

**Senator Luz Robles** proposes the following substitute bill:

**PILOT ACCOUNTABILITY PERMIT PROGRAM AND  
IDENTITY RELATED AMENDMENTS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Luz Robles**

House Sponsor: Jeremy A. Peterson

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**LONG TITLE**

**General Description:**

This bill modifies public safety, labor, and criminal provisions to address issues related to accountability permits and providing identifying information.

**Highlighted Provisions:**

This bill:

▶ enacts the Utah Pilot Accountability Permit Program Act, including:

- defining terms;
- establishing the purposes and limitations of permits;
- addressing charitable activities;
- providing for the administration of the Utah Pilot Accountability Permit

Program;

- requiring the governor to petition necessary waivers, exemptions, or authority to implement the program;

- creating the Pilot Accountability Permit Program Restricted Account;

- addressing withholding under the program;

- providing for the issuance of permits;

- providing for the creation of a database related to the program and addressing



- 26 confidentiality of records;
- 27       • requiring an adult not lawfully present in the United States to obtain a permit;
- 28       • permitting a minor not lawfully present in the United States to obtain a permit
- 29 under certain circumstances;
- 30       • establishing the criteria to obtain and maintain a permit;
- 31       • creating the application and renewal process;
- 32       • requiring reporting by a permit holder;
- 33       • requiring a permit holder to carry the permit;
- 34       • requiring Type B permit holders to meet certain standards;
- 35       • addressing proficiency in English and civics;
- 36       • imposing requirements on a business to obtain the services of a permit holder;
- 37       • providing for registration of approved businesses;
- 38       • requiring reporting by an approved business;
- 39       • creating a complaint process concerning the participation of approved
- 40 businesses;
- 41       • requiring compliance with labor laws;
- 42       • establishing prohibited activities;
- 43       • providing for administrative and criminal enforcement; and
- 44       • providing for severability;
- 45       ▶ enacts the Identity Enforcement Act, including:
- 46           • defining terms;
- 47           • requiring an individual to present a photographic document if subject to a lawful
- 48 stop, detention, or arrest by a law enforcement officer;
- 49           • requiring fingerprinting and photographing under certain circumstances;
- 50           • imposing penalties;
- 51           • requiring the establishment of a database; and
- 52           • providing for the sharing of information with federal agencies under certain
- 53 circumstances;
- 54       ▶ directs the Fraudulent Documents Identification Unit to administer a new Identity
- 55 Theft Victims Restricted Account; and
- 56       ▶ makes technical and conforming amendments.

57 **Money Appropriated in this Bill:**

58 None

59 **Other Special Clauses:**

60 This bill provides an effective date.

61 **Utah Code Sections Affected:**

62 AMENDS:

63 **32B-1-404 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

64 **32B-1-406 (Effective 07/01/11)**, as enacted by Laws of Utah 2010, Chapter 276

65 **46-1-2**, as last amended by Laws of Utah 2009, Chapter 315

66 **58-37c-10**, as last amended by Laws of Utah 2008, Chapter 322

67 **63G-2-206**, as last amended by Laws of Utah 2009, Chapter 344

68 **63G-2-302**, as last amended by Laws of Utah 2010, Chapters 36 and 379

69 **63G-2-305**, as last amended by Laws of Utah 2010, Chapters 6, 113, and 247

70 **63G-11-102**, as last amended by Laws of Utah 2010, Chapter 281

71 **63J-1-602.3**, as enacted by Laws of Utah 2010, Chapter 265

72 **67-5-22.7**, as enacted by Laws of Utah 2009, Chapter 30

73 **76-10-526**, as last amended by Laws of Utah 2010, Chapter 62

74 ENACTS:

75 **53-16-101**, Utah Code Annotated 1953

76 **53-16-102**, Utah Code Annotated 1953

77 **53-16-103**, Utah Code Annotated 1953

78 **53-16-104**, Utah Code Annotated 1953

79 **53-16-105**, Utah Code Annotated 1953

80 **53-16-201**, Utah Code Annotated 1953

81 **53-16-202**, Utah Code Annotated 1953

82 **53-16-203**, Utah Code Annotated 1953

83 **53-16-204**, Utah Code Annotated 1953

84 **53-16-301**, Utah Code Annotated 1953

85 **53-16-302**, Utah Code Annotated 1953

86 **53-16-303**, Utah Code Annotated 1953

87 **53-16-304**, Utah Code Annotated 1953

- 88            **53-16-305**, Utah Code Annotated 1953
- 89            **53-16-307**, Utah Code Annotated 1953
- 90            **53-16-308**, Utah Code Annotated 1953
- 91            **53-16-401**, Utah Code Annotated 1953
- 92            **53-16-402**, Utah Code Annotated 1953
- 93            **53-16-403**, Utah Code Annotated 1953
- 94            **53-16-404**, Utah Code Annotated 1953
- 95            **53-16-405**, Utah Code Annotated 1953
- 96            **53-16-501**, Utah Code Annotated 1953
- 97            **53-16-502**, Utah Code Annotated 1953
- 98            **53-16-503**, Utah Code Annotated 1953
- 99            **53-16-504**, Utah Code Annotated 1953
- 100           **76-8-1501**, Utah Code Annotated 1953
- 101           **76-8-1502**, Utah Code Annotated 1953
- 102           **76-8-1503**, Utah Code Annotated 1953
- 103           **76-8-1504**, Utah Code Annotated 1953
- 104           **76-8-1505**, Utah Code Annotated 1953

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

107            Section 1. Section **32B-1-404 (Effective 07/01/11)** is amended to read:

108            **32B-1-404 (Effective 07/01/11). Presentation of proof of age upon request.**

109            (1) To obtain one or more of the following, an individual shall present proof of age at  
110 the request of a person listed in Subsection (2):

- 111            (a) an alcoholic product;
- 112            (b) admittance to a restricted area; or
- 113            (c) employment that under this title may not be obtained by a minor.

114            (2) To determine whether the individual described in Subsection (1) is 21 years of age,  
115 the following may request a person described in Subsection (1) to present proof of age:

- 116            (a) an authorized person;
- 117            (b) a peace officer;
- 118            (c) a representative of the State Bureau of Investigation of the Department of Public

119 Safety, established in Section 53-10-301; or

120 (d) an authorized department employee.

