

ALIEN WORKERS RELATED AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bill Wright

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies general government provisions to harmonize provisions related to the imposition of taxes or fees on aliens who are permitted to work under a program implemented by the state and modifies provisions related to the guest worker program.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ addresses the exercise of prosecutorial discretion;
- ▶ addresses the program start date;
- ▶ requires that a specified fee imposed under the guest worker program be equivalent to income and employment taxes;
- ▶ clarifies that, if under the guest worker program the federal government collects or provides for the withholding of federal taxes, the State Tax Commission is not required to impose and collect the fee;
- ▶ provides for a temporary permit, including conditions during permit term;
- ▶ addresses what the State Tax Commission is to do regarding amounts it collects that are equivalent to federal income and employment taxes under the Utah Pilot Sponsored Resident Immigrant Program Act;
- ▶ provides that under the Utah Pilot Sponsored Resident Immigrant Program Act the amount to be collected is to, as closely as possible, equal the amount of state income



28 taxes that would be imposed if the resident immigrant were an employee with a Social Security
29 number; and

30 ▶ makes technical and conforming amendments.

31 **Money Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **63G-12-102**, as enacted by Laws of Utah 2011, Chapter 18

38 **63G-12-201**, as enacted by Laws of Utah 2011, Chapter 18

39 **63G-12-202**, as enacted by Laws of Utah 2011, Chapter 18

40 **63G-12-203**, as enacted by Laws of Utah 2011, Chapter 18

41 **63G-12-207**, as enacted by Laws of Utah 2011, Chapter 18

42 **63G-12-208**, as enacted by Laws of Utah 2011, Chapter 18

43 **63G-12-210**, as enacted by Laws of Utah 2011, Chapter 18

44 **63G-12-401**, as last amended by Laws of Utah 2011, Chapter 20 and renumbered and
45 amended by Laws of Utah 2011, Chapter 18

46 **63G-14-205**, as enacted by Laws of Utah 2011, Chapter 20

47 ENACTS:

48 **63G-12-207.5**, Utah Code Annotated 1953



50 *Be it enacted by the Legislature of the state of Utah:*

51 Section 1. Section **63G-12-102** is amended to read:

52 **63G-12-102. Definitions.**

53 As used in this chapter:

54 (1) "Basic health insurance plan" means a health plan that is actuarially equivalent to a
55 federally qualified high deductible health plan.

56 (2) "Department" means the Department of Public Safety created in Section 53-1-103.

57 (3) "Employee" means an individual employed by an employer under a contract for
58 hire.

59 (4) "Employer" means a person who has one or more employees employed in the same
60 business, or in or about the same establishment, under any contract of hire, express or implied,
61 oral or written.

62 (5) "E-verify program" means the electronic verification of the work authorization
63 program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, 8
64 U.S.C. Sec. 1324a, known as the e-verify program;

65 (6) "Family member" means for an undocumented individual:

66 (a) a member of the undocumented individual's immediate family;

67 (b) the undocumented individual's grandparent;

68 (c) the undocumented individual's sibling;

69 (d) the undocumented individual's grandchild;

70 (e) the undocumented individual's nephew;

71 (f) the undocumented individual's niece;

72 (g) a spouse of an individual described in this Subsection (6); or

73 (h) an individual who is similar to one listed in this Subsection (6).

74 (7) "Federal SAVE program" means the Systematic Alien Verification for Entitlements
75 Program operated by the United States Department of Homeland Security or an equivalent
76 program designated by the Department of Homeland Security.

77 (8) "Guest worker" means an undocumented individual who holds a guest worker
78 permit.

79 (9) "Guest worker permit" means a permit issued in accordance with Section
80 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section
81 63G-12-205.

82 (10) "Immediate family" means for an undocumented individual:

83 (a) the undocumented individual's spouse; or

84 (b) a child of the undocumented individual if the child is:

85 (i) under 21 years of age; and

86 (ii) unmarried.

87 (11) "Immediate family permit" means a permit issued in accordance with Section
88 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section
89 63G-12-206.

90 (12) "Permit" means a permit issued under Part 2, Guest Worker Program, and
91 includes:

- 92 (a) a guest worker permit; [~~and~~]
- 93 (b) an immediate family permit[-]; and
- 94 (c) a temporary permit.

95 (13) "Permit holder" means an undocumented individual who holds a permit.

96 (14) "Private employer" means an employer who is not the federal government or a
97 public employer.

