UTAH IMMIGRATION ACCOUNTABILITY AND ENFORCEMENT AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bill Wright

Senate Sponsor: Stuart C. Reid

LONG TITLE

General Description:

This bill modifies general government provisions to address issues related to immigration and aliens.

Highlighted Provisions:

This bill:

- enacts the Utah Immigration Accountability and Enforcement Act, including:
  - defining terms;
  - creating the Immigration Act Restricted Account;
  - addressing information related to immigration status being sent, received, or maintained;
  - requiring implementation to be consistent with federal laws, civil rights, and other constitutional protections;
  - providing for severability of specified provisions;
  - establishing the guest worker program;
  - addressing federal waivers, exemptions, or authorizations;
  - providing for coordination with other federal or state laws or programs, including income tax withholding and the imposition of a fee;
  - providing for when a permit is to be obtained and the uses for a permit;
  - addressing eligibility criteria to obtain or maintain a permit;
  - establishing the application and renewal process;
  - imposing conditions during permit term;

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30 • addressing proficiency standards for English;
31 • addressing verification of permits and the protected status of information;
32 • addressing prohibited conduct;
33 • providing for administrative and criminal penalties;
34 • providing for sharing of information related to enforcement;
35 • addressing employee verification and employer sanctions for employing an
36 unauthorized alien who does not hold a permit;
37 • consolidating provisions in various parts of the Utah Code into the chapter; and
38 • imposing additional requirements to verify lawful presence in the United States
39 to receive certain public benefits;
40 ▸ provides a repeal date for the Private Employer Verification Act;
41 ▸ creates the Identity Theft Restricted Account from which victims of identity theft
42 may be paid actual damages;
43 ▸ enacts the Illegal Immigration Enforcement Act, including:
44 • defining terms;
45 • providing for when a law enforcement officer is required or permitted to request
46 verification of immigration status;
47 • establishing what documents are to be provided a law enforcement officer; and
48 • requiring implementation to be consistent with federal law, civil rights, and
49 other constitutional protections; and
50 ▸ makes technical and conforming amendments.
51 **Money Appropriated in this Bill:**
52 None
53 **Other Special Clauses:**
54 This bill coordinates with H.B. 497, Utah Illegal Immigration Enforcement Act, by
55 providing substantive amendments.
56 **Utah Code Sections Affected:**
57 AMENDS:

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58 **63G-2-206**, as last amended by Laws of Utah 2009, Chapter 344
59 **63G-2-305**, as last amended by Laws of Utah 2010, Chapters 6, 113, and 247
60 **63J-1-602.4**, as enacted by Laws of Utah 2010, Chapter 265
61 **67-5-22.7**, as enacted by Laws of Utah 2009, Chapter 30
62 **76-10-2901**, as enacted by Laws of Utah 2008, Chapter 26
63 **77-7-2**, as last amended by Laws of Utah 2008, Chapter 293
64 ENACTS:
65 **63G-12-101**, Utah Code Annotated 1953
66 **63G-12-102**, Utah Code Annotated 1953
67 **63G-12-103**, Utah Code Annotated 1953
68 **63G-12-104**, Utah Code Annotated 1953
69 **63G-12-105**, Utah Code Annotated 1953
70 **63G-12-106**, Utah Code Annotated 1953
71 **63G-12-201**, Utah Code Annotated 1953
72 **63G-12-202**, Utah Code Annotated 1953
73 **63G-12-203**, Utah Code Annotated 1953
74 **63G-12-204**, Utah Code Annotated 1953
75 **63G-12-205**, Utah Code Annotated 1953
76 **63G-12-206**, Utah Code Annotated 1953
77 **63G-12-207**, Utah Code Annotated 1953
78 **63G-12-208**, Utah Code Annotated 1953
79 **63G-12-209**, Utah Code Annotated 1953
80 **63G-12-210**, Utah Code Annotated 1953
81 **63G-12-211**, Utah Code Annotated 1953
82 **63G-12-212**, Utah Code Annotated 1953
83 **63G-12-301**, Utah Code Annotated 1953
84 **63G-12-303**, Utah Code Annotated 1953
85 **63G-12-304**, Utah Code Annotated 1953

AILA InfoNet Doc. No. 11052760. (Posted 05/27/11)

86 **63G-12-305**, Utah Code Annotated 1953
87 **63G-12-306**, Utah Code Annotated 1953
88 **63I-2-173**, Utah Code Annotated 1953
89 **76-9-1001**, Utah Code Annotated 1953
90 **76-9-1002**, Utah Code Annotated 1953
91 **76-9-1003**, Utah Code Annotated 1953
92 **76-9-1004**, Utah Code Annotated 1953
93 **76-9-1005**, Utah Code Annotated 1953
94 RENUMBERS AND AMENDS:
95 **63G-12-302**, (Renumbered from 63G-11-103, as last amended by Laws of Utah 2009,
96 Chapter 138)
97 **63G-12-401**, (Renumbered from 63G-11-102, as last amended by Laws of Utah 2010,
98 Chapter 281)
99 **63G-12-402**, (Renumbered from 63G-11-104, as last amended by Laws of Utah 2010,
100 Chapter 191)
101 **Utah Code Sections Affected by Coordination Clause:**
102 **76-9-1001**, Utah Code Annotated 1953
103 **76-9-1002**, Utah Code Annotated 1953
104 **76-9-1003**, Utah Code Annotated 1953
105 **76-9-1004**, Utah Code Annotated 1953
106 **76-9-1005**, Utah Code Annotated 1953
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108 *Be it enacted by the Legislature of the state of Utah:*
109 Section 1. Section **63G-2-206** is amended to read:
110 **63G-2-206. Sharing records.**
111 (1) A governmental entity may provide a record that is private, controlled, or protected
112 to another governmental entity, a government-managed corporation, a political subdivision, the
113 federal government, or another state if the requesting entity:

114 (a) serves as a repository or archives for purposes of historical preservation,
115 administrative maintenance, or destruction;
116 (b) enforces, litigates, or investigates civil, criminal, or administrative law, and the
117 record is necessary to a proceeding or investigation;
118 (c) is authorized by state statute to conduct an audit and the record is needed for that
119 purpose;
120 (d) is one that collects information for presentence, probationary, or parole purposes; or
121 (e) (i) is:
122 (A) the Legislature;
123 (B) a legislative committee;
124 (C) a member of the Legislature; or
125 (D) a legislative staff member acting at the request of the Legislature, a legislative
126 committee, or a member of the Legislature; and
127 (ii) requests the record in relation to the Legislature's duties including:
128 (A) the preparation or review of a legislative proposal or legislation;
129 (B) appropriations; or
130 (C) an investigation or review conducted by the Legislature or a legislative committee.
131 (2) (a) A governmental entity may provide a private, controlled, or protected record or
132 record series to another governmental entity, a political subdivision, a government-managed
133 corporation, the federal government, or another state if the requesting entity provides written
134 assurance:
135 (i) that the record or record series is necessary to the performance of the governmental
136 entity's duties and functions;
137 (ii) that the record or record series will be used for a purpose similar to the purpose for
138 which the information in the record or record series was collected or obtained; and
139 (iii) that the use of the record or record series produces a public benefit that outweighs
140 the individual privacy right that protects the record or record series.
141 (b) A governmental entity may provide a private, controlled, or protected record or

142 record series to a contractor or a private provider according to the requirements of Subsection
143 (6)(b).
144 (3) (a) A governmental entity shall provide a private, controlled, or protected record to
145 another governmental entity, a political subdivision, a government-managed corporation, the
146 federal government, or another state if the requesting entity:
147 (i) is entitled by law to inspect the record;
148 (ii) is required to inspect the record as a condition of participating in a state or federal
149 program or for receiving state or federal funds; or
150 (iii) is an entity described in Subsection (1)(a), (b), (c), (d), or (e).
151 (b) Subsection (3)(a)(iii) applies only if the record is a record described in Subsection
152 63G-2-305(4).
153 (4) Before disclosing a record or record series under this section to another
154 governmental entity, another state, the United States, a foreign government, or to a contractor
155 or private provider, the originating governmental entity shall:
156 (a) inform the recipient of the record's classification and the accompanying restrictions
157 on access; and
158 (b) if the recipient is not a governmental entity to which this chapter applies, obtain the
159 recipient's written agreement which may be by mechanical or electronic transmission that it
160 will abide by those restrictions on access unless a statute, federal regulation, or interstate
161 agreement otherwise governs the sharing of the record or record series.
162 (5) A governmental entity may disclose a record to another state, the United States, or a
163 foreign government for the reasons listed in Subsections (1) and (2) without complying with
164 the procedures of Subsection (2) or (4) if disclosure is authorized by executive agreement,
165 treaty, federal statute, compact, federal regulation, or state statute.
166 (6) (a) Subject to Subsections (6)(b) and (c), an entity receiving a record under this
167 section is subject to the same restrictions on disclosure of the record as the originating entity.
168 (b) A contractor or a private provider may receive information under this section only
169 if:

170 (i) the contractor or private provider's use of the record or record series produces a
171 public benefit that outweighs the individual privacy right that protects the record or record
172 series;
173 (ii) the record or record series it requests:
174 (A) is necessary for the performance of a contract with a governmental entity;
175 (B) will only be used for the performance of the contract with the governmental entity;
176 (C) will not be disclosed to any other person; and
177 (D) will not be used for advertising or solicitation purposes; and
178 (iii) the contractor or private provider gives written assurance to the governmental
179 entity that is providing the record or record series that it will adhere to the restrictions of this
180 Subsection (6)(b).
181 (c) The classification of a record already held by a governmental entity and the
182 applicable restrictions on disclosure of that record are not affected by the governmental entity's
183 receipt under this section of a record with a different classification that contains information
184 that is also included in the previously held record.
185 (7) Notwithstanding any other provision of this section, if a more specific court rule or
186 order, state statute, federal statute, or federal regulation prohibits or requires sharing
187 information, that rule, order, statute, or federal regulation controls.
188 (8) The following records may not be shared under this section:
189 (a) records held by the Division of Oil, Gas, and Mining that pertain to any person and
190 that are gathered under authority of Title 40, Chapter 6, Board and Division of Oil, Gas, and
191 Mining; [~~and~~]
192 (b) records of publicly funded libraries as described in Subsection 63G-2-302(1)(c)[~~.~~]<u>;</u>
193 <u>and</u>
194 <u>(c) a record described in Section 63G-12-210.</u>
195 (9) Records that may evidence or relate to a violation of law may be disclosed to a
196 government prosecutor, peace officer, or auditor.
197 Section 2. Section **63G-2-305** is amended to read:

198 **63G-2-305. Protected records.**
199 The following records are protected if properly classified by a governmental entity:
200 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
201 has provided the governmental entity with the information specified in Section 63G-2-309;
202 (2) commercial information or nonindividual financial information obtained from a
203 person if:
204 (a) disclosure of the information could reasonably be expected to result in unfair
205 competitive injury to the person submitting the information or would impair the ability of the
206 governmental entity to obtain necessary information in the future;
207 (b) the person submitting the information has a greater interest in prohibiting access
208 than the public in obtaining access; and
209 (c) the person submitting the information has provided the governmental entity with
210 the information specified in Section 63G-2-309;
211 (3) commercial or financial information acquired or prepared by a governmental entity
212 to the extent that disclosure would lead to financial speculations in currencies, securities, or
213 commodities that will interfere with a planned transaction by the governmental entity or cause
214 substantial financial injury to the governmental entity or state economy;
215 (4) records the disclosure of which could cause commercial injury to, or confer a
216 competitive advantage upon a potential or actual competitor of, a commercial project entity as
217 defined in Subsection 11-13-103(4);
218 (5) test questions and answers to be used in future license, certification, registration,
219 employment, or academic examinations;
220 (6) records the disclosure of which would impair governmental procurement
221 proceedings or give an unfair advantage to any person proposing to enter into a contract or
222 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
223 Subsection (6) does not restrict the right of a person to have access to, once the contract or
224 grant has been awarded, a bid, proposal, or application submitted to or by a governmental
225 entity in response to:

