

SECOND REGULAR SESSION

SENATE BILL NO. 858

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

Pre-filed December 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

3595S.021

AN ACT

To repeal sections 172.360, 174.130, 178.635, 178.780, and 285.025, RSMo, and to enact in lieu thereof eleven new sections relating to illegal immigrants, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 172.360, 174.130, 178.635, 178.780, and 285.025, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 172.360, 174.130, 175.025, 178.635, 178.780, 178.786, 208.009, 285.021, 285.023, 285.024, and 285.025, to read as follows:

172.360. 1. All youths, resident of the state of Missouri, shall be admitted to all the privileges and advantages of the various classes of all the departments of the University of the State of Missouri[;], provided[,] that each applicant for admission [therein] shall possess such scholastic attainments and mental and moral qualifications as shall be prescribed in rules adopted and established by the board of curators[; and provided further, that]. **However, aliens unlawfully present in the United States shall not be eligible for admission to the university.** The board of curators may charge and collect reasonable tuition and other fees necessary for the maintenance and operation of all departments of the university, as they may deem necessary.

2. **Prior to approval of any appropriations by the general assembly for the University of Missouri, the registrar for each campus of the University of Missouri shall annually certify to the education appropriations committee of the house of representatives and the appropriations committee of the senate that its campus has not knowingly admitted any aliens unlawfully present in the United States**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 **in the preceding year.**

174.130. 1. Each board may make such rules and regulations for the
2 admission of students as may be deemed proper. **However, aliens unlawfully**
3 **present in the United States shall not be eligible for admission to the**
4 **university or college.**

5 **2. Prior to approval of any appropriations by the general**
6 **assembly for the university or college, the registrar for each university**
7 **or college shall annually certify to the education appropriations**
8 **committee of the house of representatives and the appropriations**
9 **committee of the senate that its university or college has not knowingly**
10 **admitted any aliens unlawfully present in the United States in the**
11 **preceding year.**

175.025. 1. The board of curators of Lincoln University may
2 make such rules and regulations for the admission of students as it may
3 be deemed proper; provided that aliens unlawfully present in the
4 United States shall not be eligible for admission to the university.

5 **2. Prior to approval of any appropriations by the general**
6 **assembly for the university, the registrar shall annually certify to the**
7 **education appropriations committee of the house of representatives**
8 **and the appropriations committee of the senate that the university has**
9 **not knowingly admitted any aliens unlawfully present in the United**
10 **States in the preceding year.**

178.635. 1. The board of regents of Linn State Technical College shall
2 organize in the manner provided by law for the board of curators of the
3 University of Missouri. The powers, duties, authority, responsibilities, privileges,
4 immunities, liabilities and compensation of the board of Linn State Technical
5 College in regard to Linn State Technical College shall be the same as those
6 prescribed by statute for the board of curators of the University of Missouri in
7 regard to the University of Missouri, except that Linn State Technical College
8 shall be operated only as a state technical college. Nothing in this section shall
9 be construed to authorize Linn State Technical College to become a community
10 college or a university offering four-year or graduate degrees.

11 **2. All lawful bonded indebtedness incurred by the issuance of revenue**
12 **bonds, as defined in section 176.010, RSMo, by Linn State Technical College,**
13 **shall be deemed to be an indebtedness of the board of regents of Linn State**
14 **Technical College after the date upon which the conditions of section 178.631 are**

15 met. Such indebtedness shall be retired through tuition revenues.

16 **3. The board of regents may make such rules and regulations for**
17 **the admission of students as it may be deemed proper. However, aliens**
18 **unlawfully present in the United States shall not be eligible for**
19 **admission to Linn State Technical College.**

20 **4. Prior to approval of any appropriations by the general**
21 **assembly for Linn State Technical College, the registrar shall annually**
22 **certify to the education appropriations committee of the house of**
23 **representatives and the appropriations committee of the senate that**
24 **the college has not knowingly admitted any aliens unlawfully present**
25 **in the United States in the preceding year.**

178.780. 1. Tax supported junior colleges formed prior to October 13,
2 1961, and those formed under the provisions of sections 178.770 to 178.890 shall
3 be under the supervision of the coordinating board for higher education.