98 (15) "Program start date" means the day on which the department is required to
99 implement the program under Subsection 63G-12-202(3).

100 (16) "Public employer" means an employer that is:

- 101 (a) the state of Utah or any administrative subunit of the state;
- 102 (b) a state institution of higher education, as defined in Section 53B-3-102;
- 103 (c) a political subdivision of the state including a county, city, town, school district,
104 local district, or special service district; or
- 105 (d) an administrative subunit of a political subdivision.

106 (17) "Program" means the Guest Worker Program described in Section 63G-12-201.

107 (18) "Relevant contact information" means the following for an undocumented
108 individual:

- 109 (a) the undocumented individual's name;
- 110 (b) the undocumented individual's residential address;
- 111 (c) the undocumented individual's residential telephone number;
- 112 (d) the undocumented individual's personal email address;
- 113 (e) the name of the person with whom the undocumented individual has a contract for
114 hire;
- 115 (f) the name of the contact person for the person listed in Subsection (18)(e);
- 116 (g) the address of the person listed in Subsection (18)(e);
- 117 (h) the telephone number for the person listed in Subsection (18)(e);
- 118 (i) the names of the undocumented individual's immediate family members;
- 119 (j) the names of the family members who reside with the undocumented individual;

120 and

121 (k) any other information required by the department by rule made in accordance with
122 Chapter 3, Utah Administrative Rulemaking Act.

123 (19) "Restricted account" means the Immigration Act Restricted Account created in
124 Section 63G-12-103.

125 (20) "Serious felony" means a felony under:

126 (a) Title 76, Chapter 5, Offenses Against the Person;

127 (b) Title 76, Chapter 5a, Sexual Exploitation of Children;

128 (c) Title 76, Chapter 6, Offenses Against Property;

129 (d) Title 76, Chapter 7, Offenses Against the Family;

130 (e) Title 76, Chapter 8, Offenses Against the Administration of Government;

131 (f) Title 76, Chapter 9, Offenses Against Public Order and Decency; and

132 (g) Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare, and Morals.

133 (21) (a) "Status verification system" means an electronic system operated by the federal
134 government, through which an authorized official of a state agency or a political subdivision of
135 the state may inquire by exercise of authority delegated pursuant to 8 U.S.C. Sec. 1373, to
136 verify the citizenship or immigration status of an individual within the jurisdiction of the
137 agency or political subdivision for a purpose authorized under this section.

138 (b) "Status verification system" includes:

139 (i) the e-verify program;

140 (ii) an equivalent federal program designated by the United States Department of
141 Homeland Security or other federal agency authorized to verify the work eligibility status of a
142 newly hired employee pursuant to the Immigration Reform and Control Act of 1986;

143 (iii) the Social Security Number Verification Service or similar online verification
144 process implemented by the United States Social Security Administration; or

145 (iv) an independent third-party system with an equal or higher degree of reliability as
146 the programs, systems, or processes described in Subsection (21)(b)(i), (ii), or (iii).

147 (22) "Temporary permit" means a permit issued under Section 63G-12-207.5.

148 [~~22~~] (23) "Unauthorized alien" is as defined in 8 U.S.C. Sec. 1324a(h)(3).

149 [~~23~~] (24) "Undocumented individual" means an individual who:

150 (a) lives or works in the state; and

151 (b) is not in compliance with the Immigration and Nationality Act, 8 U.S.C. Sec. 1101

152 et seq. with regard to presence in the United States.

153 [~~(24)~~] (25) "U-verify program" means the verification procedure developed by the
154 department in accordance with Section 63G-12-210.

155 Section 2. Section **63G-12-201** is amended to read:

156 **63G-12-201. Department to create program.**

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

159 (a) seek one or more waivers, exemptions, [~~or~~] authorizations, or the exercise of
160 prosecutorial discretion to implement the program as provided in Section 63G-12-202;

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

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

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

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

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

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

170 Section 3. Section **63G-12-202** is amended to read:

171 **63G-12-202. Federal waivers, exemptions, authorizations, prosecutorial**
172 **discretion -- Implementation without waiver, exemption, or authorization.**

173 (1) The department, under the direction of the governor, shall seek one or more federal
174 waivers, exemptions, [~~or~~] authorizations, or the exercise of prosecutorial discretion to
175 implement the program.

