status through the SAVE Program.

Number of Persons Receiving Workforce Investment Act Services	01/2009–12/2009
Number of Workforce Investment Act applicants receiving services	15,811
Number of Workforce Investment Act recipients who are not U.S. citizens	128
Number of inquiries of immigration status through the SAVE Program	128
Number of applicants denied services	0

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Number of Persons Receiving Trade Adjustment Assistance Services	01/2009–12/2009
Number of Trade Adjustment Assistance applicants receiving services	1,135
Number of Trade Adjustment Assistance Act recipients who are not U.S. citizens	35
Number of inquiries of immigration status through the SAVE Program	35
Number of applicants denied services	0

Additional information regarding HB 06S-1023 policies and processes related to the administration of the Workforce Investment Act and Trade Adjustment Assistance Programs is contained in Policy Guidance Letter #06-07-WIA, on the Colorado Department of Labor and Employment’s Web site at:

- www.coworkforce.com/PGL/pgl/PGL0607WIAGuidelinesHB1023.pdf
- www.coworkforce.com/PGL/SupportingDocuments/PGL0607WIAHB1023attach1.doc.

Unemployment Insurance Program

Only U.S. citizens and certain aliens are eligible to receive unemployment insurance benefits. Prior to the implementation of this statute, the Unemployment Insurance Program asked claimants if they were U.S. citizens. If the response was “No,” then claimants were required to provide their alien permit number. The Unemployment Insurance Program verifies immigration status by using the federal SAVE Program. If the Unemployment Insurance Program cannot verify immigration status via the SAVE Program, follow up with claimants is completed. The Unemployment Insurance Program denies unemployment insurance benefit payments for claimants who are not lawfully admitted for permanent residence or are not lawfully present for purposes of performing services, submit counterfeit documentation, or do not respond to requests for additional information—such as valid work-authorization documentation, birth certificates, or marriage licenses.

Verification of Immigration Status	01/2009–09/2009¹
Number of claims filed where the claimants are not U.S. citizens	10,667
Number of inquiries of claimants’ immigration status through the SAVE Program	10,667
Number of claimants who required a secondary inquiry of their immigration status through the SAVE Program	2,204
Number of nonmonetary determinations pertaining to immigration status	1,857
Number of claimants denied unemployment insurance benefits	820 (7.7%)

In addition to the aforementioned measures that the Unemployment Insurance Program was already undertaking to verify the immigration status of claimants prior to HB 06S-1023, the Unemployment Insurance Program implemented the following processes and automation enhancements to address the statute’s requirements.

¹ Statistic for the fourth calendar quarter of 2009 (10/01/2009 through 12/31/2009) were not available as of the date this report was submitted.

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The Unemployment Insurance Program mails Form UIB-1, Verification of Personal Information, to all claimants who file a new claim. The Verification of Personal Information:

- Advises claimants they **must** possess one of the forms of identification listed in the new statute.
- Requests claimants to identify the type of identification they possess, and provide the identification number and expiration date.
- Includes an affirmation to be signed by claimants stating they understand that their lawful presence in the U.S. will be verified before unemployment insurance benefit payments are made. They also affirm that they are U.S. citizens, legal permanent residents, or are otherwise lawfully present in the U.S.

Computer programming was developed and implemented to:

- Store the Colorado driver’s license and identification numbers provided by claimants.
- Store an indicator that a signed Verification of Personal Information was received.
- Deny unemployment insurance benefit payments for the entire benefit year if the Verification of Personal Information is not received.

NOTE: As of the week the signed form and/or required documentation is received, unemployment insurance benefits can be paid if the claimant is otherwise entitled to receive the payments.

Claimants who stop requesting their unemployment insurance benefit payments for a period of time may resume activity on their claim. The potential exists that some of these claimants did not sign their Verification of Personal Information or did not return the document within seven days after they requested their first benefit payment. The Unemployment Insurance Program researched these claims, and either resolved the issues or provided the claimants with another opportunity to submit a signed Verification of Personal Information.

Because of excessive workload and a lack of staff, in February 2009, the Unemployment Insurance Program Director elected to disable temporarily the programming that denied unemployment insurance benefit payments when the Verification of Personal Information was not received and discontinue the associated business processes. The following statistics are representative of the time period prior to the temporary suspension of these activities.

Signed Affirmation Statements	01/2009–02/03/2009
Number of claims filed	30,289
Number of claimants who had a hold placed on their benefit payments because signed affirmation statements were not received when they submitted their first payment request	4,166 (13.8%)
Number of claimants denied benefit payments for their entire benefit year because their signed affirmation statements were not received	456 (1.5%)
Number of claimants receiving benefits upon receipt of signed affirmation	342 (1.1%)

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Beginning September 18, 2006, the Unemployment Insurance Program randomly selected 100 claimants per week who indicated they possessed and provided information regarding a Colorado driver’s license or identification card on their Verification of Personal Information for verification purposes. The Unemployment Insurance Program accessed the Colorado Department of Motor Vehicle’s database to verify that the randomly selected claimants possessed a valid license or identification number. Because various circumstances may identify a license or identification number as invalid—such as a suspended or revoked license—and the Colorado Department of Motor Vehicle is not willing to provide additional information on their inquiry screen, unemployment insurance benefit payments **were not denied** if numbers cannot be validated through the Colorado Department of Motor Vehicle.

The Unemployment Insurance Program temporarily suspended the random selection of 100 claimants and verification of Colorado license or identification numbers in September 2009 due to excessive workload and lack of staff. The following statistics are representative of the time period prior to the temporary suspension of this activity.

Verification through Colorado Department of Motor Vehicle	01/2009–09/2009
Number of inquiries	5,200
Number of licenses or IDs that were not valid	227 (4.4%)
Number of claimants denied UI benefits	0

PART III. FUTURE ENHANCEMENTS

The Unemployment Insurance Program is in the process of adding functionality to the existing scanning/imaging system that will improve the (temporarily suspended) processing of the Verification of Personal Information when it resumes. The Unemployment Insurance Program anticipates completing the scanning/imaging system upgrades by June 30, 2010. These enhancements will completely automate a labor-intensive, manual process. The upgraded scanning/imaging system will detect the presence of a bar code for indexing and a signature on the Verification of Personal Information when it is returned for processing. If the system recognizes that a bar-coded document has not been returned in a timely manner, unemployment insurance benefits will be automatically denied. If the system’s data-capture software does not detect the presence of a signature, the Unemployment Insurance Program will automatically send correspondence requesting that the claimant sign and return the Verification of Personal Information. This new process will eliminate the current manual process of returning the form to the claimant.