121 (3) The following may not be used as evidence of the legal age of an individual for  
122 purposes of this part:

123 (a) a driving privilege card issued in accordance with Section 53-3-207; or

124 (b) an accountability permit issued in accordance with Title 53, Chapter 16, Utah Pilot  
125 Accountability Permit Program Act.

126 Section 2. Section **32B-1-406 (Effective 07/01/11)** is amended to read:

127 **32B-1-406 (Effective 07/01/11). Acceptance of identification.**

128 (1) An authorized person may accept as evidence of the legal age of the individual  
129 presenting the following:

130 (a) proof of age; or

131 (b) if a statement of age is required under Section 32B-1-405:

132 (i) proof of age; and

133 (ii) a statement of age.

134 (2) A statement of age, if properly completed, signed, and filed in accordance with  
135 Section 32B-1-405, may be offered as a defense in a case when there is at issue the legality of:

136 (a) selling, offering for sale, or furnishing an alcoholic product to the individual who  
137 signed the statement of age;

138 (b) admitting the individual who signed the statement of age into a restricted area; or

139 (c) allowing the individual who signed the statement of age to be employed in  
140 employment that under this title may not be obtained by a minor.

141 (3) An authorized person may not accept as evidence of the legal age of an individual:

142 (a) a driving privilege card issued in accordance with Section 53-3-207 [as evidence of  
143 the legal age of an individual.]; or

144 (b) an accountability permit issued in accordance with Title 53, Chapter 16, Utah Pilot  
145 Accountability Permit Program Act.

146 Section 3. Section **46-1-2** is amended to read:

147 **46-1-2. Definitions.**

148 As used in this chapter:

149 (1) "Acknowledgment" means a notarial act in which a notary certifies that a signer,

150 whose identity is personally known to the notary or proven on the basis of satisfactory  
151 evidence, has admitted, in the presence of the notary, to voluntarily signing a document for the  
152 document's stated purpose.

153 (2) "Commission" means:

154 (a) to empower to perform notarial acts; and

155 (b) the written authority to perform those acts.

156 (3) "Copy certification" means a notarial act in which a notary certifies that a  
157 photocopy is an accurate copy of a document that is neither a public record nor publicly  
158 recorded.

159 (4) "Electronic signature" has the same meaning as provided under Section 46-4-102.

160 (5) "Jurat" means a notarial act in which a notary certifies that a signer, whose identity  
161 is personally known to the notary or proven on the basis of satisfactory evidence, has made, in  
162 the notary's presence, a voluntary signature and taken an oath or affirmation vouching for the  
163 truthfulness of the signed document.

164 (6) "Notarial act" and "notarization" mean any act that a notary is empowered to  
165 perform under this section.

166 (7) "Notarial certificate" means the part of or attachment to a notarized document for  
167 completion by the notary and bearing the notary's signature and seal.

168 (8) "Notary" means any person commissioned to perform notarial acts under this  
169 chapter.

170 (9) "Oath" or "affirmation" means a notarial act in which a notary certifies that a person  
171 made a vow or affirmation in the presence of the notary on penalty of perjury.

172 (10) "Official misconduct" means a notary's performance of any act prohibited or  
173 failure to perform any act mandated by this chapter or by any other law in connection with a  
174 notarial act.

175 (11) "Personal knowledge of identity" means familiarity with an individual resulting  
176 from interactions with that individual over a period of time sufficient to eliminate every  
177 reasonable doubt that the individual has the identity claimed.

178 (12) (a) "Satisfactory evidence of identity" means identification of an individual based  
179 on:

180 (i) valid personal identification with the individual's photograph, signature, and

181 physical description issued by the United States government, any state within the United States,  
182 or a foreign government;

183 (ii) a valid passport issued by any nation; or

184 (iii) the oath or affirmation of a credible person who is personally known to the notary  
185 and who personally knows the individual.

186 (b) "Satisfactory evidence of identity" does not include:

187 (i) a driving privilege card under Subsection 53-3-207(10); ~~[or]~~

188 (ii) an accountability permit issued in accordance with Title 53, Chapter 16, Utah Pilot

189 Accountability Permit Program Act; or

190 ~~[(ii)]~~ (iii) another document that is not considered valid for identification.

191 Section 4. Section **53-16-101** is enacted to read:

192 **CHAPTER 16. UTAH PILOT ACCOUNTABILITY PERMIT PROGRAM ACT**

193 **Part 1. General Provisions**

194 **53-16-101. Title.**

195 This chapter is known as the "Utah Pilot Accountability Permit Program Act."

196 Section 5. Section **53-16-102** is enacted to read:

197 **53-16-102. Definitions.**

198 As used in this chapter:

199 (1) "Approved business" means a person who registers with the department in  
200 accordance with Section 53-16-402.

201 (2) "Database" means the database created under Section 53-16-302.

202 (3) "Government entity" includes:

203 (a) the state;

204 (b) an administrative unit of the state;

205 (c) a political subdivision of the state;

206 (d) an administrative unit of a political subdivision of the state; or

207 (e) an officer or employee of an entity described in Subsections (3)(a) through (d).

208 (4) "Lawfully present in the United States" is as defined in 8 C.F.R. Sec. 103.12.