226 (a) a request for bids;
227 (b) a request for proposals;
228 (c) a grant; or
229 (d) other similar document;
230 (7) records that would identify real property or the appraisal or estimated value of real
231 or personal property, including intellectual property, under consideration for public acquisition
232 before any rights to the property are acquired unless:
233 (a) public interest in obtaining access to the information outweighs the governmental
234 entity's need to acquire the property on the best terms possible;
235 (b) the information has already been disclosed to persons not employed by or under a
236 duty of confidentiality to the entity;
237 (c) in the case of records that would identify property, potential sellers of the described
238 property have already learned of the governmental entity's plans to acquire the property;
239 (d) in the case of records that would identify the appraisal or estimated value of
240 property, the potential sellers have already learned of the governmental entity's estimated value
241 of the property; or
242 (e) the property under consideration for public acquisition is a single family residence
243 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
244 the property as required under Section 78B-6-505;
245 (8) records prepared in contemplation of sale, exchange, lease, rental, or other
246 compensated transaction of real or personal property including intellectual property, which, if
247 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
248 of the subject property, unless:
249 (a) the public interest in access outweighs the interests in restricting access, including
250 the governmental entity's interest in maximizing the financial benefit of the transaction; or
251 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
252 the value of the subject property have already been disclosed to persons not employed by or
253 under a duty of confidentiality to the entity;

254 (9) records created or maintained for civil, criminal, or administrative enforcement
255 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
256 release of the records:
257 (a) reasonably could be expected to interfere with investigations undertaken for
258 enforcement, discipline, licensing, certification, or registration purposes;
259 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
260 proceedings;
261 (c) would create a danger of depriving a person of a right to a fair trial or impartial
262 hearing;
263 (d) reasonably could be expected to disclose the identity of a source who is not
264 generally known outside of government and, in the case of a record compiled in the course of
265 an investigation, disclose information furnished by a source not generally known outside of
266 government if disclosure would compromise the source; or
267 (e) reasonably could be expected to disclose investigative or audit techniques,
268 procedures, policies, or orders not generally known outside of government if disclosure would
269 interfere with enforcement or audit efforts;
270 (10) records the disclosure of which would jeopardize the life or safety of an
271 individual;
272 (11) records the disclosure of which would jeopardize the security of governmental
273 property, governmental programs, or governmental recordkeeping systems from damage, theft,
274 or other appropriation or use contrary to law or public policy;
275 (12) records that, if disclosed, would jeopardize the security or safety of a correctional
276 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
277 with the control and supervision of an offender's incarceration, treatment, probation, or parole;
278 (13) records that, if disclosed, would reveal recommendations made to the Board of
279 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
280 Board of Pardons and Parole, or the Department of Human Services that are based on the
281 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's

282 jurisdiction;
283 (14) records and audit workpapers that identify audit, collection, and operational
284 procedures and methods used by the State Tax Commission, if disclosure would interfere with
285 audits or collections;
286 (15) records of a governmental audit agency relating to an ongoing or planned audit
287 until the final audit is released;
288 (16) records prepared by or on behalf of a governmental entity solely in anticipation of
289 litigation that are not available under the rules of discovery;
290 (17) records disclosing an attorney's work product, including the mental impressions or
291 legal theories of an attorney or other representative of a governmental entity concerning
292 litigation;
293 (18) records of communications between a governmental entity and an attorney
294 representing, retained, or employed by the governmental entity if the communications would be
295 privileged as provided in Section 78B-1-137;
296 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
297 from a member of the Legislature; and
298 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
299 legislative action or policy may not be classified as protected under this section; and
300 (b) (i) an internal communication that is part of the deliberative process in connection
301 with the preparation of legislation between:
302 (A) members of a legislative body;
303 (B) a member of a legislative body and a member of the legislative body's staff; or
304 (C) members of a legislative body's staff; and
305 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
306 legislative action or policy may not be classified as protected under this section;
307 (20) (a) records in the custody or control of the Office of Legislative Research and
308 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
309 legislation or contemplated course of action before the legislator has elected to support the

310 legislation or course of action, or made the legislation or course of action public; and
311 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
312 Office of Legislative Research and General Counsel is a public document unless a legislator
313 asks that the records requesting the legislation be maintained as protected records until such
314 time as the legislator elects to make the legislation or course of action public;
315 (21) research requests from legislators to the Office of Legislative Research and
316 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
317 in response to these requests;
318 (22) drafts, unless otherwise classified as public;
319 (23) records concerning a governmental entity's strategy about collective bargaining or
320 pending litigation;
321 (24) records of investigations of loss occurrences and analyses of loss occurrences that
322 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
323 Uninsured Employers' Fund, or similar divisions in other governmental entities;
324 (25) records, other than personnel evaluations, that contain a personal recommendation
325 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
326 personal privacy, or disclosure is not in the public interest;
327 (26) records that reveal the location of historic, prehistoric, paleontological, or
328 biological resources that if known would jeopardize the security of those resources or of
329 valuable historic, scientific, educational, or cultural information;
330 (27) records of independent state agencies if the disclosure of the records would
331 conflict with the fiduciary obligations of the agency;
332 (28) records of an institution within the state system of higher education defined in
333 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,
334 retention decisions, and promotions, which could be properly discussed in a meeting closed in
335 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
336 the final decisions about tenure, appointments, retention, promotions, or those students
337 admitted, may not be classified as protected under this section;

338 (29) records of the governor's office, including budget recommendations, legislative
339 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
340 policies or contemplated courses of action before the governor has implemented or rejected
341 those policies or courses of action or made them public;
342 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
343 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
344 recommendations in these areas;
345 (31) records provided by the United States or by a government entity outside the state
346 that are given to the governmental entity with a requirement that they be managed as protected
347 records if the providing entity certifies that the record would not be subject to public disclosure
348 if retained by it;
349 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body
350 except as provided in Section 52-4-206;
351 (33) records that would reveal the contents of settlement negotiations but not including
352 final settlements or empirical data to the extent that they are not otherwise exempt from
353 disclosure;
354 (34) memoranda prepared by staff and used in the decision-making process by an
355 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
356 other body charged by law with performing a quasi-judicial function;
357 (35) records that would reveal negotiations regarding assistance or incentives offered
358 by or requested from a governmental entity for the purpose of encouraging a person to expand
359 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
360 person or place the governmental entity at a competitive disadvantage, but this section may not
361 be used to restrict access to a record evidencing a final contract;
362 (36) materials to which access must be limited for purposes of securing or maintaining
363 the governmental entity's proprietary protection of intellectual property rights including patents,
364 copyrights, and trade secrets;
365 (37) the name of a donor or a prospective donor to a governmental entity, including an

366 institution within the state system of higher education defined in Section 53B-1-102, and other
367 information concerning the donation that could reasonably be expected to reveal the identity of
368 the donor, provided that:
369 (a) the donor requests anonymity in writing;
370 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
371 classified protected by the governmental entity under this Subsection (37); and
372 (c) except for an institution within the state system of higher education defined in
373 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
374 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
375 over the donor, a member of the donor's immediate family, or any entity owned or controlled
376 by the donor or the donor's immediate family;
377 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
378 73-18-13;
379 (39) a notification of workers' compensation insurance coverage described in Section
380 34A-2-205;
381 (40) (a) the following records of an institution within the state system of higher
382 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
383 or received by or on behalf of faculty, staff, employees, or students of the institution:
384 (i) unpublished lecture notes;
385 (ii) unpublished notes, data, and information:
386 (A) relating to research; and
387 (B) of:
388 (I) the institution within the state system of higher education defined in Section
389 53B-1-102; or
390 (II) a sponsor of sponsored research;
391 (iii) unpublished manuscripts;
392 (iv) creative works in process;
393 (v) scholarly correspondence; and

394 (vi) confidential information contained in research proposals;
395 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
396 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
397 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
398 (41) (a) records in the custody or control of the Office of Legislative Auditor General
399 that would reveal the name of a particular legislator who requests a legislative audit prior to the
400 date that audit is completed and made public; and
401 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
402 Office of the Legislative Auditor General is a public document unless the legislator asks that
403 the records in the custody or control of the Office of Legislative Auditor General that would
404 reveal the name of a particular legislator who requests a legislative audit be maintained as
405 protected records until the audit is completed and made public;
406 (42) records that provide detail as to the location of an explosive, including a map or
407 other document that indicates the location of:
408 (a) a production facility; or
409 (b) a magazine;
410 (43) information:
411 (a) contained in the statewide database of the Division of Aging and Adult Services
412 created by Section 62A-3-311.1; or
413 (b) received or maintained in relation to the Identity Theft Reporting Information
414 System (IRIS) established under Section 67-5-22;
415 (44) information contained in the Management Information System and Licensing
416 Information System described in Title 62A, Chapter 4a, Child and Family Services;
417 (45) information regarding National Guard operations or activities in support of the
418 National Guard's federal mission;
419 (46) records provided by any pawn or secondhand business to a law enforcement
420 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
421 Secondhand Merchandise Transaction Information Act;

422 (47) information regarding food security, risk, and vulnerability assessments performed
423 by the Department of Agriculture and Food;
424 (48) except to the extent that the record is exempt from this chapter pursuant to Section
425 63G-2-106, records related to an emergency plan or program prepared or maintained by the
426 Division of Homeland Security the disclosure of which would jeopardize:
427 (a) the safety of the general public; or
428 (b) the security of:
429 (i) governmental property;
430 (ii) governmental programs; or
431 (iii) the property of a private person who provides the Division of Homeland Security
432 information;
433 (49) records of the Department of Agriculture and Food relating to the National
434 Animal Identification System or any other program that provides for the identification, tracing,
435 or control of livestock diseases, including any program established under Title 4, Chapter 24,
436 Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Livestock Inspection and
437 Quarantine;
438 (50) as provided in Section 26-39-501:
439 (a) information or records held by the Department of Health related to a complaint
440 regarding a child care program or residential child care which the department is unable to
441 substantiate; and
442 (b) information or records related to a complaint received by the Department of Health
443 from an anonymous complainant regarding a child care program or residential child care;
444 (51) unless otherwise classified as public under Section 63G-2-301 and except as
445 provided under Section 41-1a-116, an individual's home address, home telephone number, or
446 personal mobile phone number, if:
447 (a) the individual is required to provide the information in order to comply with a law,
448 ordinance, rule, or order of a government entity; and
449 (b) the subject of the record has a reasonable expectation that this information will be

450 kept confidential due to:
451 (i) the nature of the law, ordinance, rule, or order; and
452 (ii) the individual complying with the law, ordinance, rule, or order;
453 (52) the name, home address, work addresses, and telephone numbers of an individual
454 that is engaged in, or that provides goods or services for, medical or scientific research that is:
455 (a) conducted within the state system of higher education, as defined in Section
456 53B-1-102; and
457 (b) conducted using animals;
458 (53) an initial proposal under Title 63M, Chapter 1, Part 26, Government Procurement
459 Private Proposal Program, to the extent not made public by rules made under that chapter;
460 (54) information collected and a report prepared by the Judicial Performance
461 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter
462 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
463 the information or report;
464 (55) (a) records of the Utah Educational Savings Plan created under Section
465 53B-8a-103 if the disclosure of the records would conflict with its fiduciary obligations;
466 (b) proposals submitted to the Utah Educational Savings Plan; and
467 (c) contracts entered into by the Utah Educational Savings Plan and the related
468 payments;
469 (56) records contained in the Management Information System created in Section
470 62A-4a-1003;
471 (57) records provided or received by the Public Lands Policy Coordinating Office in
472 furtherance of any contract or other agreement made in accordance with Section 63J-4-603;
473 (58) information requested by and provided to the Utah State 911 Committee under
474 Section 53-10-602;
475 (59) recorded Children's Justice Center investigative interviews, both video and audio,
476 the release of which are governed by Section 77-37-4; [~~and~~]
477 (60) in accordance with Section 73-10-33:

