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LEGISLATIVE ACTION

Senate

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House

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Floor: 1/AD/2R

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05/03/2011 03:30 PM

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Senator Alexander moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (12) is added to section 445.009,  
Florida Statutes, to read:

445.009 One-stop delivery system.—

(12) (a) Staff of the one-stop delivery system shall use the  
federal program for electronic verification of employment  
eligibility which is known as the E-Verify Program, or any  
successor program, to verify the employment eligibility of any  
worker who is referred to an employer and shall issue to the  
employer a certification of the verification as provided in



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14 regulations of the United States Department of Homeland  
15 Security.

16 (b) The requirement to verify employment eligibility under  
17 this subsection does not apply in the case of a worker who uses  
18 an online referral system and does not report in person to the  
19 one-stop career center. If a worker reports in person to a one-  
20 stop career center after using the online referral system, the  
21 one-stop career center shall perform the verification required  
22 by this subsection. The website for the Agency for Workforce  
23 Innovation and for the one-stop delivery system in the area  
24 served by each regional workforce board shall provide notice to  
25 employers that the one-stop career center is not performing  
26 electronic-verification inquiries for online referrals.

27 (c) The Agency for Workforce Innovation, together with the  
28 regional workforce boards, shall consult with the United States  
29 Department of Homeland Security, the United States Department of  
30 Labor, and any other appropriate federal agencies to develop  
31 procedures, consistent with federal requirements, addressing  
32 circumstances in which use of the E-Verify Program, or any  
33 successor program, is not possible based on the information or  
34 documentation presented by the worker.

35 Section 2. Agency administration of public benefits;  
36 verification of lawful status.-

37 (1) As used in this section, the term:

38 (a) "Agency" means any state, county, district, authority,  
39 or municipal officer, department, division, board, bureau,  
40 commission, or other separate unit of government created or  
41 established by law including, for the purposes of this section,  
42 any other public or private agency, person, partnership,



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43 corporation, or business entity acting on behalf of any public  
44 entity.

45 (b) "Federal public benefit" has the same meaning as in 8  
46 U.S.C. s. 1611(c).

47 (c) "Qualified alien" has the same meaning as in 8 U.S.C.  
48 s. 1641(b).

49 (d) "SAVE Program" means the Systematic Alien Verification  
50 for Entitlements (SAVE) Program established by the United States  
51 Citizenship and Immigration Services.

52 (e) "State or local public benefit" has the same meaning as  
53 in 8 U.S.C. s. 1621(c).

54 (2) (a) Except as otherwise provided in 8 U.S.C. s. 1621(b),  
55 an alien is not eligible for any state or local public benefit  
56 unless the alien is:

57 1. A qualified alien;

58 2. A nonimmigrant under the federal Immigration and  
59 Nationality Act; or

60 3. An alien who is paroled into the United States under s.  
61 212(d) (5) of the federal Immigration and Nationality Act for  
62 less than 1 year.

63 (b) Each agency shall verify through the SAVE Program the  
64 eligibility under this subsection of any applicant for a state  
65 or local public benefit administered by the agency.

66 (3) (a) Except as otherwise provided in 8 U.S.C. s. 1611(b),  
67 an alien who is not a qualified alien is not eligible for any  
68 federal public benefit.

69 (b) Each agency shall verify through the SAVE Program the  
70 eligibility under this subsection of any applicant for a federal  
71 public benefit administered by an agency.



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72           (4) (a) An agency may not provide any state or local public  
73 benefit or federal public benefit in violation of this section.

74           (b) Each agency that administers a state or local public  
75 benefit or federal public benefit shall annually compile and  
76 maintain information on its compliance with this section.

77           (c) In the implementation of this section, each agency  
78 shall endeavor to improve efficiency, minimize delays in the  
79 verification process, and provide for the expeditious resolution  
80 of individual cases in which verification procedures would  
81 impose undue hardship on a legal resident. An agency shall  
82 report all errors in the SAVE Program to the United States  
83 Department of Homeland Security.