209 (5) "Permit" means an accountability permit issued in accordance with this chapter, and  
210 includes:

211 (a) a Type A permit; and

- 212 (b) a Type B permit.
- 213 (6) "Permit holder" means an individual to whom is issued a permit.
- 214 (7) "Proficiency standards in English and civics" means the following determined by  
215 the State Office of Education in accordance with Section 53-16-308:
- 216 (a) proficiency standards for English; and
- 217 (b) proficiency standards for civics and government.
- 218 (8) "Program" means the Utah Pilot Accountability Permit Program described in  
219 Section 53-16-201.
- 220 (9) "Restricted account" means the Pilot Accountability Permit Program Restricted  
221 Account created in Section 53-16-203.
- 222 (10) "Significant crime" means a crime that the multi-agency strike force combats in  
223 accordance with Subsection 67-5-22.7(1).
- 224 (11) "Type A permit" means a permit issued to an individual in accordance with  
225 Subsection 53-16-304(3)(a).
- 226 (12) "Type B permit" means a permit issued to an individual in accordance with  
227 Subsection 53-16-304(3)(b).
- 228 (13) "Unauthorized alien" is as defined in 8 U.S.C. Sec. 1324A(h)(3).
- 229 Section 6. Section **53-16-103** is enacted to read:
- 230 **53-16-103. Accountability permit purposes and limitations.**
- 231 (1) (a) A permit only authorizes the individual to whom the permit is issued to  
232 participate in the program. An individual may not use a permit for any other government  
233 purpose.
- 234 (b) The issuance of a permit to an individual does not affect whether the individual is  
235 lawfully present in the United States for purposes of a law other than this chapter.
- 236 (2) (a) A permit is not considered identification for purposes of Title 63G, Chapter 11,  
237 Identity Documents and Verification, except as provided in Title 76, Chapter 8, Part 15,  
238 Identity Enforcement Act.
- 239 (b) An individual may not use a permit:
- 240 (i) to establish entitlement to a federal, state, or local benefit as described in Section  
241 63G-11-104;
- 242 (ii) as identification or proof of the individual's age for any government required



243 purpose, except as provided in Title 76, Chapter 8, Part 15, Identity Enforcement Act; or

244 (iii) to obtain work or provide services in a state other than Utah.

245 (c) A government entity may not accept a permit as proof of personal identification or  
246 age, except as provided in Title 76, Chapter 8, Part 15, Identity Enforcement Act.

247 (3) Notwithstanding any other provision of law, a permit holder is not considered an  
248 employee for purposes of the following:

249 (a) Title 13, Chapter 47, Private Employer Verification Act;

250 (b) Title 35A, Chapter 4, Employment Security Act; and

251 (c) Title 63G, Chapter 11, Identity Documents and Verification.

252 Section 7. Section **53-16-104** is enacted to read:

253 **53-16-104. Application to charitable activities.**

254 This chapter is not intended to discourage a person lawfully present in this state from  
255 providing charitable service to an individual who resides in this state to the extent that the  
256 charitable service is not expressly prohibited by this chapter.

257 Section 8. Section **53-16-105** is enacted to read:

258 **53-16-105. Severability.**

259 If a provision of this chapter or the application of a provision to a person or  
260 circumstance is held invalid, the remainder of this chapter shall be given effect without the  
261 invalid provision or application. The provisions of this chapter are severable.

262 Section 9. Section **53-16-201** is enacted to read:

263 **Part 2. Administration of the Utah Pilot Accountability Permit Program**

264 **53-16-201. General powers and duties.**

265 (1) In accordance with this chapter, the department shall administer this chapter as a  
266 program known as the "Utah Pilot Accountability Permit Program."

267 (2) Under the program, the department shall:

268 (a) issue a permit in accordance with Section 53-16-304;

269 (b) register an approved business in accordance with Section 53-16-402;

270 (c) take necessary action under Section 53-16-405;

271 (d) take administrative action under Section 53-16-502 in accordance with Title 63G,  
272 Chapter 4, Administrative Procedures Act; and

273 (e) annually report to the governor and the Business and Labor Interim Committee

274 related to:  
275 (i) efforts described in Section 53-16-202;  
276 (ii) the number of permits issued in the previous calendar year;  
277 (iii) the number of permits denied, suspended, or revoked in the previous calendar  
278 year;  
279 (iv) the number of approved businesses registered in the previous calendar year;  
280 (v) the number and nature of violations found under Part 5, Prohibited Activities and  
281 Enforcement, in the previous calendar year; and  
282 (vi) the need, if any, for legislative action.  
283 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
284 department may make rules to provide:  
285 (a) the form for an application submitted under this chapter;  
286 (b) what documentation is required to show compliance under this chapter;  
287 (c) notice of an opportunity for a hearing on a denial of a permit; and  
288 (d) the procedure a person is to follow to verify the validity of a permit under Section  
289 53-16-401.  
290 Section 10. Section **53-16-202** is enacted to read:  
291 **53-16-202. Petition federal government -- Cooperative efforts.**  
292 (1) (a) The governor, with the assistance of the attorney general, shall petition one or  
293 more federal government entities to obtain the necessary waivers, exemptions, or authority to  
294 implement the program.  
295 (b) To implement a waiver, exemption, or authority under Subsection (1), the governor  
296 may enter into an agreement with a federal government entity to obtain a necessary waiver,  
297 exemption, or authority to implement the program, except that the agreement may not:  
298 (i) take effect until the governor reports to the Legislative Management Committee  
299 concerning the agreement; and  
300 (ii) contain a provision that is inconsistent with this chapter or other state law.  
301 (c) In seeking a necessary waiver, exemption, or authority under this section, the  
302 governor shall negotiate:  
303 (i) appropriate protections for both a permit holder and a person who obtains services  
304 from a permit holder;

305 (ii) effective means for the collection of taxes, fees, and charges owed to federal and  
306 state government by a permit holder or person who obtains services from a permit holder; and

307 (iii) effective enforcement of the laws to which a permit holder or person who obtains  
308 services from a permit holder are subject.

309 (d) The governor shall determine when the state obtains the necessary waivers,  
310 exemptions, or authority to implement the program.

311 (2) The department may enter into one or more agreements with federal, state, and  
312 local government entities to coordinate efforts to meet the needs of businesses in this state to  
313 obtain necessary labor or services in a manner consistent with this chapter.

314 Section 11. Section **53-16-203** is enacted to read:

315 **53-16-203. Pilot Accountability Permit Program Restricted Account.**

316 (1) There is created a restricted account within the General Fund known as the "Pilot  
317 Accountability Permit Program Restricted Account."

318 (2) (a) The restricted account shall consist of:

319 (i) a fee collected under this chapter;

320 (ii) civil penalties imposed under Section 53-16-501 or 53-16-502;

321 (iii) money appropriated to the restricted account by the Legislature; and

322 (iv) interest earned on the restricted account.