478 (a) a management plan for a water conveyance facility in the possession of the Division
479 of Water Resources or the Board of Water Resources; or
480 (b) an outline of an emergency response plan in possession of the state or a county or
481 municipality[.]; and
482 (61) a record described in Section 63G-12-210.
483 Section 3. Section **63G-12-101** is enacted to read:
484 **CHAPTER 12. UTAH IMMIGRATION ACCOUNTABILITY AND**
485 **ENFORCEMENT ACT**
486 **Part 1. General Provisions**
487 **63G-12-101. Title.**
488 This chapter is known as the "Utah Immigration Accountability and Enforcement Act."
489 Section 4. Section **63G-12-102** is enacted to read:
490 **63G-12-102. Definitions.**
491 As used in this chapter:
492 (1) "Basic health insurance plan" means a health plan that is actuarially equivalent to a
493 federally qualified high deductible health plan.
494 (2) "Department" means the Department of Public Safety created in Section 53-1-103.
495 (3) "Employee" means an individual employed by an employer under a contract for
496 hire.
497 (4) "Employer" means a person who has one or more employees employed in the same
498 business, or in or about the same establishment, under any contract of hire, express or implied,
499 oral or written.
500 (5) "E-verify program" means the electronic verification of the work authorization
501 program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, 8
502 U.S.C. Sec. 1324a, known as the e-verify program;
503 (6) "Family member" means for an undocumented individual:
504 (a) a member of the undocumented individual's immediate family;
505 (b) the undocumented individual's grandparent;

506 (c) the undocumented individual's sibling;
507 (d) the undocumented individual's grandchild;
508 (e) the undocumented individual's nephew;
509 (f) the undocumented individual's niece;
510 (g) a spouse of an individual described in this Subsection (6); or
511 (h) an individual who is similar to one listed in this Subsection (6).
512 (7) "Federal SAVE program" means the Systematic Alien Verification for Entitlements
513 Program operated by the United States Department of Homeland Security or an equivalent
514 program designated by the Department of Homeland Security.
515 (8) "Guest worker" means an undocumented individual who holds a guest worker
516 permit.
517 (9) "Guest worker permit" means a permit issued in accordance with Section
518 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section
519 63G-12-205.
520 (10) "Immediate family" means for an undocumented individual:
521 (a) the undocumented individual's spouse; or
522 (b) a child of the undocumented individual if the child is:
523 (i) under 21 years of age; and
524 (ii) unmarried.
525 (11) "Immediate family permit" means a permit issued in accordance with Section
526 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section
527 63G-12-206.
528 (12) "Permit" means a permit issued under Part 2, Guest Worker Program, and
529 includes:
530 (a) a guest worker permit; and
531 (b) an immediate family permit.
532 (13) "Permit holder" means an undocumented individual who holds a permit.
533 (14) "Private employer" means an employer who is not the federal government or a

534 public employer.
535 (15) "Program start date" means the day on which the department is required to
536 implement the program under Subsection 63G-12-202(3).
537 (16) "Public employer" means an employer that is:
538 (a) the state of Utah or any administrative subunit of the state;
539 (b) a state institution of higher education, as defined in Section 53B-3-102;
540 (c) a political subdivision of the state including a county, city, town, school district,
541 local district, or special service district; or
542 (d) an administrative subunit of a political subdivision.
543 (17) "Program" means the Guest Worker Program described in Section 63G-12-201.
544 (18) "Relevant contact information" means the following for an undocumented
545 individual:
546 (a) the undocumented individual's name;
547 (b) the undocumented individual's residential address;
548 (c) the undocumented individual's residential telephone number;
549 (d) the undocumented individual's personal email address;
550 (e) the name of the person with whom the undocumented individual has a contract for
551 hire;
552 (f) the name of the contact person for the person listed in Subsection (18)(e);
553 (g) the address of the person listed in Subsection (18)(e);
554 (h) the telephone number for the person listed in Subsection (18)(e);
555 (i) the names of the undocumented individual's immediate family members;
556 (j) the names of the family members who reside with the undocumented individual;
557 and
558 (k) any other information required by the department by rule made in accordance with
559 Chapter 3, Utah Administrative Rulemaking Act.
560 (19) "Restricted account" means the Immigration Act Restricted Account created in
561 Section 63G-12-103.

562 (20) "Serious felony" means a felony under:
563 (a) Title 76, Chapter 5, Offenses Against the Person;
564 (b) Title 76, Chapter 5a, Sexual Exploitation of Children;
565 (c) Title 76, Chapter 6, Offenses Against Property;
566 (d) Title 76, Chapter 7, Offenses Against the Family;
567 (e) Title 76, Chapter 8, Offenses Against the Administration of Government;
568 (f) Title 76, Chapter 9, Offenses Against Public Order and Decency; and
569 (g) Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare, and Morals.
570 (21) (a) "Status verification system" means an electronic system operated by the federal
571 government, through which an authorized official of a state agency or a political subdivision of
572 the state may inquire by exercise of authority delegated pursuant to 8 U.S.C. Sec. 1373, to
573 verify the citizenship or immigration status of an individual within the jurisdiction of the
574 agency or political subdivision for a purpose authorized under this section.
575 (b) "Status verification system" includes:
576 (i) the e-verify program;
577 (ii) an equivalent federal program designated by the United States Department of
578 Homeland Security or other federal agency authorized to verify the work eligibility status of a
579 newly hired employee pursuant to the Immigration Reform and Control Act of 1986;
580 (iii) the Social Security Number Verification Service or similar online verification
581 process implemented by the United States Social Security Administration; or
582 (iv) an independent third-party system with an equal or higher degree of reliability as
583 the programs, systems, or processes described in Subsection (21)(b)(i), (ii), or (iii).
584 (22) "Unauthorized alien" is as defined in 8 U.S.C. Sec. 1324a(h)(3).
585 (23) "Undocumented individual" means an individual who:
586 (a) lives or works in the state; and
587 (b) is not in compliance with the Immigration and Nationality Act, 8 U.S.C. Sec. 1101
588 et seq. with regard to presence in the United States.
589 (24) "U-verify program" means the verification procedure developed by the department

590 in accordance with Section 63G-12-210.
591 Section 5. Section **63G-12-103** is enacted to read:
592 **63G-12-103. Immigration Act Restricted Account.**
593 (1) There is created a restricted account within the General Fund known as the
594 "Immigration Act Restricted Account."
595 (2) (a) The restricted account shall consist of:
596 (i) a fee collected under this chapter;
597 (ii) a fine collected under Section 63G-12-207;
598 (iii) civil penalties imposed under Section 63G-12-211 or 63G-12-307;
599 (iv) money appropriated to the restricted account by the Legislature; and
600 (v) interest earned on the restricted account.
601 (b) The restricted account shall earn interest.
602 (3) The Legislature may appropriate money from the restricted account to:
603 (a) the department and the Office of the Governor to pay the costs associated with the
604 implementation of Section 63G-12-202;
605 (b) the department to administer this chapter;
606 (c) the State Tax Commission for costs associated with implementing Section
607 63G-12-203;
608 (d) the attorney general for costs associated with:
609 (i) litigation related to this chapter;
610 (ii) a multi-agency strike force created under Section 67-5-22.7; or
611 (iii) a memorandum of understanding executed under Section 67-5-28; and
612 (e) the Identity Theft Restricted Account created in Section 67-5-22.7.
613 Section 6. Section **63G-12-104** is enacted to read:
614 **63G-12-104. Determining immigration status -- Transfer or maintenance of**
615 **information.**
616 Except as limited by federal law and this chapter, any state or local governmental
617 agency is not restricted or prohibited in any way from sending, receiving, or maintaining

618 information related to the lawful or unlawful immigration status of an individual by
619 communicating with any federal, state, or local governmental entity for any lawful purpose,
620 including:
621 (1) determining an individual's eligibility for any public benefit, service, or license
622 provided by any federal agency, by this state, or by a political subdivision of this state;
623 (2) confirming an individual's claim of residence or domicile if determination is
624 required by state law or a judicial order issued pursuant to a civil or criminal proceeding in this
625 state;
626 (3) if the individual is an alien, determining if the individual is in compliance with the
627 federal registration laws under 8 U.S.C. Sec. 1301 through 1306; or
628 (4) a valid request for verification of the citizenship or immigration status of any
629 person pursuant to 8 U.S.C. Sec. 1373.
630 Section 7. Section **63G-12-105** is enacted to read:
631 **63G-12-105. Implementation to be consistent with federal law and civil rights.**
632 A state or local agency shall implement this chapter in a manner that:
633 (1) is consistent with federal laws that regulate immigration;
634 (2) protects the civil rights of all persons; and
635 (3) respects the privileges and immunities of United States citizens.
636 Section 8. Section **63G-12-106** is enacted to read:
637 **63G-12-106. Severability.**
638 (1) If a provision of Part 2, Guest Worker Program, or the application of a provision to
639 a person or circumstance is held invalid, the remainder of this chapter may not be given effect
640 without the invalid provision or application so that the provisions of this chapter are not
641 severable.
642 (2) The following provisions are severable from this chapter:
643 (a) Title 76, Chapter 9, Part 10, Illegal Immigration Enforcement Act;
644 (b) Section 76-10-2901; and
645 (c) Section 77-7-2.

646 Section 9. Section **63G-12-201** is enacted to read:

647 **Part 2. Guest Worker Program**

648 **63G-12-201. Department to create program.**

649 (1) The department shall administer a program known as the "Guest Worker Program"
650 created by this part. Under this program, the department shall:

651 (a) seek one or more waivers, exemptions, or authorizations to implement the program
652 as provided in Section 63G-12-202;

653 (b) issue a permit as provided in Section 63G-12-207;

654 (c) establish fees in accordance with Section 63J-1-504 for a filing or service required
655 by this part;

656 (d) take action under Section 63G-12-211; and

657 (e) report annually to the governor and the Legislature.

658 (2) The department may make rules in accordance with Chapter 3, Utah Administrative
659 Rulemaking Act, to the extent expressly provided for in this part.

660 (3) In implementing this part, the department shall cooperate with other state agencies
661 to minimize any duplication in databases or services required under this part.

662 Section 10. Section **63G-12-202** is enacted to read:

663 **63G-12-202. Federal waivers, exemptions, or authorizations -- Implementation**
664 **without waiver, exemption, or authorization.**

665 (1) The department, under the direction of the governor, shall seek one or more federal
666 waivers, exemptions, or authorizations to implement the program.

667 (2) The governor shall actively participate in the effort to obtain one or more federal
668 waivers, exemptions, or authorizations under this section.

669 (3) The department shall implement the program the sooner of:

670 (a) 120 days after the day on which the governor finds that the state has the one or
671 more federal waivers, exemptions, or authorizations needed to implement the program; or

672 (b) July 1, 2013.

