

## **OVERVIEW OF MAJOR CONCERNS WITH HB116** (Enrolled)

Sponsor: Rep. Bill Wright

### **Utah Immigration Accountability and Enforcement Amendments**

Unlike HB497 (Sandstrom – Utah Illegal Immigration Enforcement Act), 3SHB116 was not passed with sufficient transparency and time for the legislators and the public to adequately consider all aspects and unintended consequences of the bill. HB70/HB497 was discussed in depth over a period of ten months with individuals from Logan to St. George. In contrast, 3SHB116 passed through the House late Friday evening without most of the legislators even having time to read the bill (as indicated by a show of hands) – let alone consider its ramifications. More time and transparency is needed to analyze all aspects of this legislation. The following points are just a few of the major concerns that need to be addressed:

- **This bill violates the following portions of the Utah State Republican Party Platform, which the Republicans swore to uphold.** “We oppose illegal immigration and all forms of amnesty, or legal status, for illegal immigrants...We oppose granting government benefits to those illegally present in the US. We oppose any temporary or “guest” worker program that would offer an automatic path to citizenship. We believe that current laws against employing illegal immigrants should be vigorously enforced, particularly to stem the now too common crime of identity theft in obtaining employment.” And, “We support the “Rule of Law” and believe in upholding the law of the land” [http://www.utgop.org/docs/Utah Republican Party Platform 2009.pdf](http://www.utgop.org/docs/Utah_Republican_Party_Platform_2009.pdf)
- **The bill opens the state of Utah up to a mass inflow of illegal aliens.** The ready availability of high quality, fraudulent documents will allow virtually all of the estimated twelve to twenty million illegal aliens currently residing in the U.S. to show proof of residence or employment in Utah prior to the May 10, 2011 cut-off date for amnesty,<sup>1</sup> **since the state has no official record of illegal aliens who have lived or worked in Utah prior to May 10, 2011.**
- 3SHB116 allows illegal aliens to come to Utah until May 10, 2011 in order to qualify which **allows time for a family member of a family not already in the state to immediately establish residence in Utah and then to obtain immediate family permits for all family members at a later date. (line 746)**
- **As representative Ivory noted on the floor of the House, 3SHB116 allows any individual who has ever lived or worked in Utah before May 10, 2011 to obtain a permit.** Thus, any illegal alien in the United States who has ever lived or worked in Utah will be eligible for a guest worker permit, not just those currently living and working in Utah. **(line 746)**
- **(Amnesty) All illegal aliens who have committed crimes yet have not been convicted of those crimes will be allowed to obtain work permits. (lines 753-755)** Thus, gang members involved in drug trafficking, extortion, assault and battery, etc. who live in Utah and who have not been convicted will get work permits as long as they have a job, which most do. Illegal aliens using Utah children's stolen identities to get jobs will get work permits as long as they haven't been convicted of

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<sup>1</sup> Utah Amnesty: Elected officials ignore the violation of laws and allow a select group of people to realize a benefit from illegal actions that individuals who obey the law do not realize. Thus, if a person who is unlawfully in the United States is allowed to live and work in Utah while individuals who obey the law are not, that is amnesty even if they pay a fine.

identity theft. An illegal alien who is a convict in his home country will be granted a Utah work permit as long as he has a job because there will be no record of his crime in the U.S. A potential terrorist, who is not on the U.S. list of terrorists, who entered the U.S. on a visa and overstayed will be issued a Utah job permit, because he has no criminal record.