176 (2) The governor shall actively participate in the effort to obtain one or more federal
177 waivers, exemptions, [~~or~~] authorizations, or the exercise of prosecutorial discretion under this
178 section.

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

180 (a) [~~120 days~~] one year after the day on which the governor finds that the state has the
181 one or more federal waivers, exemptions, [~~or~~] authorizations, or the exercise of prosecutorial
182 discretion needed to implement the program; or

183 (b) [~~July 1, 2013~~] January 1, 2014.

184 Section 4. Section **63G-12-203** is amended to read:

185 **63G-12-203. Coordination with other federal or state laws or programs.**

186 (1) To the extent feasible, the department shall coordinate the implementation of the
187 program with other existing state and federal laws that relate to immigration and labor,
188 including laws pertaining to obtaining the privilege to drive and to report citizenship status.

189 (2) (a) If a permit holder is not issued a Social Security number, the State Tax
190 Commission shall, by rule made in accordance with Chapter 3, Utah Administrative
191 Rulemaking Act, provide a means for a person who receives services from a permit holder to
192 withhold from compensation paid to the permit holder an amount to be determined by State
193 Tax Commission rule that, as closely as possible, equals the income taxes that would be
194 imposed by state law if the permit holder were an employee with a Social Security number.

195 (b) If a waiver, exemption, [~~or~~] authorization, or the exercise of prosecutorial
196 discretion described in Section 63G-12-202 provides for the issuance of a Social Security
197 number to a permit holder, a person who receives services from a permit holder is required to
198 withhold from compensation as provided in Title 59, Chapter 10, Part 4, Withholding of Tax.

199 (c) The rules described in Subsection (2)(a) shall be substantially similar to Title 59,
200 Chapter 10, Part 4, Withholding of Tax.

201 (d) To the extent feasible and consistent with a waiver, exemption, [~~or~~] authority, or
202 the exercise of prosecutorial discretion entered into under Section 63G-12-202, the State Tax
203 Commission shall work with the applicable federal government agencies to ensure that the
204 withholding provided for under this Subsection (2) is compatible with a federal process by
205 which income and employment taxes are collected that would be imposed under federal law if
206 a permit holder were an employee with a Social Security number.

207 (e) (i) The State Tax Commission shall impose a fee on a person who hires a permit
208 holder as an employee in accordance with this Subsection (2)(e):

209 (A) if as of the program start date the federal government does not collect or provide
210 for the withholding of federal income and employment taxes;

211 (B) beginning the first day of the calendar quarter immediately following the program
212 start date; and

213 (C) ending the last day of the calendar quarter in which the federal government begins

214 to collect or provide for the withholding of federal income and employment taxes.

215 (ii) The State Tax Commission shall set the fee equal to the amount that, as closely as
216 possible, equals the federal income and employment taxes that would be imposed by federal
217 law if the permit holder were hired as an employee with a Social Security number.

218 (iii) The State Tax Commission shall collect the fee in the same manner that it collects
219 state income taxes withheld in accordance with this Subsection (2).

220 (iv) The State Tax Commission may make rules in accordance with Chapter 3, Utah
221 Administrative Rulemaking Act, to establish the procedures for the collection of the fee.

222 (v) The State Tax Commission shall deposit the fee into the restricted account.

223 (vi) The State Tax Commission may have access to a record of the department made
224 under Section 63G-12-210 to the extent necessary to impose a fee under this Subsection (2)(e).

225 (f) If as of the program start date the federal government collects or provides for the
226 withholding of federal income and employment taxes for a permit holder hired as an employee,
227 the State Tax Commission is exempt from the requirements of Subsection (2)(e).

228 (3) The department shall facilitate the use in this state of other employer based work
229 programs that meet the needs of Utah employers by using workers who are not working in Utah
230 and who are not United States citizens. Nothing in this part prevents a person from using an
231 employer based work program described in this Subsection (3) that exists under the auspices of
232 a foreign government in cooperation with the United States government.

233 (4) A permit holder is not eligible for unemployment compensation.

234 Section 5. Section **63G-12-207** is amended to read:

235 **63G-12-207. Application and renewal process.**

236 (1) The department may not issue a permit under this part until the program is
237 implemented under Section 63G-12-202.