673 Section 11. Section **63G-12-203** is enacted to read:

674 **63G-12-203. Coordination with other federal or state laws or programs.**
675 (1) To the extent feasible, the department shall coordinate the implementation of the
676 program with other existing state and federal laws that relate to immigration and labor,
677 including laws pertaining to obtaining the privilege to drive and to report citizenship status.
678 (2) (a) If a permit holder is not issued a Social Security number, the State Tax
679 Commission shall, by rule made in accordance with Chapter 3, Utah Administrative
680 Rulemaking Act, provide a means for a person who receives services from a permit holder to
681 withhold from compensation paid to the permit holder an amount to be determined by State
682 Tax Commission rule that, as closely as possible, equals the income taxes that would be
683 imposed by state law if the permit holder were an employee with a Social Security number.
684 (b) If a waiver, exemption, or authorization described in Section 63G-12-202 provides
685 for the issuance of a Social Security number to a permit holder, a person who receives services
686 from a permit holder is required to withhold from compensation as provided in Title 59,
687 Chapter 10, Part 4, Withholding of Tax.
688 (c) The rules described in Subsection (2)(a) shall be substantially similar to Title 59,
689 Chapter 10, Part 4, Withholding of Tax.
690 (d) To the extent feasible and consistent with a waiver, exemption, or authority entered
691 into under Section 63G-12-202, the State Tax Commission shall work with the applicable
692 federal government agencies to ensure that the withholding provided for under this Subsection
693 (2) is compatible with a federal process by which employment taxes are collected that would be
694 imposed under federal law if a permit holder were an employee with a Social Security number.
695 (e) (i) The State Tax Commission shall impose a fee on a person who hires a permit
696 holder as an employee in accordance with this Subsection (2)(e):
697 (A) if as of the program start date the federal government does not collect or provide
698 for the withholding of federal employment taxes;
699 (B) beginning the first day of the calendar quarter immediately following the program
700 start date; and
701 (C) ending the last day of the calendar quarter in which the federal government begins

702 to collect or provide for the withholding of federal employment taxes.
703 (ii) The State Tax Commission shall set the fee equal to the amount that, as closely as
704 possible, equals the federal employment taxes that would be imposed by federal law if the
705 permit holder were hired as an employee with a Social Security number.
706 (iii) The State Tax Commission shall collect the fee in the same manner that it collects
707 state income taxes withheld in accordance with this Subsection (2).
708 (iv) The State Tax Commission may make rules in accordance with Chapter 3, Utah
709 Administrative Rulemaking Act, to establish the procedures for the collection of the fee.
710 (v) The State Tax Commission shall deposit the fee into the restricted account.
711 (vi) The State Tax Commission may have access to a record of the department made
712 under Section 63G-12-210 to the extent necessary to impose a fee under this Subsection (2)(e).
713 (3) The department shall facilitate the use in this state of other employer based work
714 programs that meet the needs of Utah employers by using workers who are not working in Utah
715 and who are not United States citizens. Nothing in this part prevents a person from using an
716 employer based work program described in this Subsection (3) that exists under the auspices of
717 a foreign government in cooperation with the United States government.
718 (4) A permit holder is not eligible for unemployment compensation.
719 Section 12. Section **63G-12-204** is enacted to read:
720 **63G-12-204. Obtaining a permit -- Uses of permit.**
721 (1) An undocumented individual shall obtain a permit:
722 (a) before providing services to a person in this state under a contract for hire; or
723 (b) in accordance with Subsection (2), by no later than 30 days from the day on which
724 the undocumented individual enters into a contract for hire.
725 (2) (a) By rule made in accordance with Chapter 3, Utah Administrative Rulemaking
726 Act, the department shall provide a procedure under which a person may hire an undocumented
727 individual who does not hold a permit pending the undocumented individual obtaining a permit
728 within 30 days of the day on which the undocumented individual is hired to provide services.
729 (b) An undocumented individual may not provide services under a contract for hire to a

730 person for more than 30 days during a two-year calendar period without obtaining a permit as
731 provided under this part.
732 (3) Subject to Subsection (4), a permit is considered an identification document for
733 purposes of Section 63G-12-401, and may be used as identification or proof of the permit
734 holder's age for any state or local government required purpose.
735 (4) An undocumented individual may not use a permit:
736 (a) to establish entitlement to a federal, state, or local benefit as described in Section
737 63G-12-402; or
738 (b) to obtain work or provide services in a state other than Utah.
739 Section 13. Section **63G-12-205** is enacted to read:
740 **63G-12-205. Eligibility criteria to obtain and maintain a guest worker permit.**
741 (1) To be eligible to obtain or maintain a guest worker permit, an undocumented
742 individual shall:
743 (a) (i) be 18 years of age or older; or
744 (ii) if younger than 18 years of age, have the permission of a parent or guardian;
745 (b) live in Utah;
746 (c) have worked or lived in Utah before May 10, 2011;
747 (d) provide relevant contact information and regularly update the relevant contact
748 information in a manner required by rule made in accordance with Chapter 3, Utah
749 Administrative Rulemaking Act;
750 (e) provide documentation of a contract for hire under which the undocumented
751 individual begins to provide services within at least 30 days of the day on which the
752 undocumented individual obtains the permit;
753 (f) (i) agree to a criminal background check described in Subsection (3); and
754 (ii) not have been convicted of, pled guilty to, pled no contest to, pled guilty in a
755 similar manner to, or resolved by diversion or its equivalent to a serious felony;
756 (g) provide evidence satisfactory to the department that the person would not be
757 inadmissible for public health grounds under 8 U.S.C. Sec. 1182;

758 (h) (i) be covered by a basic health insurance plan; or
759 (ii) provide evidence satisfactory to the department that the undocumented individual
760 has no medical debt that is past due and agrees to have no medical debt that is past due during
761 the term of the permit; and
762 (i) (i) hold a driving privilege card issued in accordance with Section 53-3-207; or
763 (ii) provide evidence satisfactory to the department that the undocumented individual
764 will not drive a motor vehicle in the state.
765 (2) The department may by rule made in accordance with Chapter 3, Utah
766 Administrative Rulemaking Act, provide for the documentation required to establish eligibility
767 under Subsection (1). When making a rule under this section, the department shall use federal
768 standards as a guideline to avoid unnecessary duplication and additional costs.
769 (3) (a) The department shall require an undocumented individual applying for a guest
770 worker permit, or renewing a guest worker permit, to submit to a criminal background check as
771 a condition of receiving or renewing the guest worker permit.
772 (b) An undocumented individual required to submit to a criminal background check
773 under Subsection (3)(a), shall:
774 (i) submit a fingerprint card in a form acceptable to the department; and
775 (ii) consent to a fingerprint background check by:
776 (A) the Utah Bureau of Criminal Identification; and
777 (B) the Federal Bureau of Investigation, including the secure communities program
778 when possible.
779 (c) For an undocumented individual who submits a fingerprint card and consents to a
780 fingerprint background check under Subsection (3)(b), the department may request:
781 (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part
782 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and
783 (ii) complete Federal Bureau of Investigation criminal background checks through the
784 national criminal history system and secure communities program.
785 (d) Information obtained by the department from the review of criminal history records

786 received under this Subsection (3) shall be used by the department to determine eligibility to
787 obtain a permit.
788 (e) The department shall:
789 (i) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau
790 of Investigation in providing the department criminal background information under this
791 Subsection (3); and
792 (ii) in accordance with Section 63J-1-504, charge the undocumented individual
793 applying for the permit a fee equal to the aggregate of the costs incurred by the department
794 under this Subsection (3) and the amount paid under Subsection (3)(e)(i).
795 Section 14. Section **63G-12-206** is enacted to read:
796 **63G-12-206. Eligibility to obtain and maintain an immediate family permit.**
797 To be eligible to obtain or maintain an immediate family permit, an undocumented
798 individual shall:
799 (1) live in Utah;
800 (2) be a member of a guest worker's immediate family; and
801 (3) provide relevant contact information and regularly update the relevant contact
802 information in a manner required by rule made in accordance with Chapter 3, Utah
803 Administrative Rulemaking Act.
804 Section 15. Section **63G-12-207** is enacted to read:
805 **63G-12-207. Application and renewal process.**
806 (1) The department may not issue a permit under this part until the program is
807 implemented under Section 63G-12-202.
808 (2) The department shall:
809 (a) create a permit that:
810 (i) is of impervious material that is resistant to wear or damage; and
811 (ii) minimizes the risk that the permit may be forged, falsified, or counterfeited; and
812 (b) ensure that a permit:
813 (i) includes a photograph of the undocumented individual to whom the permit is

814 issued;
815 (ii) prominently states the day on which the permit expires; and
816 (iii) prominently states the type of permit.
817 (3) A permit expires two years from the day on which the department issues the permit.
818 (4) (a) Before an undocumented individual may apply for an initial permit under this
819 part the undocumented individual shall commit to pay a fine equal to:
820 (i) $1,000, if the undocumented individual enters into the United States legally, but at
821 the time of paying the fine is not in compliance with the Immigration and Nationality Act, 8
822 U.S.C. Sec. 1101 et seq. with regard to presence in the United States; or
823 (ii) $2,500, if the undocumented individual enters into the United States illegally.
824 (b) The department by rule made in accordance with Chapter 3, Utah Administrative
825 Rulemaking Act, shall make rules that provide for:
826 (i) how an undocumented individual demonstrates a commitment to pay the fine
827 required under Subsection (4)(a);
828 (ii) one or more payment plans that an undocumented individual may use to pay a fine
829 required under Subsection (4)(a); and
830 (iii) the consequences for failure to pay the entire amount of a fine required under
831 Subsection (4)(a).
832 (5) After committing to pay the fine in accordance with Subsection (4), to apply for or
833 renew a permit, an undocumented individual shall submit to the department, in a form
834 acceptable under this part:
835 (a) an application;
836 (b) documentation of meeting the criteria in Section 63G-12-205 or 63G-12-206;
837 (c) for a renewal, documentation of efforts to comply with Section 63G-12-209;
838 (d) a signed statement verifying the information in the application and documentation;
839 and
840 (e) a fee established by the department in accordance with Section 63J-1-504.
841 (6) If an undocumented individual submits a complete application under Subsection (5)

842 and the department determines that the undocumented individual meets the criteria of Section
843 63G-12-205 or 63G-12-206, the department shall issue or renew:
844 (a) a guest worker permit, if the undocumented individual qualifies under Section
845 63G-12-205; and
846 (b) an immediate family permit, if the undocumented individual qualifies under
847 Section 63G-12-206.
848 (7) An undocumented individual may appeal a denial of a permit under this section in
849 accordance with Chapter 4, Administrative Procedures Act.
850 (8) (a) If a waiver, exemption, or authorization provides for the following, in addition
851 to the requirements of Subsection (5), for an application to be considered complete for
852 purposes of Subsection (6) an undocumented individual applying for a guest worker permit
853 shall:
854 (i) post a bond with the department in the amount of $10,000 against which the
855 department may bring an action for a violation of this part; or
856 (ii) provide written certification by the undocumented individual's country of origin in
857 accordance with Subsection (8)(b) of a guarantee of compliance with this part.
858 (b) (i) In accordance with Chapter 3, Utah Administrative Rulemaking Act, the
859 department shall make rules providing for what the department would consider being a
860 "guarantee of compliance" by a country of origin for purposes of Subsection (8)(a).
861 (ii) A rule made under this Subsection (8)(b) shall provide that the department may not
862 accept a guarantee of compliance from a specific foreign country if the department determines
863 a significant percentage of the guest workers who submit a guarantee of compliance from that
864 foreign country cannot be located after or during the term of a guest worker permit.
865 Section 16. Section **63G-12-208** is enacted to read:
866 **63G-12-208. Conditions during permit term.**
867 (1) A permit holder shall continue to meet the eligibility criteria under Section
868 63G-12-205 or 63G-12-206 for the type of permit held by the permit holder.
869 (2) A permit is automatically revoked if after issuance of the permit:

870 (a) the permit holder to whom it is issued is convicted of, pleads guilty to, pleads no
871 contest to, pleads guilty in a similar manner to, or has resolved by diversion or its equivalent a
872 serious felony;
873 (b) for a guest worker permit, the permit holder to whom it is issued does not provide
874 services under a contract for hire for more than one year; or
875 (c) for an immediate family permit, the guest worker permit under which the
876 immediate family member's permit is issued is revoked or expires under this part.
877 Section 17. Section **63G-12-209** is enacted to read:
878 **63G-12-209. Proficiency standards for English.**
879 (1) A permit holder shall in good faith use best efforts to become proficient in the
880 English language at or above the equivalent to an intermediate level on a language proficiency
881 assessment test used by the State Office of Education for purposes of secondary school
882 students.
883 (2) An undocumented individual shall pay the costs of complying with this section.
884 Section 18. Section **63G-12-210** is enacted to read:
885 **63G-12-210. Verification of valid permit -- Protected status of information.**
886 (1) (a) The department shall develop a verification procedure by rule made in
887 accordance with Chapter 3, Utah Administrative Rulemaking Act, for a person who hires a
888 permit holder to verify with the department that the permit is valid as required by Section
889 63G-12-301.
890 (b) The verification procedure adopted under this Subsection (1) shall:
891 (i) be substantially similar to the employer requirements to verify federal employment
892 status under the e-verify program; and
893 (ii) provide that an undocumented individual may appeal a determination that a permit
894 is invalid in accordance with Chapter 4, Administrative Procedures Act.
895 (2) Subject to Section 63G-12-212, a record under this part is a protected record under
896 Chapter 2, Government Records Access and Management Act, except that a record may not be
897 shared under Section 63G-2-206, unless:

898 (a) requested by the Office of Legislative Auditor General in accordance with Section
899 36-12-15;
900 (b) disclosed to the State Tax Commission as provided in Subsection
901 63G-12-203(2)(e)(vi); or
902 (c) disclosed to a federal government entity in accordance with this part or a waiver,
903 exemption, or authorization described in Section 63G-12-202.
904 (3) The state is not liable to any person for:
905 (a) the design, implementation, or operation of a verification procedure under this part;
906 (b) the collection and disclosure of information as part of a verification procedure
907 under this part; or
908 (c) the determination that a permit is invalid.
909 Section 19. Section **63G-12-211** is enacted to read:
910 **63G-12-211. Prohibited conduct -- Administrative penalties -- Criminal penalties.**
911 (1) A permit holder may not file for or receive unemployment benefits.
912 (2) A person may not:
913 (a) furnish false or forged information or documentation in support of an application;
914 (b) alter the information on a permit;
915 (c) if the person is a guest worker, be reported absent from work for 10 consecutive
916 days without the approval of the person who hires the guest worker;
917 (d) allow an individual to use a permit if the individual is not entitled to use the permit;
918 (e) display or represent that a permit is issued to an individual, if the permit is not
919 issued to the individual;
920 (f) display a revoked permit as a valid permit;
921 (g) knowingly or with reckless disregard acquire, use, display, or transfer an item that
922 purports to be a valid permit, but that is not a valid permit; or
923 (h) otherwise violate this part.
924 (3) For a violation described in Subsections (1) and (2), the department may:
925 (a) suspend, limit, or revoke and repossess a permit;

926 (b) impose a civil penalty not to exceed $750 for each violation; or
927 (c) take a combination of actions under this section.
928 (4) A person is guilty of a class B misdemeanor if the person:
929 (a) furnishes false or forged information or documentation in support of an application;
930 or
931 (b) alters the information on a permit.
932 Section 20. Section **63G-12-212** is enacted to read:
933 **63G-12-212. Sharing of information related to enforcement.**
934 (1) The department shall provide the notice described in Subsection (2), if the
935 department determines that an undocumented individual:
936 (a) has the undocumented individual's permit revoked; or
937 (b) permits the undocumented individual's permit to expire and the department has
938 reason to believe that the undocumented individual continues to reside in the state.
939 (2) (a) The department shall provide the notice required by Subsection (1) to:
940 (i) Utah's attorney general; and
941 (ii) United States Immigration and Customs Enforcement.
942 (b) The notice described in Subsection (2)(a) shall:
943 (i) include:
944 (A) the last known address of the undocumented individual; and
945 (B) the basis of the notice described in Subsection (1); and
946 (ii) be sent promptly after the day on which the time to appeal, if any, the action that is
947 the basis for the notification under Subsection (1) ends.
948 Section 21. Section **63G-12-301** is enacted to read:
949 **Part 3. Employee Verification and Employer Sanctions**
950 **63G-12-301. Employing unauthorized alien -- Verification of employment**
951 **eligibility.**
952 (1) On and after the program start date, an employer may not knowingly employ an
953 unauthorized alien who does not hold a permit.

954 (2) On and after the program start date, a private employer employing 15 or more
955 employees within the state for each working day in each of 20 calendar weeks or more in the
956 current or preceding calendar year, after hiring an employee, shall verify the employment
957 eligibility of the new employee:
958 (a) through the e-verify program if the individual does not hold a permit; and
959 (b) through the u-verify program if the individual holds a permit.
960 (3) A private employer shall keep a record of the verification required by Subsection
961 (2) for the longer of:
962 (a) the duration of the employee's employment; or
963 (b) at least three years from the date of verification.
964 (4) On and after the program start date, a private employer shall terminate the
965 employment of an undocumented individual if the undocumented individual is determined by
966 the department to not hold a valid permit.
967 Section 22. Section **63G-12-302**, which is renumbered from Section 63G-11-103 is
968 renumbered and amended to read:
969 **[~~63G-11-103~~]. 63G-12-302. Status verification system -- Registration and**
970 **use -- Performance of services -- Unlawful practice.**
971 (1) As used in this section:
972 (a) "Contract" means an agreement for the procurement of goods or services that is
973 awarded through a request for proposals process with a public employer and includes a sole
974 source contract.
975 (b) "Contractor" means a subcontractor, contract employee, staffing agency, or any
976 contractor regardless of its tier.
977 [~~(c) "Public employer" means a department, agency, instrumentality, or political~~
978 ~~subdivision of the state.~~]
979 [~~(d) (i) "Status Verification System" means an electronic system operated by the~~
980 ~~federal government, through which an authorized official of a state agency or a political~~
981 ~~subdivision of the state may inquire by exercise of authority delegated pursuant to 8 U.S.C.,~~

982 ~~Sec. 1373, to verify the citizenship or immigration status of an individual within the~~
983 ~~jurisdiction of the agency or political subdivision for a purpose authorized under this section.~~]
984 [~~(ii) "Status Verification System" includes:~~]
985 [~~(A) the electronic verification of the work authorization program of the Illegal~~
986 ~~Immigration Reform and Immigration Responsibility Act of 1996, 8 U.S.C., Sec. 1324a,~~
987 ~~known as the E-verify Program;~~]
988 [~~(B) an equivalent federal program designated by the United States Department of~~
989 ~~Homeland Security or other federal agency authorized to verify the work eligibility status of a~~
990 ~~newly hired employee pursuant to the Immigration Reform and Control Act of 1986;~~]
991 [~~(C) the Social Security Number Verification Service or similar online verification~~
992 ~~process implemented by the United States Social Security Administration; or~~]
993 [~~(D) an independent third-party system with an equal or higher degree of reliability as~~
994 ~~the programs, systems, or processes described in Subsection (1)(d)(ii)(A), (B), or (C).~~]
995 [~~(e) "Unauthorized alien" means an alien as defined in 8 U.S.C., Sec. 1324a(h)(3).~~]
996 (2) (a) [~~Each~~] Subject to Subsection (5), a public employer shall register with and use a
997 Status Verification System to verify the federal employment authorization status of a new
998 employee.
999 (b) This section shall be enforced without regard to race, religion, gender, ethnicity, or
1000 national origin.
1001 (3) (a) [~~Beginning~~] Subject to Subsection (5), beginning July 1, 2009:
1002 (i) a public employer may not enter into a contract for the physical performance of
1003 services within the state with a contractor unless the contractor registers and participates in the
1004 Status Verification System to verify the work eligibility status of the contractor's new
1005 employees that are employed in the state; and
1006 (ii) a contractor shall register and participate in the Status Verification System in order
1007 to enter into a contract with a public employer.
1008 (b) (i) For purposes of compliance with Subsection (3)(a), a contractor is individually
1009 responsible for verifying the employment status of only new employees who work under the

1010 contractor's supervision or direction and not those who work for another contractor or
1011 subcontractor, except as otherwise provided in Subsection (3)(b)(ii).
1012 (ii) Each contractor or subcontractor who works under or for another contractor shall
1013 certify to the main contractor by affidavit that the contractor or subcontractor has verified
1014 through the Status Verification System the employment status of each new employee of the
1015 respective contractor or subcontractor.
1016 (c) Subsection (3)(a) does not apply to a contract:
1017 (i) entered into by the entities referred to in Subsection (3)(a) prior to July 1, 2009,
1018 even though the contract may involve the physical performance of services within the state on
1019 or after July 1, 2009; or
1020 (ii) that involves underwriting, remarketing, broker-dealer activities, securities
1021 placement, investment advisory, financial advisory, or other financial or investment banking
1022 services.
1023 (4) (a) It is unlawful for an employing entity in the state to discharge an employee
1024 working in Utah who is a United States citizen or permanent resident alien and replace the
1025 employee with, or have the employee's duties assumed by, an employee who:
1026 (i) the employing entity knows, or reasonably should have known, is an unauthorized
1027 alien hired on or after July 1, 2009; and
1028 (ii) is working in the state in a job category:
1029 (A) that requires equal skill, effort, and responsibility; and
1030 (B) which is performed under similar working conditions, as defined in 29 U.S.C., Sec.
1031 206 (d)(1), as the job category held by the discharged employee.
1032 (b) An employing entity, which on the date of a discharge in question referred to in
1033 Subsection (4)(a) is enrolled in and using the Status Verification System to verify the
1034 employment eligibility of its employees in Utah who are hired on or after July 1, 2009, is
1035 exempt from liability, investigation, or lawsuit arising from an action under this section.
1036 (c) A cause of action for a violation of this Subsection (4) arises exclusively from the
1037 provisions of this Subsection (4).