323 (b) The restricted account shall earn interest.

324 (3) The Legislature may appropriate money from the restricted account to:

325 (a) the department to administer the program;

326 (b) the State Tax Commission for costs associated with implementing Section  
327 53-16-204;

328 (c) the attorney general for costs associated with:

329 (i) a multi-agency strike force created under Section 67-5-22.7;

330 (ii) a memorandum of understanding executed under Section 67-5-28;

331 (iii) the Fraudulent Documents Identification Unit created in Section 67-5-22.7; or

332 (iv) the Identity Theft Victims Restricted Account created in Subsection 67-5-22.7(5);

333 (d) the State Office of Education for costs associated with implementing Section  
334 53-16-308; or

335 (e) fund the costs associated with Title 76, Chapter 8, Part 15, Identity Enforcement

336 Act.

337 Section 12. Section **53-16-204** is enacted to read:

338 **53-16-204. Withholding under the program.**

339 (1) (a) If a waiver, exemption, or authority described in Section 53-16-202 does not  
340 provide for the issuance of a Social Security number to a permit holder, the State Tax  
341 Commission shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
342 Rulemaking Act, provide a means for a person who receives services from a permit holder to  
343 withhold from compensation paid to the permit holder an amount to be determined by State  
344 Tax Commission rule that, as closely as possible, equals the income taxes that would be  
345 imposed by state law if the permit holder were an employee with a Social Security number.

346 (b) If a waiver, exemption, or authority described in Section 53-16-202 provides for the  
347 issuance of a Social Security number to a permit holder, a person who receives services from a  
348 permit holder is required to withhold from compensation as provided in Title 59, Chapter 10,  
349 Part 4, Withholding of Tax.

350 (2) The rules described in Subsection (1)(a) shall be substantially similar to Title 59,  
351 Chapter 10, Part 4, Withholding of Tax.

352 (3) To the extent feasible and consistent with a waiver, exemption, or authority entered  
353 into under Section 53-16-202, the State Tax Commission shall work with the applicable federal  
354 government agencies to ensure that the withholding provided for under Subsection (2) is  
355 compatible with a federal process by which the federal government collects federal income and  
356 employment taxes that would be imposed under federal law if a permit holder were an  
357 employee with a Social Security number.

358 Section 13. Section **53-16-301** is enacted to read:

359 **Part 3. Issuance of an Accountability Permit**

360 **53-16-301. Issuing a permit.**

361 (1) The department may not issue a permit under this chapter:

362 (a) before 120 days after the day on which the governor notifies that department that  
363 the state has obtained the necessary waivers, exemptions, or authority to implement the  
364 program; or

365 (b) after the day on which the necessary waivers, exemptions, or authority described in  
366 Subsection (1)(a) terminate.

367 (2) The department shall:  
368 (a) create a permit that:  
369 (i) is of impervious material that is resistant to wear or damage; and  
370 (ii) minimizes the risk that the permit may be forged, falsified, or counterfeited;  
371 (b) distinguish a permit from identification issued by the state by:  
372 (i) using format, color, font, or other means; and  
373 (ii) displaying clearly on the front of a permit a phrase substantially similar to "FOR  
374 WORK PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION"; and

375 (c) ensure that a permit:  
376 (i) includes a photograph of the individual to whom the permit is issued;  
377 (ii) prominently states the day on which the permit expires; and  
378 (iii) prominently states the type of permit.

379 Section 14. Section **53-16-302** is enacted to read:

380 **53-16-302. Database -- Status of records.**

381 (1) The department shall maintain a database of individuals who apply for or who are  
382 issued a permit.

383 (2) (a) The database created under this section shall include a record for each  
384 individual who applies for a permit of the following:

385 (i) the individual's name and address;  
386 (ii) the date on which the individual applies for a permit;  
387 (iii) if a permit is issued:

388 (A) the type of permit issued;

389 (B) the date on which the permit is issued; and

390 (C) for a Type A permit, the date on which the permit is renewed;

391 (iv) if a permit is not issued or, if a Type A permit is not renewed, the grounds for  
392 which the permit is not issued or not renewed; and

393 (v) for a Type B permit, the name and address of the approved business for which a  
394 permit holder provides services, as last reported by the permit holder.

395 (b) The department shall develop and maintain the database so that a person can  
396 efficiently access the database under Section 53-16-401.

397 (3) A record created under this chapter, including the database created under this

398 section, is a protected record under Title 63G, Chapter 2, Government Records Access and  
399 Management Act, except that:

400 (a) a record may not be shared under Section 63G-2-206, unless:

401 (i) requested by the Office of Legislative Auditor General in accordance with Section  
402 36-12-15; or

403 (ii) disclosed to a federal government entity in accordance with this chapter or an  
404 agreement under Section 53-16-202; and

405 (b) an individual's individual tax identification number is a private record under  
406 Subsection 63G-2-302(1)(h).

407 (4) The department shall maintain a record created as part of the database for at least  
408 three years from the day on which the record is created in the database.

409 Section 15. Section **53-16-303** is enacted to read:

410 **53-16-303. Requirement to have a permit -- Criteria to obtain a permit --**  
411 **Criminal background check -- Minor.**

412 (1) (a) During the period of time that under Subsection 53-16-301(1) the department  
413 may issue a permit under this chapter, an individual who resides in Utah shall obtain a permit  
414 under this chapter if the individual is:

415 (i) an alien not lawfully present in the United States; and

416 (ii) 18 years of age or older.

417 (b) Failure to obtain a permit as required by this Subsection (1)(a) is a violation of this  
418 chapter subject to administrative action under Section 53-16-502.

419 (c) During the period of time that under Subsection 53-16-301(1) the department may  
420 issue a permit under this chapter, an individual who resides in Utah may obtain a permit under  
421 this chapter if the individual:

422 (i) is an alien not lawfully present in the United States;

423 (ii) is younger than 18 years of age;

424 (iii) has the permission of the individual's parent or guardian; and

425 (iv) is seeking work to the extent permitted under Title 34, Chapter 23, Employment of  
426 Minors.