84           Section 3. Section 901.37, Florida Statutes, is created to  
85 read:

86           901.37.—Identification of unauthorized immigrants upon  
87 arrest and confinement.—

88           (1) When a person is confined in a jail or other criminal  
89 detention facility after being arrested, the agency having  
90 custody of the person shall make a reasonable effort to  
91 determine the nationality of the person and whether the person  
92 is present in the United States lawfully, including, but not  
93 limited to, participating in the submission of fingerprints  
94 pursuant to the agreement under subsection (2). If the holding  
95 agency establishes, independent of the submission of  
96 fingerprints, that the person is not lawfully present in the  
97 United States, the agency shall notify the United States  
98 Department of Homeland Security.

99           (2) The Department of Law Enforcement shall enter into, and  
100 perform all actions reasonably necessary to meet its obligations



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101 under, a memorandum of agreement with the United States  
102 Department of Homeland Security to implement a program through  
103 which fingerprints submitted by local law enforcement agencies  
104 during the arrest and booking process are checked against  
105 federal databases in order to assess the immigration status of  
106 individuals in custody.

107 (3) This section may not be construed to:

108 (a) Authorize the arrest of a person on suspicion that the  
109 person is not present in the United States lawfully; or

110 (b) Deny a person bond or prevent release of a person from  
111 confinement if the person is otherwise eligible for release.

112 However, for the purpose of the bail determination required by  
113 s. 903.046, Florida Statutes, a determination that the person is  
114 not present in the United States lawfully raises a rebuttable  
115 presumption that there is a risk of flight to avoid prosecution.

116 Section 4. Section 945.80, Florida Statutes, is created to  
117 read:

118 945.80 Rapid removal of deportable criminal aliens.-

119 (1) Notwithstanding any law to the contrary, and pursuant  
120 to s. 241(a)(4)(B)(ii) of the federal Immigration and  
121 Nationality Act, the secretary of the department shall release a  
122 prisoner, prior to the completion of his or her sentence, to the  
123 custody and control of the United States Immigration and Customs  
124 Enforcement if:

125 (a) The prisoner is confined pursuant to a final conviction  
126 for a nonviolent offense;

127 (b) The department has received a final order of removal  
128 for the prisoner from the United States Immigration and Customs  
129 Enforcement; and



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130       (c) The secretary determines that removal is appropriate  
131 and in the best interest of the state.

132  
133 As used in this section, the term "nonviolent offense" means a  
134 third-degree felony violation under chapter 810 or any other  
135 felony offense that is not a forcible felony as defined in s.  
136 776.08.

137       (2) (a) The department shall identify, during the inmate-  
138 reception process and among the existing inmate population,  
139 prisoners who are eligible for removal under this section and  
140 determine whether removal is appropriate and in the best  
141 interest of the state. The department shall provide eligible  
142 prisoners with information on this section.

143       (b) The department shall coordinate with federal  
144 authorities to determine the eligibility of a prisoner for  
145 removal and to obtain a final order of removal.

146       (3) (a) Upon approval for removal of the prisoner under this  
147 section, the department shall establish a release date for the  
148 prisoner to be transferred to federal custody. The department  
149 shall maintain control of and responsibility for the custody of  
150 the prisoner until the prisoner is physically transferred to  
151 federal custody.

152       (b) In coordination with the department, the Parole  
153 Commission shall provide notice and obtain acknowledgment in  
154 writing that notice was provided to each alien who is approved  
155 for removal and deportation that reentry into the United States  
156 requires the return of the alien to the custody of the  
157 department in order to complete the remainder of his or her  
158 sentence imposed by the court. The alien must agree to release



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159 into federal custody under this section.

160 (4) A prisoner who is released under this section shall be  
161 under conditional supervision of the Parole Commission for the  
162 remainder of the maximum period for which he or she has been  
163 sentenced.

164 (a) The conditions of supervision for a prisoner who is  
165 released under this section are that he or she must not:

166 1. Violate the law of this state or of any other  
167 jurisdiction of the United States; or

168 2. Return to the United States after release.