1038 (5) On and after the program start date:
1039 (a) a public employer, after hiring an employee, shall verify the employment eligibility
1040 of the new employee:
1041 (i) through the status verification system if the individual does not hold a permit; and
1042 (ii) through the u-verify program if the individual holds a permit; and
1043 (b) a contractor is considered to be in compliance with this section if, after hiring an
1044 employee, the contractor verifies the employment eligibility of the new employee:
1045 (i) through the status verification system if the individual does not hold a permit; and
1046 (ii) through the u-verify program if the individual holds a permit.
1047 Section 23. Section **63G-12-303** is enacted to read:
1048 **63G-12-303. Liability protections.**
1049 (1) On or after the program start date, a private employer may not be held civilly liable
1050 under state law in a cause of action for the private employer's unlawful hiring of an
1051 unauthorized alien if:
1052 (a) the private employer complies with Subsection 63G-12-301(2); and
1053 (b) the information obtained after verification under Subsection 63G-12-301(2)
1054 indicates that:
1055 (i) the employee's federal legal status allowed the private employer to hire the
1056 employee; or
1057 (ii) on and after the program start date, the employee held a valid permit.
1058 (2) On or after the program start date, a private employer may not be held civilly liable
1059 under state law in a cause of action for the private employer's refusal to hire an individual if:
1060 (a) the private employer complies with Subsection 63G-12-301(2); and
1061 (b) the information obtained after verification under Subsection 63G-12-301(2)
1062 indicates that the employee:
1063 (i) was an unauthorized alien; and
1064 (ii) on and after the program start date, does not hold a valid permit.
1065 (3) This chapter does not create a cause of action, on the basis of discrimination or

1066 otherwise, for not hiring an individual who holds a permit.
1067 (4) This section applies to a private employer that verifies the employment eligibility of
1068 a new employee as described in Subsection 63G-12-301(2) regardless of whether the private
1069 employer has less than 15 employees within the state.
1070 Section 24. Section **63G-12-304** is enacted to read:
1071 **63G-12-304. Voluntary registration by private employer certifying participation**
1072 **in verification.**
1073 (1) (a) On or after the program start date, a private employer may register with the
1074 department certifying that the private employer is in compliance with Subsection
1075 63G-12-301(2).
1076 (b) A private employer may register with the department under this section regardless
1077 of whether the private employer is required to comply with Subsection 63G-12-301(2).
1078 (2) To register or renew a registration with the department under this part, a private
1079 employer shall:
1080 (a) file a registration statement with the department that certifies compliance with
1081 Subsection 63G-12-301(2); and
1082 (b) pay a fee established by the department in accordance Section 63J-1-504 that
1083 reflects the cost of registering employers under this section and publishing the list described in
1084 Subsection (5).
1085 (3) A registration under this part expires every two years on the anniversary of the day
1086 on which the registration is filed with the department.
1087 (4) In accordance with Chapter 3, Utah Administrative Rulemaking Act, the
1088 department may make rules to provide for:
1089 (a) the form of a registration statement under this section;
1090 (b) the process of filing a registration statement under this section; and
1091 (c) the process of renewing a registration statement under this section.
1092 (5) On and after the program start date, the department shall publish electronically a
1093 list of private employers who register under this section on a website accessible to the general

1094 public without a charge.
1095 (6) The department shall coordinate with the Department Commerce to transfer the
1096 registration operated by the Department of Commerce to the department effective on the
1097 program start date.
1098 Section 25. Section **63G-12-305** is enacted to read:
1099 **63G-12-305. Administrative actions -- Defenses.**
1100 (1) On and after the program start date and in accordance with Chapter 4,
1101 Administrative Procedures Act, the department may bring agency action against a private
1102 employer who violates Subsection 63G-12-301(1) to impose a penalty described in Section
1103 63G-12-306.
1104 (2) (a) To determine whether an employee is an unauthorized alien for purposes of
1105 Subsection (1), the department shall consider only the federal government's determination
1106 pursuant to 8 U.S.C. Sec. 1373(c).
1107 (b) The federal government's determination creates a rebuttable presumption of the
1108 employee's lawful status. The department may request the federal government to provide
1109 automated or testimonial verification pursuant to 8 U.S.C. Sec. 1373(c).
1110 (3) For the purposes of this part, proof of verifying the employment authorization in
1111 accordance with Subsection 63G-12-301(2) creates a rebuttable presumption that an employer
1112 did not knowingly employ an unauthorized alien who does not hold a valid permit.
1113 (4) (a) For the purposes of this section, an employer that establishes that the employer
1114 has complied in good faith with the requirements of 8 U.S.C. Sec. 1324a(b) establishes an
1115 affirmative defense that the employer did not knowingly employ an unauthorized alien.
1116 (b) An employer is considered to have complied with the requirements of 8 U.S.C. Sec.
1117 1324a(b), notwithstanding an isolated, sporadic, or accidental technical or procedural failure to
1118 meet the requirements, if there is a good faith attempt to comply with the requirements.
1119 Section 26. Section **63G-12-306** is enacted to read:
1120 **63G-12-306. Penalties.**
1121 (1) As used in this section:

1122 (a) "Applicable license" means a license issued under:
1123 (i) Title 32B, Alcoholic Beverage Control Act;
1124 (ii) Title 58, Occupations and Professions; or
1125 (iii) Title 61, Securities Division - Real Estate Division.
1126 (b) "First violation" means the first time the department imposes a penalty under this
1127 section, regardless of the number of individuals the private employer hired in violation of
1128 Subsection 63G-12-301(1).
1129 (c) "Second violation" means the second time the department imposes a penalty under
1130 this section, regardless of the number of individuals the private employer hired in violation of
1131 Subsection 63G-12-301(1).
1132 (d) "Third or subsequent violation" means a violation of Subsection 63G-12-301(1)
1133 committed after a second violation.
1134 (2) (a) On or after the program start date, a private employer who violates Subsection
1135 63G-12-301(1) is subject to a penalty provided in this section under an action brought by the
1136 department in accordance with Section 63B-12-305.
1137 (b) For a first violation of Subsection 63G-12-301(1), the department shall impose a
1138 civil penalty on the private employer not to exceed $100 for each individual employed by the
1139 private employer during the time period specified in the notice of agency action who is an
1140 unauthorized alien who does not hold a valid permit.
1141 (c) For a second violation of Subsection 63G-12-301(1), the department shall impose a
1142 civil penalty on the private employer not to exceed $500 for each individual employed by the
1143 private employer during the time period specified in the notice of agency action who is an
1144 unauthorized alien who does not hold a valid permit.
1145 (d) For a third or subsequent violation of Subsection 63-12-301(1), the department
1146 shall:
1147 (i) order the revocation of the one or more applicable licenses that are issued to an
1148 owner, officer, director, manager, or other individual in a similar position for the private
1149 employer for a period not to exceed one year; or

1150 (ii) if no individual described in Subsection (2)(d)(i) holds an applicable license,
1151 impose a civil penalty on the private employer not to exceed $10,000.
1152 (3) (a) If the department finds a third or subsequent violation, the department shall
1153 notify the Department of Commerce and the Department of Alcoholic Beverage Control once
1154 the department's order:
1155 (i) is not appealed, and the time to appeal has expired; or
1156 (ii) is appealed, and is affirmed, in whole or in part on appeal.
1157 (b) The notice required under Subsection (3)(a) shall state:
1158 (i) that the department has found a third or subsequent violation;
1159 (ii) that any applicable license held by an individual described in Subsection (2)(d)(i) is
1160 to be revoked; and
1161 (iii) the time period for the revocation, not to exceed one year.
1162 (c) The department shall base its determination of the length of revocation under this
1163 section on evidence or information submitted to the department during the action under which
1164 a third or subsequent violation is found, and shall consider the following factors, if relevant:
1165 (i) the number of unauthorized aliens who do not hold a permit that are employed by
1166 the private employer;
1167 (ii) prior misconduct by the private employer;
1168 (iii) the degree of harm resulting from the violation;
1169 (iv) whether the private employer made good faith efforts to comply with any
1170 applicable requirements;
1171 (v) the duration of the violation;
1172 (vi) the role of the individuals described in Subsection (2)(d)(i) in the violation; and
1173 (vii) any other factor the department considers appropriate.
1174 (4) Within 10 business days of receipt of notice under Subsection (3), the Department
1175 of Commerce and the Department of Alcoholic Beverage Control shall:
1176 (a) (i) if the Department of Commerce or Alcoholic Beverage Control Commission has
1177 issued an applicable license to an individual described in Subsection (2)(d)(i), notwithstanding

1178 any other law, revoke the applicable license; and
1179 (ii) notify the department that the applicable license is revoked; or
1180 (b) if the Department of Commerce or Alcoholic Beverage Control Commission has
1181 not issued an applicable license to an individual described in Subsection (2)(d)(i), notify the
1182 department that an applicable license has not been issued to an individual described in
1183 Subsection (2)(d)(i).
1184 (5) If an individual described in Subsection (2)(d)(i) is licensed to practice law in the
1185 state and the department finds a third or subsequent violation of Subsection 63G-12-301(1), the
1186 department shall notify the Utah State Bar of the third and subsequent violation.
1187 Section 27. Section **63G-12-401**, which is renumbered from Section 63G-11-102 is
1188 renumbered and amended to read:
1189 **Part 4. Identification and General Verification**
1190 **[~~63G-11-102~~]. 63G-12-401. Creation of identity documents -- Issuance to**
1191 **citizens, nationals, and legal permanent resident aliens -- Exceptions.**
1192 (1) The following entities may create, publish, or otherwise manufacture an
1193 identification document, identification card, or identification certificate and possess an
1194 engraved plate or other device for the printing of an identification document:
1195 (a) a federal, state, or local government agency for employee identification, which is
1196 designed to identify the bearer as an employee;
1197 (b) a federal, state, or local government agency for purposes authorized or required by
1198 law or a legitimate purpose consistent with the duties of the agency, including such documents
1199 as voter identification cards, identification cards, passports, birth certificates, and Social
1200 Security cards; and
1201 (c) a public school or state or private educational institution to identify the bearer as an
1202 administrator, faculty member, student, or employee.
1203 (2) The name of the issuing entity shall be clearly printed upon the face of the
1204 identification document.
1205 (3) Except as otherwise provided in Subsections (4) and (5) or by federal law, an entity

1206 providing an identity document, card, or certificate under Subsection (1)(b) or (c) shall issue
1207 the document, card, or certificate only to:
1208 (a) a United States citizen;
1209 (b) a national; or
1210 (c) a legal permanent resident alien.
1211 (4) (a) Subsection (3) does not apply to an applicant for an identification document
1212 who presents, in person, valid documentary evidence of the applicant's:
1213 (i) unexpired immigrant or nonimmigrant visa status for admission into the United
1214 States;
1215 (ii) pending or approved application for asylum in the United States;
1216 (iii) admission into the United States as a refugee;
1217 (iv) pending or approved application for temporary protected status in the United
1218 States;
1219 (v) approved deferred action status; or
1220 (vi) pending application for adjustment of status to legal permanent resident or
1221 conditional resident.
1222 (b) (i) An entity listed in Subsection (1)(b) or (c) may issue a Subsection (1)(b) or (c)
1223 identification document to an applicant who satisfies the requirements of Subsection (4)(a).
1224 (ii) Except as otherwise provided by federal law, the document is valid only:
1225 (A) during the period of time of the individual's authorized stay in the United States; or
1226 (B) for one year from the date of issuance if there is no definite end to the individual's
1227 period of authorized stay.
1228 (iii) An entity issuing an identification document under this Subsection (4) shall clearly
1229 indicate on the document:
1230 (A) that it is temporary; and
1231 (B) its expiration date.
1232 (c) An individual may renew a document issued under this Subsection (4) only upon
1233 presentation of valid documentary evidence that the status by which the individual originally

1234 qualified for the identification document has been extended by the United States Citizenship
1235 and Immigration Services or other authorized agency of the United States Department of
1236 Homeland Security.
1237 (5) (a) Subsection (3) does not apply to an identification document issued under
1238 Subsection (1)(c) that:
1239 (i) is only valid for use on the educational institution's campus or facility; and
1240 (ii) includes a statement of the restricted use conspicuously printed upon the face of the
1241 identification document.
1242 (b) Subsection (3) does not apply to a license certificate, driving privilege card, or
1243 identification card issued or renewed under Title 53, Chapter 3, Uniform Driver License Act.
1244 (c) Subsection (3) does not apply to a public transit pass issued by a public transit
1245 district as defined in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that:
1246 (i) is only valid for use on the public transit system; and
1247 (ii) includes a statement of the restricted use conspicuously printed on the face of the
1248 public transit pass.
1249 (d) Subsection (3) does not apply to a permit issued under Section 63G-12-207.
1250 (6) This section shall be enforced without regard to race, religion, gender, ethnicity, or
1251 national origin.
1252 Section 28. Section **63G-12-402**, which is renumbered from Section 63G-11-104 is
1253 renumbered and amended to read:
1254 **[~~63G-11-104~~]. 63G-12-402. Receipt of state, local, or federal public benefits**
1255 **-- Verification -- Exceptions -- Fraudulently obtaining benefits -- Criminal penalties --**
1256 **Annual report.**
1257 [~~(1) As used in this section, "federal program" means the Systematic Alien Verification~~
1258 ~~for Entitlements Program operated by the United States Department of Homeland Security or~~
1259 ~~an equivalent program designated by the Department of Homeland Security.~~]
1260 [~~(2)~~] (1) Except as provided in Subsection [~~(4)~~] (3) or when exempted by federal law,
1261 an agency or political subdivision of the state shall verify the lawful presence in the United