427 (2) To obtain a permit an individual shall:

428 (a) apply for the permit in accordance with Section 53-16-304;

- 429 (b) meet the criteria for a Type A or Type B permit as described in Subsection (3);  
430 (c) not have been convicted of, pled guilty to, pled no contest to, pled guilty in a  
431 similar manner to, or resolved by diversion or its equivalent a significant crime;  
432 (d) submit to a criminal background check in accordance with Subsection (4);  
433 (e) if a waiver, exemption, or authority described in Section 53-16-202 does not  
434 provide for the issuance of a Social Security number to a permit holder, have an individual tax  
435 identification number issued by the Internal Revenue Service;  
436 (f) agree to participate in withholding as provided in Section 53-16-204;  
437 (g) agree to use the permit only for purposes of the program and not use a permit to  
438 obtain work or provide services in a state other than Utah;  
439 (h) for a Type B permit, agree to provide services to an approved business as required  
440 by Section 53-16-307; and  
441 (i) agree to comply with Section 53-16-308 related to meeting proficiency standards in  
442 English and civics.  
443 (3) (a) To obtain a Type A permit, the individual shall have had as the individual's  
444 primary household, a household located in Utah continuously for at least two years from the  
445 day on which the individual applies for a Type A permit.  
446 (b) To obtain a Type B permit, on the day on which the individual applies for a Type B  
447 permit, the individual shall demonstrate an agreement to provide services to an approved  
448 business beginning at least 30 days from the day on which the permit is issued.  
449 (4) (a) The department shall require an individual applying for a permit, or renewing a  
450 Type A permit, to submit to a criminal background check as a condition of receiving or  
451 renewing the permit.  
452 (b) An individual required to submit to a criminal background check under Subsection  
453 (4)(a), shall:  
454 (i) submit a fingerprint card in a form acceptable to the department; and  
455 (ii) consent to a fingerprint background check by:  
456 (A) the Utah Bureau of Criminal Identification; and  
457 (B) the Federal Bureau of Investigation.  
458 (c) For a person who submits a fingerprint card and consents to a fingerprint  
459 background check under Subsection (4)(b), the department may request:

460 (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part  
461 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

462 (ii) complete Federal Bureau of Investigation criminal background checks through the  
463 national criminal history system.

464 (d) Information obtained by the department from the review of criminal history records  
465 received under this Subsection (4) shall be used by the department to determine eligibility to  
466 obtain a permit.

467 (e) The department shall:

468 (i) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau  
469 of Investigation in providing the department criminal background information under this  
470 Subsection (4); and

471 (ii) in accordance with Section 63J-1-504, charge the person applying for the permit a  
472 fee equal to the aggregate of the costs incurred by the department under this Subsection (4) and  
473 amount paid under Subsection (4)(e)(i).

474 (5) (a) If an individual described in Subsection (1)(c) is unable to apply for a permit,  
475 the individual's parent or guardian may apply for the permit on behalf of the individual.

476 (b) A parent or guardian applying for a permit on behalf of an individual described in  
477 Subsection (5)(a) shall provide documentation that the parent or guardian is the parent or  
478 guardian of the individual.

479 Section 16. Section **53-16-304** is enacted to read:

480 **53-16-304. Application and issuance process -- Reporting to federal agencies.**

481 (1) Subject to Subsection (2), to apply for a permit, an individual shall submit to the  
482 department, in a form acceptable under this chapter:

483 (a) an application;

484 (b) documentation of meeting the criteria in Section 53-16-303;

485 (c) a signed statement verifying the information in the application and documentation;

486 and

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

488 (2) An individual applying for a permit, or renewing a Type A permit, shall appear in  
489 person at a location designated by the department to submit the information required by  
490 Subsection (1).



491 (3) If an individual submits a complete application and the department determines that  
492 the person meets the criteria of Section 53-16-303, the department shall issue:

493 (a) a Type A permit if the individual qualifies under Subsection 53-16-303(3)(a); and

494 (b) a Type B permit if the individual qualifies under Subsection 53-16-303(3)(b).

495 (4) (a) If the department denies an application for a permit, the department shall  
496 immediately notify the individual who applies for the permit to provide the individual an  
497 opportunity for a hearing in the county where the individual resides.

498 (b) The department shall document a hearing under this section.

499 (c) As part of a hearing under this section, the department or its authorized agent may:

500 (i) administer an oath;

501 (ii) issue a subpoena for the attendance of a witness or the production of information;

502 or

503 (iii) permit a party or witness to attend or to testify by means of telephone or live  
504 audiovisual.

505 (d) After a hearing the department shall rescind or extend its order of denial.

506 (e) An individual who requests a hearing under this Subsection (4) shall pay the costs  
507 of the hearing.

508 (f) An individual denied a permit by the department following an administrative  
509 hearing may seek judicial review of the order in accordance with Title 63G, Chapter 4,  
510 Administrative Procedures Act.

511 (5) (a) If the department denies issuance of a permit, the individual who is denied  
512 issuance of a permit shall leave this state within 60 calendar days of the day on which the time  
513 for appeal of the denial ends, except that on request by the individual, the department may  
514 provide additional days for the individual to leave this state.

515 (b) If the department denies issuance of a permit because the applicant is found to have  
516 been convicted of, pled guilty to, pled no contest to, pled guilty in a similar manner to, or  
517 resolved by diversion or its equivalent a significant crime, the department shall notify  
518 Immigration and Customs Enforcement that the applicant is found to have been convicted of,  
519 pled guilty to, pled no contest to, pled guilty in a similar manner to, or resolved by diversion or  
520 its equivalent to a significant crime.

521 (c) The notice described in Subsection (5)(b) shall:

522 (i) include the address of the applicant as it appears on the application; and  
523 (ii) be sent promptly after the time for appeal under Subsection (4) ends.

524 Section 17. Section **53-16-305** is enacted to read:

525 **53-16-305. Terms of permits -- Renewal process for Type A permit.**

526 (1) (a) A Type A permit expires two years after the day on which it is issued and may  
527 be renewed in accordance with Subsection (2).

528 (b) A Type B permit expires two years after the day on which it is first issued and may  
529 not be renewed.