4 2. The coordinating board for higher education shall:

5 (1) Establish the role of the two-year college in the state;

6 (2) Set up a survey form to be used for local surveys of need and potential
7 for two-year colleges; provide supervision in the conducting of surveys; require
8 that the results of the studies be used in reviewing applications for approval; and
9 establish and use the survey results to set up priorities;

10 (3) Require that the initiative to establish two-year colleges come from the
11 area to be served;

12 (4) Administer the state financial support program;

13 (5) Supervise the junior college districts formed under the provisions of
14 sections 178.770 to 178.890 and the junior colleges now in existence and formed
15 prior to October 13, 1961;

16 (6) Formulate and put into effect uniform policies as to budgeting, record
17 keeping, and student accounting;

18 (7) Establish uniform minimum entrance requirements and uniform
19 curricular offerings for all junior colleges **and ensure that aliens unlawfully**
20 **present in the United States are not eligible for admission to any junior**
21 **college;**

22 (8) Make a continuing study of junior college education in the state; and

23 (9) Be responsible for the accreditation of each junior college under its
24 supervision. Accreditation shall be conducted annually or as often as deemed
25 advisable and made in a manner consistent with rules and regulations

26 established and applied uniformly to all junior colleges in the state. Standards
27 for accreditation of junior colleges shall be formulated with due consideration
28 given to curriculum offerings and entrance requirements of the University of
29 Missouri.

**178.786. Prior to approval of any appropriations by the general
2 assembly for a junior college, the registrar for the college shall
3 annually certify to the education appropriations committee of the
4 house of representatives and the appropriations committee of the
5 senate that its junior college has not knowingly admitted any aliens
6 unlawfully present in the United States in the preceding year.**

**208.009. 1. No alien unlawfully present in the United States shall
2 receive any state or local public benefit, except for state or local public
3 benefits that are required to be offered by 8 U.S.C. 1621(b). Nothing in
4 this section shall be construed to prohibit the rendering of emergency
5 medical care, emergency assistance, or legal assistance to any person.**

**6 2. As used in this section "public benefit" means any grant,
7 contract, loan, or license provided by an agency of state or local
8 government; or any retirement, welfare, health, disability, housing,
9 postsecondary education, food assistance, or unemployment benefit
10 under which payments, assistance, credits, or reduced rates or fees are
11 provided.**

**12 3. In addition to providing proof of other eligibility
13 requirements, at the time of application for any state or local public
14 benefit, an applicant who is eighteen years of age or older shall provide
15 affirmative proof that the applicant is a citizen or a permanent resident
16 of the United States or is lawfully present in the United States. Such
17 affirmative proof shall include documentary evidence recognized by the
18 department of revenue when processing an application for a driver's
19 license, as well as any document issued by the federal government that
20 confirms an alien's lawful presence in the United States.**

**21 4. An applicant who cannot provide the proof required under
22 this section at the time of application may alternatively sign an
23 affidavit under oath, attesting to either United States citizenship or
24 classification by the United States as an alien lawfully admitted for
25 permanent residence, in order to receive temporary benefits or
26 temporary identification document as provided in this section. The
27 affidavit shall include the applicant's Social Security number and an**

28 explanation of the penalties under state law for obtaining public
29 assistance benefits fraudulently.

30 5. An applicant who has provided the sworn affidavit required
31 under subsection 4 of this section is eligible to receive temporary
32 public benefits as follows:

33 (1) For ninety days or until such time that it is determined that
34 the applicant is not lawfully present in the United States, whichever is
35 earlier; or

36 (2) Indefinitely if the applicant provides a copy of a completed
37 application for a birth certificate that is pending in Missouri or some
38 other state. An extension granted under this subsection shall terminate
39 upon the applicant's receipt of a birth certificate or a determination
40 that a birth certificate does not exist because the applicant is not a
41 United States citizen.