238 (2) The department shall:

239 (a) create a permit that:

240 (i) is of impervious material that is resistant to wear or damage; and

241 (ii) minimizes the risk that the permit may be forged, falsified, or counterfeited; and

242 (b) ensure that a permit:

243 (i) includes a photograph of the undocumented individual to whom the permit is

244 issued;

- 245 (ii) prominently states the day on which the permit expires; and
- 246 (iii) prominently states the type of permit.
- 247 (3) [~~A~~] Except a temporary permit, a permit expires two years from the day on which
- 248 the department issues the permit.
- 249 (4) (a) Before an undocumented individual may apply for an initial permit under this
- 250 part the undocumented individual shall commit to pay a fine equal to:
- 251 (i) \$1,000, if the undocumented individual enters into the United States legally, but at
- 252 the time of paying the fine is not in compliance with the Immigration and Nationality Act, 8
- 253 U.S.C. Sec. 1101 et seq. with regard to presence in the United States; or
- 254 (ii) \$2,500, if the undocumented individual enters into the United States illegally.
- 255 (b) The department by rule made in accordance with Chapter 3, Utah Administrative
- 256 Rulemaking Act, shall make rules that provide for:
- 257 (i) how an undocumented individual demonstrates a commitment to pay the fine
- 258 required under Subsection (4)(a);
- 259 (ii) one or more payment plans that an undocumented individual may use to pay a fine
- 260 required under Subsection (4)(a); and
- 261 (iii) the consequences for failure to pay the entire amount of a fine required under
- 262 Subsection (4)(a).
- 263 (5) After committing to pay the fine in accordance with Subsection (4), to apply for or
- 264 renew a permit, an undocumented individual shall submit to the department, in a form
- 265 acceptable under this part:
- 266 (a) an application;
- 267 (b) documentation of meeting the criteria in Section 63G-12-205 or 63G-12-206;
- 268 (c) for a renewal, documentation of efforts to comply with Section 63G-12-209;
- 269 (d) a signed statement verifying the information in the application and documentation;
- 270 and
- 271 (e) a fee established by the department in accordance with Section 63J-1-504.
- 272 (6) If an undocumented individual submits a complete application under Subsection (5)
- 273 and the department determines that the undocumented individual meets the criteria of Section
- 274 63G-12-205 or 63G-12-206, the department shall issue or renew:
- 275 (a) a guest worker permit, if the undocumented individual qualifies under Section

276 63G-12-205; and

277 (b) an immediate family permit, if the undocumented individual qualifies under
278 Section 63G-12-206.

279 (7) An undocumented individual may appeal a denial of a permit under this section in
280 accordance with Chapter 4, Administrative Procedures Act.

281 (8) (a) If a waiver, exemption, ~~[or]~~ authorization, or the exercise of prosecutorial
282 discretion provides for the following, in addition to the requirements of Subsection (5), for an
283 application to be considered complete for purposes of Subsection (6) an undocumented
284 individual applying for a guest worker permit shall:

285 (i) post a bond with the department in the amount of \$10,000 against which the
286 department may bring an action for a violation of this part; or

287 (ii) provide written certification by the undocumented individual's country of origin in
288 accordance with Subsection (8)(b) of a guarantee of compliance with this part.

289 (b) (i) In accordance with Chapter 3, Utah Administrative Rulemaking Act, the
290 department shall make rules providing for what the department would consider being a
291 "guarantee of compliance" by a country of origin for purposes of Subsection (8)(a).

292 (ii) A rule made under this Subsection (8)(b) shall provide that the department may not
293 accept a guarantee of compliance from a specific foreign country if the department determines
294 a significant percentage of the guest workers who submit a guarantee of compliance from that
295 foreign country cannot be located after or during the term of a guest worker permit.

296 Section 6. Section **63G-12-207.5** is enacted to read:

297 **63G-12-207.5. Temporary permit.**

298 (1) (a) Notwithstanding Section 63G-12-207, for the 12 months immediately following
299 the program start date, the department may issue a temporary permit to an undocumented
300 individual described in Subsection (2).

301 (b) The department by rule made in accordance with Title 63G, Chapter 3, Utah
302 Administrative Rulemaking Act, shall establish the procedure to transition a temporary permit
303 to a guest worker permit or immediate family permit by no later than 12 months from the day
304 on which the temporary permit is issued.

305 (2) To apply for a temporary permit, an undocumented individual shall submit through
306 the Internet or other electronic means to the department, in a form acceptable under this part:

307 (a) an application which includes a statement under penalty of perjury that the
308 undocumented individual:

309 (i) is eligible for a guest worker permit or immediate family permit; and

310 (ii) commits to pay the fine described in Subsection 63G-12-207(4); and

311 (b) a fee established by the department in accordance with Section 63J-1-504.