530 (2) To renew a Type A permit, an individual shall submit to the department, in a form  
531 acceptable under this chapter:

532 (a) an application;

533 (b) the documentation of meeting the criteria in Section 53-16-303;

534 (c) evidence that the permit holder in accordance with Section 53-16-308:

535 (i) participates in at least an aggregate of 160 hours of training to meet proficiency  
536 standards in English and civics during the previous two-year term of the permit; or

537 (ii) has met:

538 (A) the proficiency standards for English; and

539 (B) the proficiency standards for civics and government;

540 (d) a statement verifying the information in the application and documentation; and

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

542 Section 18. Section **53-16-307** is enacted to read:

543 **53-16-307. Permit holder reporting and working requirements -- Carrying permit**  
544 **-- Special requirements for Type B permit.**

545 (1) A permit holder shall notify the department in writing within three days of being  
546 convicted of, pleading guilty to, pleading no contest to, pleading guilty in a similar manner to,  
547 or resolving by diversion or its equivalent a significant crime.

548 (2) In addition to complying with Subsection (1), a permit holder to whom is issued a  
549 Type B permit, shall notify the department in writing within three days of one of the following:

550 (a) a change of address of the permit holder; or

551 (b) the day on which the permit holder's term of service begins or ends with an  
552 approved business.

553 (3) (a) A Type B permit is automatically revoked if after issuance of the Type B permit,  
554 the permit holder to whom it is issued is not employed by an approved employer for more than  
555 30 consecutive days.

556 (b) The department shall treat a permit revoked under this Subsection (3) in the same  
557 manner as a revoked permit described in Section 53-16-503.

558 (4) A permit holder shall carry the permit issued to the permit holder and have the  
559 permit in the permit holder's personal possession at all times that the permit holder is in the  
560 state.

561 Section 19. Section **53-16-308** is enacted to read:

562 **53-16-308. Proficiency standards for English and civics.**

563 (1) (a) By no later than 120 days after the day on which the department may first issue  
564 a permit under Section 53-16-301, the State Office of Education shall establish by rule made in  
565 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

566 (i) proficiency standards for English;

567 (ii) proficiency standards for civics and government; and

568 (iii) the procedure for a permit holder to take a test to determine if the permit holder  
569 meets:

570 (A) the proficiency standards for English; or

571 (B) the proficiency standards for civics and government.

572 (b) (i) The proficiency standards for English shall demonstrate that a permit holder is  
573 proficient in the English language at or above the level of intermediate on the basis of a  
574 language proficiency assessment test used by the State Office of Education for purposes of  
575 secondary school students.

576 (ii) The proficiency standards for civics and government shall demonstrate that a  
577 permit holder is proficient in civics and government at or above the level of necessary to pass  
578 the civics test administered by the United States Citizenship and Immigration Services for  
579 purposes of naturalization.

580 (2) (a) A permit holder shall:

581 (i) participate in at least an aggregate of 160 hours of training during the two-year term  
582 of the permit to prepare to meet:

583 (A) the proficiency standards for English under this section; or

584 (B) the proficiency standards for civics and government under this section; or  
585 (ii) before renewal of the permit meet:  
586 (A) the proficiency standards for English under this section; and  
587 (B) the proficiency standards for civics and government under the section.  
588 (b) A permit holder shall pay the costs of complying with this section.  
589 (3) The state may charge a permit holder a fee established by the State Office of  
590 Education in accordance with Section 63J-1-504 to take a test described in Subsection (1).

591 (4) In accordance with Title 63G, Chapter 6, Utah Procurement Code, the State Office  
592 of Education may contract with a third party to provide the testing required under this section.  
593 The State Office of Education shall supervise the contract.

594 Section 20. Section **53-16-401** is enacted to read:

595 **Part 4. Business Obligations**

596 **53-16-401. Obtaining the services of a permit holder.**

597 (1) (a) To obtain the services of a permit holder, a person shall contact the department  
598 to verify that the permit held by the permit holder is valid.

599 (b) A person shall contact the department at the same point at which the person would  
600 contact a status verification system if the permit holder were subject to verification as an  
601 employee under Title 13, Chapter 47, Private Employer Verification Act.

602 (2) (a) The department may by rule provide the procedure to be followed under this  
603 section.

604 (b) Verification may be provided through the Internet or other electronic medium, if  
605 the department determines that sufficient security is provided to ensure compliance with  
606 Section 53-16-302.

607 Section 21. Section **53-16-402** is enacted to read:

608 **53-16-402. Registration of approved business -- Renewal.**

609 (1) Subject to the other provisions of this section, to be an approved business, at least  
610 10 days before the day on which the person first obtains the services of a permit holder who is  
611 issued a Type B permit, the person shall register with the department by submitting to the  
612 department in a form acceptable under this chapter:

613 (a) a registration application that requires the person to:

614 (i) agree that the person will participate in withholding as provided in Section

615 53-16-204;

616 (ii) provide evidence that the person participates in a status verification system if  
617 required under Title 13, Chapter 47, Private Employer Verification Act;

618 (iii) describe the labor shortage experienced by the person; and

619 (iv) explain the person's efforts to find local workers with the necessary skills to  
620 provide services to the person; and

621 (b) a registration fee established by the department in accordance with Section  
622 63J-1-504.

623 (2) (a) A registration under this section expires five years after the day on which  
624 registration is complete under Subsection (1).

625 (b) To renew a registration, an approved business shall submit to the department in a  
626 form acceptable under this chapter:

627 (i) a renewal application, except that the renewal application shall contain the  
628 requirements described in Subsection (1)(a); and

629 (ii) a registration fee established by the department in accordance with Section  
630 63J-1-504.

631 (3) On and after 120 days after the day on which the department may first issue a  
632 permit under Section 53-16-301, the department shall publish electronically a list of approved  
633 employers on a website accessible to the general public without a charge.

634 (4) Nothing in this section prohibits an approved business from terminating the term of  
635 service of a permit holder in the ordinary course of business.