- **(Amnesty) 3SHB116 allows individuals convicted of class A, B, C misdemeanors and non-serious felonies to get permits.** Since many felonies are pled down, the work permit will be granted to individuals committing serious crimes. **(lines 753-755)**
- **(Amnesty) 3SHB116 does not require individuals receiving immediate family permits to pass a medical exam or to have a clean criminal history,** thereby allowing criminals and family members with outstanding medical debt to obtain immediate family permits. **(lines 796-802)**
- **3SHB116 only includes minimal penalties for the use of false documents to obtain a permit or misuse of permits** – Up to \$750 fine (line 926) and a class B misdemeanor for providing false or forged information or documentation in support of the application. **(lines 928-931)**
- **(Amnesty) The bill sacrifices the 50,000 to 70,000 Utah children who are the victims of illegal alien identity theft** by ignoring the damage done to them and allowing those using their identities to live and work legally in Utah. The provision in the bill to compensate the victims of identity theft only kicks in once there has been a conviction or guilty plea. This will only cover a handful of the tens of thousands of victims identity theft committed by illegal aliens is rarely prosecuted. **(lines 754-755, 796-803, 1426-1456)**
- **3SHB116 allows applicants for guest worker permits to provide evidence that they have no outstanding medical debt that is past due but does not deny eligibility to an individual and families who have used taxpayer funded programs such as emergency Medicaid or benefited from charity care** and thereby shifted the burden to the taxpayers and to Americans with health insurance. **(lines 759-761)**
- **The bill allows illegal aliens who are issued work permits to collect legally available welfare benefits.** There is no prohibition in the bill to prevent illegal aliens holding a Utah work permit from claiming welfare benefits such as Medicaid, food stamps and WIC for their American born children and for themselves when permitted by law. Thus, employers will continue to shift these costs to the taxpayers.
- **3SHB116 allows an illegal alien who has received a Utah work permit to remain in Utah for one year without working and not being eligible for unemployment insurance.** **(lines 873-876)** This raises the question of how the individual will support himself.
- **(Amnesty) This bill discriminates against legal immigrants** who played by the rules to pay the price in order to come to the United States legally. It also shortchanges all who obey and respect our laws by waiting their turn to legally immigrate to the United States. In addition, the work permit is only available to illegal aliens. Foreign nationals currently in the United States legally on temporary visas are not eligible for the work permit!

- **Under current federal immigration law, a waiver for this bill, allowing illegal immigrants to work, is not possible.** It would require an act of Congress signed by the President to change existing law. As shown, this bill requires obtaining multiple waivers from multiple federal agencies. This is NOT a good solution under current federal law. For additional information, see the [constitutional note at the very end of the bill.](#)
- **If 3SHB116 goes into effect without waivers on July 1, 2013 (line 672), employers who hire a person with a Utah work permit will be “knowingly” hiring an illegal alien and subject to severe federal penalties.**
- **The bill’s provisions to withhold Social Security and income taxes will only work if a waiver is granted.** If the bill goes into effect without a waiver, employers will be in violation of payroll tax laws and subject to severe penalties should they hire a person with a Utah guest worker permit. Paying payroll and income taxes to the state will not meet federal requirements and will leave employers in serious legal jeopardy.
- In addition to rewarding illegal actions with a guest worker permit and legal presence in the eyes of Utah, 3SHB116, the **Utah Immigration Accountability violates itself by encouraging and inducing illegal aliens to come to Utah.** Quoting federal law 8 USC 1324, **(lines 1567 – 1570)** of the bill declare: (2) It is unlawful for a person to: . . . (c) encourage or induce an alien to come to, enter, or reside in this state, knowing or in reckless disregard of the fact that the alien's coming to, entry, or residence is or will be in violation of law;"
- **The bill’s requirements to use E-Verify and U-Verify together will only work if the feds grant a waiver from current E-Verify requirements.** Employers using E-Verify are required to use it for every new hire; thus they can’t use U-Verify as the bill mandates for new hires with Utah work permits, unless a waiver to the E-Verify requirements is granted. If the bill enters into effect without the waiver, employers will have to use E-Verify for all new hires and deny employment to anyone with a Utah work permit otherwise they will be in violation of their E-Verify agreement.
- **3SHB116 does not require English proficiency** (“A permit holder shall in good faith use best efforts to become proficient”). **(lines 878-883)**
- **The bill is unconstitutional and yet it automatically goes into effect in 2013. (line 672)**
- **The bill also violates Utah State Law (Utah Code: 67-5-28)** Which says no state government entity, can restrict the enforcement of federal immigration and customs laws, and cannot make laws that do the same.

Prepared by the Utah Coalition on Illegal Immigration

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