312 (3) An undocumented individual violates this chapter if the undocumented individual
313 knowingly applies for a temporary permit when the undocumented individual is not eligible for
314 a guest worker permit or immediate family permit.

315 Section 7. Section **63G-12-208** is amended to read:

316 **63G-12-208. Conditions during permit term.**

317 (1) (a) A permit holder shall continue to meet the eligibility criteria under Section
318 63G-12-205 or 63G-12-206 for the type of permit held by the permit holder.

319 (b) Notwithstanding Subsection (1)(a), if the permit holder holds a temporary permit,
320 the permit holder shall continue to meet the eligibility criteria under Section 63G-12-205 or
321 63G-12-206 for the type of permit to which the permit holder will transition under Section
322 63G-12-207.5.

323 (2) A permit is automatically revoked if after issuance of the permit:

324 (a) the permit holder to whom it is issued is convicted of, pleads guilty to, pleads no
325 contest to, pleads guilty in a similar manner to, or has resolved by diversion or its equivalent a
326 serious felony;

327 (b) for a guest worker permit, the permit holder to whom it is issued does not provide
328 services under a contract for hire for more than one year; or

329 (c) for an immediate family permit, the guest worker permit under which the
330 immediate family member's permit is issued is revoked or expires under this part.

331 Section 8. Section **63G-12-210** is amended to read:

332 **63G-12-210. Verification of valid permit -- Protected status of information.**

333 (1) (a) The department shall develop a verification procedure by rule made in
334 accordance with Chapter 3, Utah Administrative Rulemaking Act, for a person who hires a
335 permit holder to verify with the department that the permit is valid as required by Section
336 63G-12-301.

337 (b) The verification procedure adopted under this Subsection (1) shall:

338 (i) be substantially similar to the employer requirements to verify federal employment
339 status under the e-verify program; and

340 (ii) provide that an undocumented individual may appeal a determination that a permit
341 is invalid in accordance with Chapter 4, Administrative Procedures Act.

342 (2) Subject to Section 63G-12-212, a record under this part is a protected record under
343 Chapter 2, Government Records Access and Management Act, except that a record may not be
344 shared under Section 63G-2-206, unless:

345 (a) requested by the Office of Legislative Auditor General in accordance with Section
346 36-12-15;

347 (b) disclosed to the State Tax Commission as provided in Subsection
348 63G-12-203(2)(e)(vi); or

349 (c) disclosed to a federal government entity in accordance with this part or a waiver,
350 exemption, ~~or~~ authorization, or exercise of prosecutorial discretion described in Section
351 63G-12-202.

352 (3) The state is not liable to any person for:

353 (a) the design, implementation, or operation of a verification procedure under this part;

354 (b) the collection and disclosure of information as part of a verification procedure
355 under this part; or

356 (c) the determination that a permit is invalid.

357 Section 9. Section **63G-12-401** is amended to read:

358 **63G-12-401. Creation of identity documents -- Issuance to citizens, nationals, and**
359 **legal permanent resident aliens -- Exceptions.**

360 (1) The following entities may create, publish, or otherwise manufacture an
361 identification document, identification card, or identification certificate and possess an
362 engraved plate or other device for the printing of an identification document:

363 (a) a federal, state, or local government agency for employee identification, which is
364 designed to identify the bearer as an employee;

365 (b) a federal, state, or local government agency for purposes authorized or required by
366 law or a legitimate purpose consistent with the duties of the agency, including such documents
367 as voter identification cards, identification cards, passports, birth certificates, and Social
368 Security cards; and

369 (c) a public school or state or private educational institution to identify the bearer as an
370 administrator, faculty member, student, or employee.

371 (2) The name of the issuing entity shall be clearly printed upon the face of the
372 identification document.

373 (3) Except as otherwise provided in Subsections (4) and (5) or by federal law, an entity
374 providing an identity document, card, or certificate under Subsection (1)(b) or (c) shall issue
375 the document, card, or certificate only to:

- 376 (a) a United States citizen;
- 377 (b) a national; or
- 378 (c) a legal permanent resident alien.