636 Section 22. Section **53-16-403** is enacted to read:

637 **53-16-403. Approved business reporting and records.**

638 An approved business shall notify the department in writing within three days of the  
639 day on which a term of service begins or ends for a permit holder to whom a Type B permit is  
640 issued.

641 Section 23. Section **53-16-404** is enacted to read:

642 **53-16-404. Complaints against participation of approved business.**

643 (1) As used in this section, "local worker" may be defined by the department by rule  
644 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

645 (2) A person lawfully present in the United States may file a complaint with the

646 department if a local worker is terminated or not hired as a result of an approved business'  
647 participation in the program.

648 (3) The department shall evaluate a complaint filed under this section and if the  
649 department determines that sufficient complaints are received by the department against a  
650 specific approved business, the department shall reexamine the approved business' registration  
651 to participate in the program.

652 (4) The department may revoke an approved business' registration to participate in the  
653 program if the department determines that the approved business did not take sufficient  
654 measures to obtain local workers.

655 Section 24. Section **53-16-405** is enacted to read:

656 **53-16-405. Labor laws.**

657 (1) A person who obtains the services of a permit holder shall comply with the  
658 applicable labor laws prescribed by the federal government and this state.

659 (2) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, for a  
660 violation of this section, in addition to any other remedy, the department may revoke an  
661 approved business' registration.

662 (3) The Labor Commission shall notify the department within 30 business days of the  
663 day on which an order of the Labor Commission becomes final and unappealable that finds a  
664 violation of a labor law under the jurisdiction of the Labor Commission.

665 Section 25. Section **53-16-501** is enacted to read:

666 **Part 5. Prohibited Activities and Enforcement**

667 **53-16-501. Prohibited activities.**

668 (1) A permit holder may not file for unemployment benefits.

669 (2) (a) A person may not employ, hire, or contract for services from an individual who  
670 is:

671 (i) an unauthorized alien; and

672 (ii) not a permit holder.

673 (b) Notwithstanding Section 53-16-502, in accordance with Title 63G, Chapter 4,  
674 Administrative Procedures Act, the department may impose a civil fine not to exceed:

675 (i) for the first violation of this Subsection (2), \$10,000;

676 (ii) for a second violation of Subsection (2), \$15,000; and

677 (iii) for each additional violation, an amount calculated by adding \$5,000 to the amount  
678 imposed for the previous violation of Subsection (2).

679 Section 26. Section **53-16-502** is enacted to read:

680 **53-16-502. Violations -- Administrative remedies.**

681 (1) (a) For a violation described in Subsection (1)(b), the department:

682 (i) shall suspend, limit, or revoke and repossess a permit; and

683 (ii) may impose a civil fine not to exceed \$1,000 for each violation.

684 (b) The department shall take an action under this Subsection (1), if a permit holder:

685 (i) furnishes false or forged information or documentation in support of an application;

686 (ii) alters the information on a permit;

687 (iii) is reported absent from work for 10 consecutive days without the approval of the  
688 person who obtains the services of the permit holder; or

689 (iv) is convicted of, pleads guilty to, pleads no contest to, pleads guilty in a similar  
690 manner to, or resolves by diversion or its equivalent a significant crime.

691 (2) (a) For a violation described in Subsection (2)(b), the department may:

692 (i) suspend, limit, or revoke and repossess a permit;

693 (ii) impose a civil fine not to exceed \$1,000 for each violation; or

694 (iii) take an action under both Subsections (2)(a)(i) and (ii).

695 (b) The department may take an action under this Subsection (2) if a person:

696 (i) fails to comply with a reporting requirement;

697 (ii) fails to comply with Subsection 53-16-307(4);

698 (iii) allows an individual to use a permit if the individual is not entitled to use the  
699 permit;

700 (iv) displays or represents that a permit is issued to an individual, if the permit is not  
701 issued to the individual;

702 (v) displays a revoked permit as a valid permit;

703 (vi) knowingly or with reckless disregard acquires, uses, displays, or transfers an item  
704 that purports to be a valid permit, but that is not a valid permit;

705 (vii) who holds a Type B permit, is unable to be located by the approved business for  
706 which the person provides services; or

707 (viii) otherwise violates this chapter.

708 (c) Notwithstanding the other provisions of this Subsection (2), the department shall  
709 revoke and repossess a permit if the permit holder to whom the permit is issued has had  
710 administrative action taken against the permit holder under this section twice before the  
711 violation that subjects the permit holder to an action under this Subsection (2).

712 Section 27. Section **53-16-503** is enacted to read:

713 **53-16-503. Effects of revocation of permit -- Effects of expiration of a permit.**

714 (1) (a) If the department revokes a permit, the permit holder to whom the permit was  
715 issued shall leave this state within 60 calendar days, except that on request by the permit  
716 holder, the department may provide additional days for the permit holder to leave this state.

717 (b) If the department revokes a permit, the department shall notify Immigration and  
718 Customs Enforcement that the permit holder is no longer authorized to provide services within  
719 the state.

720 (c) The notice described in Subsection (1)(b) shall:

721 (i) include the last-known address of the permit holder; and

722 (ii) be sent promptly after the time for appeal of the revocation ends.

723 (2) (a) If a permit holder's Type A permit expires, the permit holder to whom the  
724 permit is issued shall leave this state within 60 calendar days, except that on request by the  
725 permit holder, the department may provide additional days for the permit holder to leave this  
726 state.

727 (b) If a permit holder's Type B permit expires, the permit holder to whom the permit is  
728 issued shall within 60 days of the day on which the Type B permit expires:

729 (i) leave the state; or

730 (ii) obtain a Type A permit.

731 Section 28. Section **53-16-504** is enacted to read:

732 **53-16-504. Criminal penalties.**

733 (1) It is a class C misdemeanor for a person to knowingly or with reckless disregard:

734 (a) allow an individual to use a permit if the individual is not entitled to use the permit;

735 (b) display or represent that a permit is issued to an individual, if it is not issued to the  
736 individual;

737 (c) display a revoked permit as a valid permit;

738 (d) acquire, use, display, or transfer an item that purports to be a valid permit, if it is



739 not a valid permit:

740 (e) fail to surrender a permit to the department upon demand;

741 (f) use a false name or give a false address for any purpose under this chapter;

742 (g) make a false statement, or conceal a material fact in an application; or

743 (h) alter the information on a permit.