169 (b) If a prisoner who is released under this section  
170 returns to the United States, the Parole Commission shall revoke  
171 the release of the prisoner in accordance with the procedures in  
172 s. 947.141 and seek the return of the prisoner to the custody of  
173 the department to serve the remainder of the sentence imposed by  
174 the court.

175 (c) A prisoner whose conditional deportation release is  
176 revoked is not thereafter eligible for any form of discretionary  
177 release except as the result of accrual of any gain time earned  
178 after return to prison.

179 (5) The secretary of the department shall pursue, and is  
180 authorized to enter into, an agreement with the United States  
181 Department of Homeland Security regarding the rapid repatriation  
182 of removable custodial aliens from the United States pursuant to  
183 this section.

184 (6) The department shall compile statistics on  
185 implementation of this section, including, but not limited to:

186 (a) The number of prisoners who are transferred to federal  
187 custody;



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188 (b) The number of prisoners who are removed or deported;

189 (c) The number of releasees who reenter the United States,  
190 including the number who are returned to the custody of the  
191 department; and

192 (d) The annual cost-avoidance achieved.

193 (7) To the extent practicable, this section applies to all  
194 prisoners actually in confinement on, and all prisoners taken  
195 into confinement after, July 1, 2011.

196 Section 5. Section 947.141, Florida Statutes, is amended to  
197 read:

198 947.141 Violations of conditional release, control release,  
199 ~~or~~ conditional medical release, ~~or~~ addiction-recovery  
200 supervision, or conditional deportation release.-

201 (1) If a member of the commission or a duly authorized  
202 representative of the commission has reasonable grounds to  
203 believe that an offender who is on release supervision under s.  
204 947.1405, s. 947.146, s. 947.149, ~~or~~ s. 944.4731, or s. 945.80  
205 has violated the terms and conditions of the release in a  
206 material respect, such member or representative may cause a  
207 warrant to be issued for the arrest of the releasee; if the  
208 offender was found to be a sexual predator, the warrant must be  
209 issued.

210 (2) Upon the arrest on a felony charge of an offender who  
211 is on release supervision under s. 947.1405, s. 947.146, s.  
212 947.149, ~~or~~ s. 944.4731, or s. 945.80, the offender must be  
213 detained without bond until the initial appearance of the  
214 offender at which a judicial determination of probable cause is  
215 made. If the trial court judge determines that there was no  
216 probable cause for the arrest, the offender may be released. If





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217 the trial court judge determines that there was probable cause  
218 for the arrest, such determination also constitutes reasonable  
219 grounds to believe that the offender violated the conditions of  
220 the release. Within 24 hours after the trial court judge's  
221 finding of probable cause, the detention facility administrator  
222 or designee shall notify the commission and the department of  
223 the finding and transmit to each a facsimile copy of the  
224 probable cause affidavit or the sworn offense report upon which  
225 the trial court judge's probable cause determination is based.  
226 The offender must continue to be detained without bond for a  
227 period not exceeding 72 hours excluding weekends and holidays  
228 after the date of the probable cause determination, pending a  
229 decision by the commission whether to issue a warrant charging  
230 the offender with violation of the conditions of release. Upon  
231 the issuance of the commission's warrant, the offender must  
232 continue to be held in custody pending a revocation hearing held  
233 in accordance with this section.

234 (3) Within 45 days after notice to the Parole Commission of  
235 the arrest of a releasee charged with a violation of the terms  
236 and conditions of conditional release, control release,  
237 conditional medical release, ~~or~~ addiction-recovery supervision,  
238 or conditional deportation release, the releasee must be  
239 afforded a hearing conducted by a commissioner or a duly  
240 authorized representative thereof. If the releasee elects to  
241 proceed with a hearing, the releasee must be informed orally and  
242 in writing of the following:

243 (a) The alleged violation with which the releasee is  
244 charged.

245 (b) The releasee's right to be represented by counsel.