42 6. An applicant who is an alien shall not receive any state or
43 local public benefit unless the alien's lawful presence in the United
44 States is first verified by the federal government, under 8 U.S.C.
45 1373(c). State and local agencies administering public benefits in this
46 state shall cooperate with the United States Department of Homeland
47 Security in achieving verification of an alien's lawful presence in the
48 United States in furtherance of this section. The system utilized may
49 include the Systematic Alien Verification for Entitlements Program
50 operated by the United States Department of Homeland Security.

285.021. As used in sections 285.021 to 285.025, the following
2 terms shall have the following meanings:

3 (1) "Employee", any person performing or applying for work or
4 service of any kind or character for hire;

5 (2) "Employer", a person who pays for the services of an
6 individual employee or independent contractor. This term shall
7 include a person who pays for the services of a general or sub-
8 contractor. Where there are two or more putative employers, any
9 person or entity taking a business tax deduction for the employee in
10 question shall be considered an employer of that person;

11 (3) "Employment", the act of employing or state of being
12 employed, engaged, or hired;

13 (4) "Status verification system", an electronic system operated by
14 the federal government, through which an authorized official of an

15 agency of this state or of a political subdivision of this state may make
16 an inquiry, by exercise of authority delegated under 8 U.S.C. 1373, to
17 verify the work authorization status of any individual. The status
18 verification system shall be deemed to include the electronic
19 verification of work authorization program of the Illegal Immigration
20 Reform and Immigration Responsibility Act of 1996, P.L. 104-208,
21 Division C, Section 403(a); 8 U.S.C. 1324a, and operated by the United
22 States Department of Homeland Security, known as the Basic Pilot
23 Program, or any equivalent federal work authorization program
24 designated by the United States Department of Homeland Security or
25 any other federal agency authorized to verify the work authorization
26 status of newly hired employees, pursuant to the Immigration Reform
27 and Control Act of 1986 (IRCA), D.L. 99-603;

28 (5) "Unauthorized alien", an alien who does not have the legal
29 right or authorization under federal law to work in the United States,
30 as defined by 8 U.S.C. 1324a(h)(3);

31 (6) "Work", any job, task, employment, labor, personal services,
32 or any other activity for which compensation is provided, expected, or
33 due, including but not limited to all activities conducted by business
34 entities.

285.023. 1. Employers required to withhold state income tax or
2 fill out a federal Form 1099 with respect to an individual performing
3 work for the employer, shall withhold state income tax at the rate of six
4 percent of the amount of wages paid to the employee which are subject
5 to withholding tax pursuant to the Internal Revenue Code of 1986, as
6 amended, or the amount of compensation paid to an individual that is
7 required to be reported on federal Form 1099, if the individual fails to
8 provide a valid Social Security Number issued by the U.S. Social
9 Security Administration.

10 2. Any employer who fails to comply with the withholding
11 requirements of this subsection shall be liable for the amount the
12 employer failed to withhold unless such employer is exempt from
13 federal withholding with respect to such individual pursuant to a
14 properly filed Internal Revenue Service Form 8233 or its equivalent,
15 and has provided a copy of such form to the department of revenue.

285.024. 1. It shall be an unlawful employment practice for any
2 employer to discharge any person authorized to work in the United

3 States when the employer, on the date of discharge, employs an
4 unauthorized alien. Such discharged employee shall have a private
5 cause of action against the employer. An employer in violation of this
6 section shall be liable to the aggrieved employee for:

7 (1) Actual loss of compensation and benefits sustained by the
8 employee from the date of the discharge until the date the employee
9 has commenced any new employment at an equivalent or higher rate
10 of compensation, up to a maximum period of one hundred eighty days
11 from the date of discharge, plus reasonable interest from the date of
12 discharge until the date of payment of the liability; and

13 (2) Reasonable attorney fees and costs.

14 2. An employer currently enrolled in and participating in a
15 status verification system to verify the employment authorization of its
16 employees shall be exempt from liability under this section.

