

HOUSE BILL 06S-1023

**VERIFICATION OF LAWFUL PRESENCE
ANNUAL COMPLIANCE REPORT
CALENDAR YEAR 2010**

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

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

January 15, 2011

COLORADO REVISED STATUTES—TITLE 24, ARTICLE 76.5 REPORTING REQUIREMENTS

Pursuant to Colorado Revised Statutes 24-76.5-101, et seq., the Colorado Department of Labor and Employment is required to provide the status of its compliance with the requirement to verify the lawful presence of individuals 18-years of age and older who apply for local, state, or federal public benefits. No later than January 15, 2011, this report must be submitted to the Senate and House committees on State, Veterans, and Military Affairs.

This report complies with this requirement.

PART I. STATUTE AND PROGRAM OVERVIEW

Colorado Revised Statutes—Title 24, Article 76.5

This statute requires each state agency or political subdivision to verify that each person 18 years of age or older who applies for “state or local public benefits” provide proof of being lawfully present in the United States prior to the 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 affirming to being 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 job training and employment 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 whose job was lost, whose hours of work and wages were reduced because of increased imports, or whose jobs were exported offshore. Trade Adjustment Assistance benefits include a variety of reemployment services designed to help workers prepare for and obtain suitable employment. Workers may be eligible for job training, job-search allowance, relocation allowance, and health-coverage tax credit. Workers over 50 years of age may be eligible for alternative trade adjustment assistance.

Unemployment Insurance Program. The 1937 legislative declaration by the Colorado General Assembly provides 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 the worker, as determined under state law. The program is funded by employer-paid premiums and provides benefits to those who meet the eligibility requirements of the Colorado Employment Security Act.

PART II. VERIFYING LAWFUL PRESENCE TO DETERMINE PROGRAM ELIGIBILITY

Workforce Investment Act and Trade Adjustment Assistance Programs

To comply with the requirements of House Bill 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 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 six-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 resources were not provided through legislation for full-time employees at the state level or for automation of the Department of Motor Vehicle's 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 House Bill 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 and sign an Affidavit of Immigration Status, affirming that the applicant understood that lawful presence in this country will be verified through the SAVE Program before workforce program services can be provided, and that the applicant is a U.S. citizen, legal permanent resident, or is otherwise lawfully present in this country.
- Check the type of identification the applicant possessed, and obtained the identification number and expiration date.

Provision of Trade Adjustment Assistance benefits was contingent upon the applicant 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	01/2010–12/2010
Number of Workforce Investment Act applicants receiving services	13,231
Number of Workforce Investment Act recipients who are not U.S. citizens	391
Number of inquiries of immigration status through the SAVE Program	391
Number of applicants denied services	0

Number of Persons Receiving Trade Adjustment Assistance Services	01/2010–12/2010
Number of Trade Adjustment Assistance applicants receiving services	1,301
Number of Trade Adjustment Assistance Act recipients who are not U.S. citizens	87
Number of inquiries of immigration status through the SAVE Program	87
Number of applicants denied services	0

Additional information regarding House Bill 06S-1023 policies and processes related to the administration of the Workforce Investment Act and Trade Adjustment Assistance Programs can be found 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

Under federal law and House Bill 06S-1023 only U.S. citizens and persons lawfully present in this country are eligible to receive unemployment benefits. The following processes were implemented as part of determining eligibility for the Unemployment Insurance Program:

Initial Claim

An unemployed individual can file a new unemployment claim via the Internet or with a customer-service representative over the telephone. The individual (claimant) is always asked if he or she is a U.S. citizen. If the response is yes, the claimant must provide the identification number and expiration date of one of the following types of identification: Colorado driver's license or identification card; U.S. Military Card or dependent identification card; Native American Tribal Document; U.S. Coast Guard Merchant Mariner Card, or other state or Canadian driver's license or state identification card. At the time the claim is filed, the identification number and the expiration date is added to the claim record. As part of the initial paperwork, the claimant is sent a form which must be signed to verify that the information provided is correct.

If the response is no, the claimant is asked for his or her alien-identification number. If the claimant can provide the alien-identification number at the time of filing, it is included in the claim record. To ensure that the claimant is legally present in the United States, the claimant is asked to provide the same identifying information as discussed above.

By then end of the first quarter of 2011, the Unemployment Insurance program will implement a new on-line and internal application system. This new system will require each claimant to affirm lawful presence and acknowledge the penalties for making false statements before the application is accepted. Virtually all new claims for unemployment insurance will be processed through this system provided a permanent electronic signature affirming lawful presence.

New Claim Correspondence

The business day following the day a claim is filed, correspondence is created and sent to each claimant (regardless of response to the citizenship question) and all affected employers (those employers reporting wages during the base period). This correspondence is as follows:

- Form UIB-1, Verification of Personal Information, is sent to the claimant. The claimant is instructed to verify the information, make any necessary changes or corrections, including the response to the citizenship question and provide his or her alien-identification number, and asked to provide information about the type of verifiable identification the claimant possesses. The form also requires a signature affirming that all information on the form is correct under penalty of perjury and that the claimant is a U.S. citizen or otherwise lawfully present in the United States.
- Forms UIB-290, Request for Job-Separation Information from Employers, and UIF-290, Notice of Wages Reported/Potential Charges, are sent to the interested employers requesting verification of the information about the claimant.

Alien Status Verification Through the SAVE Program

The business day following the day a claim is filed, a report listing the names of claimants that indicated non-U.S. citizenship is generated. If the claimants on this report provided an alien-identification number, the name, date of birth, and alien status are then verified through the SAVE Program by Unemployment Insurance Program staff members. If everything matches and the system does not indicate further verification is necessary, the documentation is placed in the claimant's file and the claim continues through the process.

If the system response to the SAVE verification indicates that any line of data does not match or it requests further verification, a "hold" is placed on the claim to prevent payment until further information is received from the claimant. In these instances, a Form B-521, Instructions for Claimants with Alien Status, form is sent to the claimant. The form requests that the claimant return the signed form and copies (front and back) of the employment-authorization card. It may also be appropriate to request a copy of a marriage certificate. The claimant must be able to provide the requested information, and it must be verifiable with SAVE before benefits will be paid.

Additionally, if the claimant did not provide an alien-identification number a "hold" is placed on the claim to prevent payment until further information is received from the claimant. Form B-521, Instructions for Claimants with Alien Status, is created and sent to the claimant. Under Colorado law, an unemployment claim cannot be processed until the claimant returns the signed form and copies (front and back) of the alien registration card. The claimant must be able to provide the requested information, and it must be verifiable with the SAVE Program before unemployment benefits will be paid.

Statistics

Because of excessive workload, lack of staff, and delays in payment to lawfully present applicants 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; the Director also discontinued the associated business processes. However, the Unemployment Insurance Program continues to verify lawful presence, which is reflected by the following statistics for calendar year 2010.

Verification of Immigration Status	01/2010–12/2010
Number of initial unemployment claims filed	223,804
Approximate number of claimants (as of December 25, 2010)	96,917
Number of claims filed where the claimants are not U.S. citizens	12,003
Number of inquiries of claimants' immigration status through the SAVE Program	12,003
Number of claimants who required a secondary inquiry of immigration status through the SAVE Program	2,221
Number of nonmonetary determinations pertaining to immigration status	2,152
Number of claimants denied unemployment benefits	1,153 (9.6%)