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246 (c) The releasee's right to be heard in person.  
247 (d) The releasee's right to secure, present, and compel the  
248 attendance of witnesses relevant to the proceeding.  
249 (e) The releasee's right to produce documents on the  
250 releasee's own behalf.  
251 (f) The releasee's right of access to all evidence used  
252 against the releasee and to confront and cross-examine adverse  
253 witnesses.  
254 (g) The releasee's right to waive the hearing.  
255 (4) Within a reasonable time following the hearing, the  
256 commissioner or the commissioner's duly authorized  
257 representative who conducted the hearing shall make findings of  
258 fact in regard to the alleged violation. A panel of no fewer  
259 than two commissioners shall enter an order determining whether  
260 the charge of violation of conditional release, control release,  
261 conditional medical release, ~~or~~ addiction-recovery supervision,  
262 or conditional deportation release has been sustained based upon  
263 the findings of fact presented by the hearing commissioner or  
264 authorized representative. By such order, the panel may revoke  
265 conditional release, control release, conditional medical  
266 release, ~~or~~ addiction-recovery supervision, or conditional  
267 deportation release and thereby return the releasee to prison to  
268 serve the sentence imposed, reinstate the original order  
269 granting the release, or enter such other order as it considers  
270 proper. Effective for inmates whose offenses were committed on  
271 or after July 1, 1995, the panel may order the placement of a  
272 releasee, upon a finding of violation pursuant to this  
273 subsection, into a local detention facility as a condition of  
274 supervision. For prisoners who have violated the conditions



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275 governing removal and deportation of criminal aliens under s.  
276 985.80, the commission shall order the return to prison.

277 (5) Effective for inmates whose offenses were committed on  
278 or after July 1, 1995, notwithstanding the provisions of ss.  
279 775.08, former 921.001, 921.002, 921.187, 921.188, 944.02, and  
280 951.23, or any other law to the contrary, by such order as  
281 provided in subsection (4), the panel, upon a finding of guilt,  
282 may, as a condition of continued supervision, place the releasee  
283 in a local detention facility for a period of incarceration not  
284 to exceed 22 months. Prior to the expiration of the term of  
285 incarceration, or upon recommendation of the chief correctional  
286 officer of that county, the commission shall cause inquiry into  
287 the inmate's release plan and custody status in the detention  
288 facility and consider whether to restore the inmate to  
289 supervision, modify the conditions of supervision, or enter an  
290 order of revocation, thereby causing the return of the inmate to  
291 prison to serve the sentence imposed. The provisions of this  
292 section do not prohibit the panel from entering such other order  
293 or conducting any investigation that it deems proper. The  
294 commission may only place a person in a local detention facility  
295 pursuant to this section if there is a contractual agreement  
296 between the chief correctional officer of that county and the  
297 Department of Corrections. The agreement must provide for a per  
298 diem reimbursement for each person placed under this section,  
299 which is payable by the Department of Corrections for the  
300 duration of the offender's placement in the facility. This  
301 section does not limit the commission's ability to place a  
302 person in a local detention facility for less than 1 year. This  
303 subsection is not applicable to a person violating the



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304 conditions governing removal and deportation of criminal aliens  
305 under s. 985.80.

306 (6) Whenever a conditional release, control release,  
307 conditional medical release, ~~or~~ addiction-recovery supervision,  
308 or conditional deportation release is revoked by a panel of no  
309 fewer than two commissioners and the releasee is ordered to be  
310 returned to prison, the releasee, by reason of the misconduct,  
311 shall be deemed to have forfeited all gain-time or commutation  
312 of time for good conduct, as provided for by law, earned up to  
313 the date of release. However, if a conditional medical release  
314 is revoked due to the improved medical or physical condition of  
315 the releasee, the releasee shall not forfeit gain-time accrued  
316 before the date of conditional medical release. This subsection  
317 does not deprive the prisoner of the right to gain-time or  
318 commutation of time for good conduct, as provided by law, from  
319 the date of return to prison.

320 (7) If a law enforcement officer has probable cause to  
321 believe that an offender who is on release supervision under s.  
322 947.1405, s. 947.146, s. 947.149, ~~or~~ s. 944.4731, or s. 945.80  
323 has violated the terms and conditions of his or her release by  
324 committing a felony offense, the officer shall arrest the  
325 offender without a warrant, and a warrant need not be issued in  
326 the case.