285.025. 1. The state of Missouri hereby proclaims that no employer who
2 employs [illegal] **unauthorized** aliens shall be eligible for any
3 state-administered or subsidized tax credit, tax abatement or loan from this
4 state. The director of each agency administering or subsidizing a tax credit, tax
5 abatement or loan pursuant to chapter 32, 100, 135, 253, 447 or 620, RSMo, shall
6 place in such agency's criteria for eligibility for such credit, abatement, exemption
7 or loan a signed statement of affirmation by the applicant that such applicant
8 employs no [illegal] **unauthorized** aliens. Any individual, individual
9 proprietorship, corporation, partnership, firm or association that is found by the
10 director of the agency administering the program to have negligently employed
11 an [illegal] **unauthorized** alien in this state shall be ineligible for any
12 state-administered or subsidized tax credit, tax abatement or loan pursuant to
13 chapter 32, 100, 135, 253, 447 or 620, RSMo, for five years following such
14 determination; provided, however, that the director of the agency administering
15 such credit, abatement, exemption or loan may, in the director's discretion, elect
16 not to apply such administrative action for a first-time occurrence. Any person,
17 corporation, partnership or other legal entity that is found to be ineligible for a
18 state-administered or subsidized tax credit, tax abatement, or loan pursuant to
19 this subsection may make an appeal with the administrative hearing commission
20 pursuant to the provisions of chapter 621, RSMo. "Negligent", for the purposes
21 of this subsection means that a person has failed to take the steps necessary to
22 comply with the requirements of 8 U.S.C. 1324a with respect to the examination

23 of an appropriate document or documents to verify whether the individual is an
24 unauthorized alien.

25 2. Beginning August 28, 1999, any individual, individual proprietorship,
26 corporation, partnership, firm or association that knowingly accepts any
27 state-administered or subsidized tax credit, tax abatement or loan in violation of
28 subsection 1 of this section shall upon conviction be guilty of a class A
29 misdemeanor, and such action may be brought by the attorney general in Cole
30 County circuit court.

31 3. **Any employer, contractor, or subcontractor who knows or**
32 **should have known that individuals in their employ are unauthorized**
33 **aliens and are employed on a project in which the employer,**
34 **contractor, or subcontractor has participated, involving state**
35 **administered or subsidized tax credits, tax abatements, or loans**
36 **referenced under subsection 1 of this section, shall be subject to a fine**
37 **of up to twenty-five thousand dollars per unauthorized alien for the**
38 **first such offense, and up to fifty thousand dollars per unauthorized**
39 **alien for any subsequent offense. Jurisdiction over such fines shall**
40 **reside with the agency administering the program. Any employer,**
41 **contractor, or subcontractor who intentionally engages in such activity**
42 **shall be banned from any further projects administered by such**
43 **agency. Any employer, contractor, or subcontractor fined or banned**
44 **from further projects under this subsection may make an appeal with**
45 **the administrative hearing commission.**

46 4. **When an employer contracts with a general or subcontractor**
47 **and that general or subcontractor is found to have hired an**
48 **unauthorized alien, the employer shall remain eligible for all tax**
49 **credits, tax abatements, and loans referenced under subsection 1 of this**
50 **section and shall be exempt from any action and penalty referenced**
51 **under subsections 1, 2, or 3 of this section if the employer, in all**
52 **contracts with the general or subcontractor, requires the general or**
53 **subcontractor to actively participate in a status verification system**
54 **program. The general or subcontractor must show that the general or**
55 **subcontractor has verified the employment eligibility of every**
56 **employee, including every independent contractor, in their hire who is**
57 **employed during the duration of the project. The general or**
58 **subcontractor shall retain all documentation received in connection**
59 **with the participation in the status verification system that verifies the**

60 **employment eligibility of every employee and independent contractor**
61 **for at least three years after the termination of the employment of the**
62 **employee or the independent contractor. This documentation shall be**
63 **provided to the director of the agency administering the program upon**
64 **request.**

✓

Unofficial

Bill

Copy