1262 States of an individual at least 18 years of age who applies for:
1263 (a) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or
1264 (b) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an
1265 agency or political subdivision of this state.
1266 [~~(3)~~] (2) This section shall be enforced without regard to race, religion, gender,
1267 ethnicity, or national origin.
1268 [~~(4)~~] (3) Verification of lawful presence under this section is not required for:
1269 (a) any purpose for which lawful presence in the United States is not restricted by law,
1270 ordinance, or regulation;
1271 (b) assistance for health care items and services that:
1272 (i) are necessary for the treatment of an emergency medical condition, as defined in 42
1273 U.S.C. Sec. 1396b(v)(3), of the individual involved; and
1274 (ii) are not related to an organ transplant procedure;
1275 (c) short-term, noncash, in-kind emergency disaster relief;
1276 (d) public health assistance for immunizations with respect to immunizable diseases
1277 and for testing and treatment of symptoms of communicable diseases whether or not the
1278 symptoms are caused by the communicable disease;
1279 (e) programs, services, or assistance such as soup kitchens, crisis counseling and
1280 intervention, and short-term shelter, specified by the United States Attorney General, in the
1281 sole and unreviewable discretion of the United States Attorney General after consultation with
1282 appropriate federal agencies and departments, that:
1283 (i) deliver in-kind services at the community level, including through public or private
1284 nonprofit agencies;
1285 (ii) do not condition the provision of assistance, the amount of assistance provided, or
1286 the cost of assistance provided on the income or resources of the individual recipient; and
1287 (iii) are necessary for the protection of life or safety;
1288 (f) the exemption for paying the nonresident portion of total tuition as set forth in
1289 Section 53B-8-106;

1290 (g) an applicant for a license under Section 61-1-4, if the applicant:
1291 (i) is registered with the Financial Industry Regulatory Authority; and
1292 (ii) files an application with the state Division of Securities through the Central
1293 Registration Depository;
1294 (h) a state public benefit to be given to an individual under Title 49, Utah State
1295 Retirement and Insurance Benefit Act;
1296 (i) a home loan that will be insured, guaranteed, or purchased by:
1297 (i) the Federal Housing Administration, the Veterans Administration, or any other
1298 federal agency; or
1299 (ii) an enterprise as defined in 12 U.S.C. Sec. 4502;
1300 (j) a subordinate loan or a grant that will be made to an applicant in connection with a
1301 home loan that does not require verification under Subsection [~~(4)~~] (3)(i); and
1302 (k) an applicant for a license issued by the Department of Commerce, if the applicant
1303 provides the Department of Commerce:
1304 (i) certification, under penalty of perjury, that the applicant is:
1305 (A) a United States citizen;
1306 (B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or
1307 (C) lawfully present in the United States; and
1308 (ii) a valid driver license number for a driver license issued by:
1309 (A) Utah on or after January 1, 2010; or
1310 (B) a state other than Utah that as part of issuing the driver license verifies an
1311 individual's lawful presence in the United States.
1312 [~~(5)~~] (4) (a) An agency or political subdivision required to verify the lawful presence in
1313 the United States of an applicant under this section shall require the applicant to certify under
1314 penalty of perjury that:
1315 [~~(a)~~] (i) the applicant is a United States citizen; or
1316 [~~(b)~~] (ii) the applicant is:
1317 [~~(i)~~] (A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and

1318 [~~(ii)~~] (B) lawfully present in the United States.
1319 (b) The certificate required under this Subsection (4) shall include a statement advising
1320 the signer that providing false information subjects the signer to penalties for perjury.
1321 [~~(6)~~] (5) An agency or political subdivision shall verify a certification required under
1322 Subsection [~~(5)~~] (4)(b) through the federal SAVE program.
1323 [~~(7)~~] (6) (a) An individual who knowingly and willfully makes a false, fictitious, or
1324 fraudulent statement or representation in a certification under Subsection [~~(4)~~] (3)(k) or [~~(5)~~]
1325 (4) is subject to the criminal penalties applicable in this state for:
1326 (i) making a written false statement under Subsection 76-8-504(2); and
1327 (ii) fraudulently obtaining:
1328 (A) public assistance program benefits under Sections 76-8-1205 and 76-8-1206; or
1329 (B) unemployment compensation under Section 76-8-1301.
1330 (b) If the certification constitutes a false claim of United States citizenship under 18
1331 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United
1332 States Attorney General for the applicable district based upon the venue in which the
1333 application was made.
1334 (c) If an agency or political subdivision receives verification that a person making an
1335 application for a benefit, service, or license is not a qualified alien, the agency or political
1336 subdivision shall provide the information to the Office of the Attorney General unless
1337 prohibited by federal mandate.
1338 [~~(8)~~] (7) An agency or political subdivision may adopt variations to the requirements of
1339 this section that:
1340 (a) clearly improve the efficiency of or reduce delay in the verification process; or
1341 (b) provide for adjudication of unique individual circumstances where the verification
1342 procedures in this section would impose an unusual hardship on a legal resident of Utah.
1343 [~~(9)~~] (8) It is unlawful for an agency or a political subdivision of this state to provide a
1344 state, local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this
1345 section.

1346 [~~(10)~~] (9) A state agency or department that administers a program of state or local
1347 public benefits shall:
1348 (a) provide an annual report to the governor, the president of the Senate, and the
1349 speaker of the House regarding its compliance with this section; and
1350 (b) (i) monitor the federal SAVE program for application verification errors and
1351 significant delays;
1352 (ii) provide an annual report on the errors and delays to ensure that the application of
1353 the federal SAVE program is not erroneously denying a state or local benefit to a legal resident
1354 of the state; and
1355 (iii) report delays and errors in the federal SAVE program to the United States
1356 Department of Homeland Security.
1357 Section 29. Section **63I-2-173** is enacted to read:
1358 **63I-2-173. Repeal dates -- Title 13.**
1359 Title 13, Chapter 47, Private Employer Verification Act, is repealed on the program
1360 start date, as defined in Section 63G-12-102.
1361 Section 30. Section **63J-1-602.4** is amended to read:
1362 **63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63M.**
1363 (1) The Utah Housing Opportunity Restricted Account created in Section 61-2-204.
1364 (2) Funds paid to the Division of Real Estate for the cost of a criminal background
1365 check for a mortgage loan license, as provided in Section 61-2c-202.
1366 (3) Funds paid to the Division of Real Estate for the cost of a criminal background
1367 check for principal broker, associate broker, and sales agent licenses, as provided in Section
1368 61-2f-204.
1369 (4) Certain funds donated to the Department of Human Services, as provided in
1370 Section 62A-1-111.
1371 (5) Certain funds donated to the Division of Child and Family Services, as provided in
1372 Section 62A-4a-110.
1373 (6) Appropriations to the Division of Services for People with Disabilities, as provided

1374 in Section 62A-5-102.
1375 (7) Certain donations to the Division of Substance Abuse and Mental Health, as
1376 provided in Section 62A-15-103.
1377 (8) Assessments for DUI violations that are forwarded to an account created by a
1378 county treasurer, as provided in Section 62A-15-503.
1379 (9) The Risk Management Fund created under Section 63A-4-201.
1380 (10) The Child Welfare Parental Defense Fund created in Section 63A-11-203.
1381 (11) The Constitutional Defense Restricted Account created in Section 63C-4-103.
1382 (12) A portion of the funds appropriated to the Utah Seismic Safety Commission, as
1383 provided in Section 63C-6-104.
1384 (13) Funding for the Medical Education Program administered by the Medical
1385 Education Council, as provided in Section 63C-8-102.
1386 (14) Certain money payable for commission expenses of the Pete Suazo Utah Athletic
1387 Commission, as provided under Section 63C-11-301.
1388 (15) Funds collected for publishing the Division of Administrative Rules' publications,
1389 as provided in Section 63G-3-402.
1390 (16) The Immigration Act Restricted Account created in Section 63G-12-103.
1391 [~~(16)~~] (17) Money received by the military installation development authority, as
1392 provided in Section 63H-1-504.
1393 [~~(17)~~] (18) The appropriation to fund the Governor's Office of Economic
1394 Development's Enterprise Zone Act, as provided in Section 63M-1-416.
1395 [~~(18)~~] (19) The Tourism Marketing Performance Account, as provided in Section
1396 63M-1-1406.
1397 [~~(19)~~] (20) Certain money in the Development for Disadvantaged Rural Communities
1398 Restricted Account, as provided in Section 63M-1-2003.
1399 [~~(20)~~] (21) Appropriations to the Utah Science Technology and Research Governing
1400 Authority, created under Section 63M-2-301, as provided under Section 63M-2-302.
1401 [~~(21)~~] (22) Certain money in the Rural Broadband Service Account, as provided in

1402 Section 63M-1-2303.

1403 Section 31. Section **67-5-22.7** is amended to read:

1404 **67-5-22.7. Multi-agency strike force to combat violent and other major felony**
1405 **crimes associated with illegal immigration and human trafficking -- Fraudulent**
1406 **Documents Identification Unit.**

1407 (1) The Office of the Attorney General is authorized to administer and coordinate the
1408 operation of a multi-agency strike force to combat violent and other major felony crimes
1409 committed within the state that are associated with illegal immigration and human trafficking.

1410 (2) The office shall invite officers of the U.S. Immigration and Customs Enforcement
1411 and state and local law enforcement personnel to participate in this mutually supportive,
1412 multi-agency strike force to more effectively utilize their combined skills, expertise, and
1413 resources.

1414 (3) The strike force shall focus its efforts on detecting, investigating, deterring, and
1415 eradicating violent and other major felony criminal activity related to illegal immigration and
1416 human trafficking.

1417 (4) In conjunction with the strike force and subject to available funding, the Office of
1418 the Attorney General shall establish a Fraudulent Documents Identification Unit:

1419 (a) for the primary purpose of investigating, apprehending, and prosecuting individuals
1420 or entities that participate in the sale or distribution of fraudulent documents used for
1421 identification purposes; [~~and~~]

1422 (b) to specialize in fraudulent identification documents created and prepared for
1423 individuals who are unlawfully residing within the state[~~.~~]; and

1424 (c) to administer the Identity Theft Victims Restricted Account created under
1425 Subsection (5).

1426 (5) (a) There is created a restricted account in the General Fund known as the "Identity
1427 Theft Victims Restricted Account."

1428 (b) The Identity Theft Victims Restricted Account shall consist of money appropriated
1429 to the Identity Theft Victims Restricted Account by the Legislature.