327 Section 6. This act shall take effect July 1, 2011.

328  
329  
330 ===== T I T L E A M E N D M E N T =====

331 And the title is amended as follows:

332 Delete everything before the enacting clause



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333 and insert:

334 A bill to be entitled

335 An act relating to enforcement of immigration laws;  
336 amending s. 445.009, F.S.; requiring one-stop career center  
337 staff to verify the employment eligibility of workers referred  
338 to employers using a federal program for electronic verification  
339 of employment eligibility; providing an exception; requiring  
340 notice to employers on the exception to use of electronic  
341 verification; providing definitions relating to administration  
342 of public benefits; prohibiting an agency from providing  
343 federal, state, or local public benefits to certain aliens;  
344 providing exceptions; requiring an agency to verify the  
345 eligibility of applicants for public benefits using the federal  
346 Systematic Alien Verification for Entitlements Program;  
347 requiring agencies to compile and maintain compliance  
348 information; creating s. 901.37, F.S.; directing certain  
349 agencies having custody of arrestees to make reasonable efforts  
350 to determine whether the arrestees are present in the United  
351 States lawfully; providing for fingerprints of the arrestees to  
352 be checked against federal databases; providing that holding  
353 agencies shall notify the United States Department of Homeland  
354 Security regarding individuals in their custody whose unlawful  
355 presence in the United States is established independently by  
356 the agencies; requiring the Department of Law Enforcement to  
357 enter into and maintain an agreement with the United States  
358 Department of Homeland Security for checking fingerprints of  
359 arrestees against federal databases to determine immigration  
360 status; providing for a presumption as to risk of flight in  
361 order to avoid prosecution; creating s. 945.80, F.S.; requiring



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362 the Department of Corrections to release nonviolent inmates to  
363 the custody of the United States Immigration and Customs  
364 Enforcement under certain circumstances; providing a definition;  
365 requiring the department to identify criminal aliens who are  
366 eligible for removal; prescribing certain procedures for the  
367 transfer of an inmate to federal custody; requiring the Parole  
368 Commission to provide notice to such criminal aliens; providing  
369 that a prisoner released under this authority shall be under  
370 conditional supervision of the Parole Commission; prescribing  
371 conditions of such supervision; providing for procedures for  
372 revocation of release upon violation of the conditions;  
373 providing that a releasee whose conditional release is revoked  
374 is not thereafter eligible for any form of discretionary  
375 release; providing an exception; directing the secretary of the  
376 department to pursue an agreement with the United States  
377 Department of Homeland Security regarding the rapid repatriation  
378 of removable custodial aliens; requiring the department to  
379 compile statistics; providing for applicability; amending s.  
380 947.141, F.S.; conforming procedures relating to a violation of  
381 conditional release to account for conditional release for  
382 deportation; providing for issuance of a warrant, detention  
383 without bond under certain conditions, a hearing conducted by a  
384 commissioner of the Parole Commission or an authorized  
385 representative, findings and entry of an order, revocation of  
386 release, and arrest without a warrant under certain conditions;  
387 providing an effective date.

388  
389 WHEREAS, Florida ranks third among states in the size of  
390 its unauthorized immigrant population, with an estimated range



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391 of 725,000 to 950,000 unauthorized immigrants in this state, and

392 WHEREAS, unauthorized immigration contributes directly and  
393 indirectly to substantial costs to the state in policy areas  
394 including, but not limited to, law enforcement, criminal  
395 justice, labor and employment, education, health care, and human  
396 services, and

397 WHEREAS, the costs related to unauthorized immigration can  
398 consume limited state resources, and

399 WHEREAS, the federal government has failed to enforce  
400 immigration laws adequately and to adopt and implement  
401 comprehensive reforms to immigration laws in order to control  
402 and contain unauthorized immigration effectively, and

403 WHEREAS, because of the federal government's failure, and  
404 because they cannot ignore the challenges posed by unauthorized  
405 immigration, states must assume the mantle of leadership for  
406 enacting policies to promote within their borders compliance  
407 with the immigration laws of this nation, NOW, THEREFORE,