379 (4) (a) Subsection (3) does not apply to an applicant for an identification document
380 who presents, in person, valid documentary evidence of the applicant's:

- 381 (i) unexpired immigrant or nonimmigrant visa status for admission into the United
382 States;
- 383 (ii) pending or approved application for asylum in the United States;
- 384 (iii) admission into the United States as a refugee;
- 385 (iv) pending or approved application for temporary protected status in the United
386 States;
- 387 (v) approved deferred action status; or
- 388 (vi) pending application for adjustment of status to legal permanent resident or
389 conditional resident.

390 (b) (i) An entity listed in Subsection (1)(b) or (c) may issue a Subsection (1)(b) or (c)
391 identification document to an applicant who satisfies the requirements of Subsection (4)(a).

392 (ii) Except as otherwise provided by federal law, the document is valid only:

- 393 (A) during the period of time of the individual's authorized stay in the United States; or
- 394 (B) for one year from the date of issuance if there is no definite end to the individual's
395 period of authorized stay.

396 (iii) An entity issuing an identification document under this Subsection (4) shall clearly
397 indicate on the document:

- 398 (A) that it is temporary; and
- 399 (B) its expiration date.

400 (c) An individual may renew a document issued under this Subsection (4) only upon
401 presentation of valid documentary evidence that the status by which the individual originally
402 qualified for the identification document has been extended by the United States Citizenship
403 and Immigration Services or other authorized agency of the United States Department of
404 Homeland Security.

405 (5) (a) Subsection (3) does not apply to an identification document issued under
406 Subsection (1)(c) that:

- 407 (i) is only valid for use on the educational institution's campus or facility; and
- 408 (ii) includes a statement of the restricted use conspicuously printed upon the face of the
409 identification document.

410 (b) Subsection (3) does not apply to a license certificate, driving privilege card, or
411 identification card issued or renewed under Title 53, Chapter 3, Uniform Driver License Act.

412 (c) Subsection (3) does not apply to a public transit pass issued by a public transit
413 district as defined in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that:

- 414 (i) is only valid for use on the public transit system; and
- 415 (ii) includes a statement of the restricted use conspicuously printed on the face of the
416 public transit pass.

417 (d) Subsection (3) does not apply to a permit issued under Section 63G-12-207 or
418 63G-12-207.5.

419 (e) Subsection (3) does not apply to a permit issued under Chapter 14, Utah Pilot
420 Sponsored Resident Immigrant Program Act.

421 (6) This section shall be enforced without regard to race, religion, gender, ethnicity, or
422 national origin.

423 Section 10. Section **63G-14-205** is amended to read:

424 **63G-14-205. Employment and taxation obligations under the program.**

425 (1) A person in the state may employ a resident immigrant.

426 (2) A resident immigrant, or a resident immigrant's employer, shall pay all income
427 taxes and employment taxes, fees, or charges in accordance with the program.

428 (3) (a) The State Tax Commission shall, by rule made in accordance with Chapter 3,
429 Utah Administrative Rulemaking Act, provide a means that is effective as of the day on which
430 the governor begins implementation of the program under which a person who receives

431 services from a resident immigrant to withhold from compensation paid to the resident
432 immigrant an amount to be determined by State Tax Commission rule that, as closely as
433 possible, equals the income taxes that would be [~~withheld~~] imposed under state law if the
434 resident immigrant were an employee with a Social Security number.

435 (b) The rules described in Subsection (3)(a) shall be substantially similar to Title 59,
436 Chapter 10, Part 4, Withholding of Tax.

437 (c) (i) As part of the program the governor shall provide a method by which there is
438 collected and remitted to the federal government the money collected that is equivalent to the
439 income and employment taxes that would be [~~withheld~~] imposed under federal law if a resident
440 immigrant were an employee with a Social Security number.

441 (ii) If during the program the federal government does not collect or provide for the
442 withholding of federal income and employment taxes for a resident immigrant and under the
443 program the State Tax Commission collects the equivalent to the income and employment
444 taxes that would be imposed under federal law under this Subsection (3)(c), the State Tax
445 Commission shall deposit the amount collected in a restricted account until such time as the
446 money may be remitted to the federal government.

447 (iii) If during the program the federal government collects or provides for the
448 withholding of federal income and employment taxes for a resident immigrant hired as an
449 employee, the State Tax Commission is exempt from the requirements of Subsections (3)(c)(i)
450 and (3)(c)(ii).

Legislative Review Note
as of 2-3-12 12:09 PM

Office of Legislative Research and General Counsel