1430 (c) Subject to appropriations from the Legislature, beginning on the program start date,
1431 as defined in Section 63G-12-102, the Fraudulent Documents Identification Unit may expend
1432 the money in the Identity Theft Victims Restricted Account to pay a claim as provided in this
1433 Subsection (5) to a person who is a victim of identity theft prosecuted under Section 76-6-1102
1434 or 76-10-1801.
1435 (d) To obtain payment from the Identity Theft Victims Restricted Account, a person
1436 shall file a claim with the Fraudulent Documents Identification Unit by no later than one year
1437 after the day on which an individual is convicted, pleads guilty to, pleads no contest to, pleads
1438 guilty in a similar manner to, or resolved by diversion or its equivalent an offense under
1439 Section 76-6-1102 or 76-10-1801 for the theft of the identity of the person filing the claim.
1440 (e) A claim filed under this Subsection (5) shall include evidence satisfactory to the
1441 Fraudulent Documents Identification Unit:
1442 (i) that the person is the victim of identity theft described in Subsection (5)(d); and
1443 (ii) of the actual damages experienced by the person as a result of the identity theft that
1444 are not recovered from a public or private source.
1445 (f) The Fraudulent Documents Identification Unit shall pay a claim from the Identity
1446 Theft Victims Restricted Account:
1447 (i) if the Fraudulent Documents Identification Unit determines that the person has
1448 provided sufficient evidence to meet the requirements of Subsection (5)(e);
1449 (ii) in the order that claims are filed with the Fraudulent Documents Identification
1450 Unit; and
1451 (iii) to the extent that it there is money in the Identity Theft Victims Restricted
1452 Account.
1453 (g) If there is insufficient money in the Identity Theft Victims Restrict Account when a
1454 claim is filed under this Subsection (5) to pay the claim in full, the Fraudulent Documents
1455 Identification Unit may pay a claim when there is sufficient money in the account to pay the
1456 claim in the order that the claims are filed.
1457 [~~(5)~~] (6) The strike force shall make an annual report on its activities to the governor

1458 and the Legislature's Law Enforcement and Criminal Justice Interim Committee by December
1459 1, together with any proposed recommendations for modifications to this section.
1460 Section 32. Section **76-9-1001** is enacted to read:
1461 **Part 10. Illegal Immigration Enforcement Act**
1462 **76-9-1001. Title.**
1463 This part is known as the "Illegal Immigration Enforcement Act."
1464 Section 33. Section **76-9-1002** is enacted to read:
1465 **76-9-1002. Definitions.**
1466 As used in this part:
1467 (1) "Alien" means a person who is not a citizen or national of the United States.
1468 (2) "Law enforcement agency" means an entity of the federal government, a state, or a
1469 political subdivision of a state, including a state institution of higher education, that exists
1470 primarily to prevent and detect crime and enforce criminal laws, statutes, and ordinances.
1471 (3) "Law enforcement officer" has the same meaning as in Section 53-13-103.
1472 (4) "Lawfully present in the United States" is as defined in 8 C.F.R. Sec. 103.12,
1473 except that on or after the program start date, as defined in Section 63G-12-102, an individual
1474 who holds a valid permit, as defined in Section 63G-12-102, is considered lawfully present in
1475 the United States for purposes of this part.
1476 (5) "Verify immigration status" or "verification of immigration status" means the
1477 determination of a person's immigration status by:
1478 (a) a law enforcement officer who is authorized by a federal agency to determine an
1479 alien's immigration status; or
1480 (b) the United States Department of Homeland Security, including Immigration and
1481 Customs Enforcement, or other federal agency authorized to provide immigration status as
1482 provided by 8 U.S.C. Sec. 1373(c).
1483 Section 34. Section **76-9-1003** is enacted to read:
1484 **76-9-1003. Detention or arrest -- Determination of immigration status.**
1485 (1) (a) Except as otherwise provided in this Subsection (1), a law enforcement officer:

1486 (i) shall request verification of the immigration status of an individual when the law
1487 enforcement officer acting in the enforcement of a state law or local ordinance:
1488 (A) conducts a lawful stop, detention, or arrest of the individual for an alleged offense
1489 that is a class A misdemeanor or a felony; and
1490 (B) the individual is unable to provide to the law enforcement officer a document listed
1491 in Section 76-9-1004; and
1492 (ii) may request verification of the immigration status of an individual when the law
1493 enforcement officer acting in the enforcement of a state law or local ordinance:
1494 (A) conducts a lawful stop, detention, or arrest of the individual for an alleged offense
1495 that is a class B misdemeanor or a class C misdemeanor; and
1496 (B) the individual is unable to provide to the law enforcement officer a document listed
1497 in Section 76-9-1004.
1498 (b) In an individual case, the law enforcement officer may forego a request for
1499 verification of immigration status under Subsection (1)(a) if the verification of immigration
1500 status could hinder or obstruct a criminal investigation.
1501 (c) Subsection (1)(a) does not apply to a law enforcement officer who is acting as a
1502 school resource officer for any elementary or secondary school.
1503 (d) Subsection (1)(a) does not apply to a law enforcement officer for a county, city, or
1504 town if the county, city, or town has only one law enforcement officer on duty and response
1505 support from another law enforcement agency is not available.
1506 (2) When a law enforcement officer makes a lawful stop, detention, or arrest under
1507 Subsection (1) of the operator of a vehicle, and while investigating or processing the primary
1508 offense, the law enforcement officer makes observations that give the officer reasonable
1509 suspicion that the operator or a passenger in the vehicle is violating Section 76-5-309,
1510 76-5-310, or 76-10-2901, the law enforcement officer shall, to the extent possible within a
1511 reasonable period of time:
1512 (a) detain the one or more occupants of the vehicle to investigate the suspected
1513 violation; and

1514 (b) request verification of immigration status of the one or more occupants of the
1515 vehicle.
1516 (3) When an individual described in Subsection (1) is issued a citation or is arrested
1517 and booked into a jail, juvenile detention facility, or correctional facility, the citing law
1518 enforcement officer or the booking law enforcement officer shall ensure that a request for
1519 verification of immigration status of the cited or arrested individual is submitted as promptly as
1520 is reasonably possible.
1521 (4) The law enforcement agency that has custody of an individual verified to be an
1522 alien who is not lawfully present in the United States shall request that the United States
1523 Department of Homeland Security issue a detainer requesting transfer of the illegal alien into
1524 federal custody.
1525 (5) A law enforcement officer may not consider race, color, or national origin in
1526 implementing this section, except to the extent permitted by the constitutions of the United
1527 States and this state.
1528 Section 35. Section **76-9-1004** is enacted to read:
1529 **76-9-1004. Documents to be provided a law enforcement officer -- Statement to**
1530 **law enforcement officer of citizenship.**
1531 A document specified in Subsection 76-9-1003(1) includes the following:
1532 (1) a valid Utah driver license issued on or after January 1, 2010;
1533 (2) a valid Utah identification card issued under Section 53-3-804 issued on or after
1534 January 1, 2010;
1535 (3) a valid tribal enrollment card or other valid form of tribal membership
1536 identification that includes photo identification;
1537 (4) notwithstanding Section 53-3-207, a valid driving privilege card issued under
1538 Section 53-3-207;
1539 (5) a valid permit issued under Section 63G-12-207;
1540 (6) a valid permit to carry a concealed firearm issued under Section 53-5-704; or
1541 (7) a valid identification document that:

1542 (a) includes a photo or biometric identifier of the holder of the document; and
1543 (b) is issued by a federal, state, or local governmental agency that requires proof or
1544 verification of legal presence in the United States as a condition of issuance of the document.
1545 Section 36. Section **76-9-1005** is enacted to read:
1546 **76-9-1005. Implementation to be consistent with federal law and civil rights.**
1547 A state or local agency shall implement this part in a manner that is consistent with
1548 federal laws that regulate immigration, protect the civil rights of all persons, and establish the
1549 privileges and immunities of United States citizens.
1550 Section 37. Section **76-10-2901** is amended to read:
1551 **76-10-2901. Transporting or harboring aliens -- Definition -- Penalty.**
1552 (1) [~~For purposes of~~] As used in this part[~~,~~]:
1553 (a) Except as provided in Subsection (1)(b), "alien" means an individual who is
1554 illegally present in the United States.
1555 (b) On or after the program start date, as defined in Section 63G-12-102, "alien" does
1556 not include an individual who holds a valid permit, as defined in Section 63G-12-102.
1557 (2) It is unlawful for a person to:
1558 (a) transport, move, or attempt to transport into this state or for a distance of greater
1559 than 100 miles within the state an alien for commercial advantage or private financial gain,
1560 knowing or in reckless disregard of the fact that the alien is in the United States in violation of
1561 federal law, in furtherance of the illegal presence of the alien in the United States; [~~or~~]
1562 (b) knowingly, with the intent to violate federal immigration law, conceal, harbor, or
1563 shelter from detection an alien in a place within this state, including a building or means of
1564 transportation for commercial advantage or private financial gain, knowing or in reckless
1565 disregard of the fact that the alien is in the United States in violation of federal law[~~.~~];
1566 (c) encourage or induce an alien to come to, enter, or reside in this state, knowing or in
1567 reckless disregard of the fact that the alien's coming to, entry, or residence is or will be in
1568 violation of law; or
1569 (d) engage in a conspiracy, for commercial advantage or private financial gain, to

1570 commit any of the offenses listed in this Subsection (2).
1571 (3) (a) A person who violates Subsection (2)(a), (c), or (d) is guilty of a third degree
1572 felony.
1573 (b) A person who violates Subsection (2)(b) is guilty of a class A misdemeanor.
1574 (4) Nothing in this part prohibits or restricts the provision of:
1575 (a) a state or local public benefit described in 8 U.S.C.[~~, Section~~] Sec. 1621(b); or
1576 (b) charitable or humanitarian assistance, including medical care, housing, counseling,
1577 food, victim assistance, religious services and sacraments, and transportation to and from a
1578 location where the assistance is provided, by a charitable, educational, or religious organization
1579 or its employees, agents, or volunteers, using private funds.
1580 (5) (a) It is not a violation of this part for a religious denomination or organization or
1581 an agent, officer, or member of a religious denomination or organization to encourage, invite,
1582 call, allow, or enable an alien to perform the vocation of a minister or missionary for the
1583 denomination or organization in the United States as a volunteer who is not compensated as an
1584 employee, notwithstanding the provision of room, board, travel, medical assistance, and other
1585 basic living expenses.
1586 (b) Subsection (5)(a) applies only to an alien who has been a member of the religious
1587 denomination or organization for at least one year.
1588 Section 38. Section **77-7-2** is amended to read:
1589 **77-7-2. Arrest by peace officers.**
1590 A peace officer may make an arrest under authority of a warrant or may, without
1591 warrant, arrest a person:
1592 (1) (a) for any public offense committed or attempted in the presence of any peace
1593 officer; and
1594 (b) as used in this Subsection (1), "presence" includes all of the physical senses or any
1595 device that enhances the acuity, sensitivity, or range of any physical sense, or records the
1596 observations of any of the physical senses;
1597 (2) when the peace officer has reasonable cause to believe a felony or a class A

1598 misdemeanor has been committed and has reasonable cause to believe that the person arrested
1599 has committed it;
1600 (3) when the peace officer has reasonable cause to believe the person has committed a
1601 public offense, and there is reasonable cause for believing the person may:
1602 (a) flee or conceal himself to avoid arrest;
1603 (b) destroy or conceal evidence of the commission of the offense; or
1604 (c) injure another person or damage property belonging to another person; [~~or~~]
1605 (4) when the peace officer has reasonable cause to believe the person has committed
1606 the offense of failure to disclose identity under Section 76-8-301.5[~~.~~]; or
1607 (5) when the peace officer has reasonable cause to believe that the person is an alien:
1608 (a) subject to a civil removal order issued by an immigration judge;
1609 (b) regarding whom a civil detainer warrant has been issued by the federal Department
1610 of Homeland Security; or
1611 (c) who has been charged or convicted in another state with one or more aggravated
1612 felonies as defined by 8 U.S.C. Sec. 1101(a)(43).
1613 Section 39. **Coordinating H.B. 116 with H.B. 497 -- Substantive amendments.**
1614 If this H.B. 116 and H.B. 497, Utah Illegal Immigration Enforcement Act, both pass, it
1615 is the intent of the Legislature that Sections 76-9-1001 through 76-9-1005 enacted in H.B. 497
1616 supersede Sections 76-9-1001 through 76-9-1005 in this bill.