744 (2) It is a third degree felony if a person knowingly acquires, uses, displays, or transfers

745 a false or altered permit to:

746 (a) aid or further the person's efforts to fraudulently obtain goods or services; or

747 (b) aid or further the person's efforts to commit a violent felony.

748 Section 29. Section **58-37c-10** is amended to read:

749 **58-37c-10. Reporting and recordkeeping.**

750 (1) Any person who engages in a regulated transaction, unless excepted under the  
751 provisions of Subsections 58-37c-8(3) and (4), shall submit a report with respect to such  
752 transaction and shall maintain records of inventories in accordance with rules adopted by the  
753 division.

754 (2) The division shall provide reporting forms upon which regulated transactions shall  
755 be reported.

756 (3) The division shall furnish copies of reports of transactions under this section to  
757 appropriate law enforcement agencies.

758 (4) The division shall adopt rules regulating:

759 (a) records which shall be maintained and reports which shall be submitted by  
760 regulated distributors and regulated purchasers with respect to listed controlled substance  
761 precursors obtained, distributed, and held in inventory;

762 (b) records which shall be maintained and reports which shall be submitted by  
763 regulated distributors and regulated purchasers with respect to extraordinary or unusual  
764 regulated transactions and a requirement that in such cases the report must be received at least  
765 three working days prior to transfer of the listed controlled substance precursor;

766 (c) identification which must be presented by a purchaser of any listed controlled  
767 substance precursor before the sale or transfer can be completed and recordkeeping  
768 requirements related to such identification presented;

769 (d) filing by each licensee the identification of all locations where any listed controlled

770 substance precursor is held in inventory or stored and amending such filing when any change in  
771 location is made;

772 (e) reports and actions which must be taken by a regulated distributor or regulated  
773 purchaser in the event of any theft, loss, or shortage of a listed controlled substance precursor;

774 (f) reports and actions which must be taken by a regulated distributor relating to a  
775 regulated transaction with an out-of-state purchaser;

776 (g) reports and actions which must be taken by a regulated purchaser relating to a  
777 regulated transaction with an out-of-state distributor; and

778 (h) regulated transactions to the extent such regulation is reasonable and necessary to  
779 protect the public health, safety, or welfare.

780 (5) A person who engages in a regulated transaction may not accept as proof of  
781 identification as required under Subsection (4)(c):

782 (a) a driving privilege card issued in accordance with Section 53-3-207 [~~as proof of~~  
783 ~~identification as required under Subsection (4)(c):~~]; or

784 (b) an accountability permit issued in accordance with Title 53, Chapter 16, Utah Pilot  
785 Accountability Permit Program Act.

786 Section 30. Section **63G-2-206** is amended to read:

787 **63G-2-206. Sharing records.**

788 (1) A governmental entity may provide a record that is private, controlled, or protected  
789 to another governmental entity, a government-managed corporation, a political subdivision, the  
790 federal government, or another state if the requesting entity:

791 (a) serves as a repository or archives for purposes of historical preservation,  
792 administrative maintenance, or destruction;

793 (b) enforces, litigates, or investigates civil, criminal, or administrative law, and the  
794 record is necessary to a proceeding or investigation;

795 (c) is authorized by state statute to conduct an audit and the record is needed for that  
796 purpose;

797 (d) is one that collects information for presentence, probationary, or parole purposes; or

798 (e) (i) is:

799 (A) the Legislature;

800 (B) a legislative committee;

801 (C) a member of the Legislature; or  
802 (D) a legislative staff member acting at the request of the Legislature, a legislative  
803 committee, or a member of the Legislature; and  
804 (ii) requests the record in relation to the Legislature's duties including:  
805 (A) the preparation or review of a legislative proposal or legislation;  
806 (B) appropriations; or  
807 (C) an investigation or review conducted by the Legislature or a legislative committee.  
808 (2) (a) A governmental entity may provide a private, controlled, or protected record or  
809 record series to another governmental entity, a political subdivision, a government-managed  
810 corporation, the federal government, or another state if the requesting entity provides written  
811 assurance:  
812 (i) that the record or record series is necessary to the performance of the governmental  
813 entity's duties and functions;  
814 (ii) that the record or record series will be used for a purpose similar to the purpose for  
815 which the information in the record or record series was collected or obtained; and  
816 (iii) that the use of the record or record series produces a public benefit that outweighs  
817 the individual privacy right that protects the record or record series.  
818 (b) A governmental entity may provide a private, controlled, or protected record or  
819 record series to a contractor or a private provider according to the requirements of Subsection  
820 (6)(b).  
821 (3) (a) A governmental entity shall provide a private, controlled, or protected record to  
822 another governmental entity, a political subdivision, a government-managed corporation, the  
823 federal government, or another state if the requesting entity:  
824 (i) is entitled by law to inspect the record;  
825 (ii) is required to inspect the record as a condition of participating in a state or federal  
826 program or for receiving state or federal funds; or  
827 (iii) is an entity described in Subsection (1)(a), (b), (c), (d), or (e).  
828 (b) Subsection (3)(a)(iii) applies only if the record is a record described in Subsection  
829 63G-2-305(4).  
830 (4) Before disclosing a record or record series under this section to another  
831 governmental entity, another state, the United States, a foreign government, or to a contractor

832 or private provider, the originating governmental entity shall:

833 (a) inform the recipient of the record's classification and the accompanying restrictions  
834 on access; and

835 (b) if the recipient is not a governmental entity to which this chapter applies, obtain the  
836 recipient's written agreement which may be by mechanical or electronic transmission that it  
837 will abide by those restrictions on access unless a statute, federal regulation, or interstate  
838 agreement otherwise governs the sharing of the record or record series.

839 (5) A governmental entity may disclose a record to another state, the United States, or a  
840 foreign government for the reasons listed in Subsections (1) and (2) without complying with  
841 the procedures of Subsection (2) or (4) if disclosure is authorized by executive agreement,  
842 treaty, federal statute, compact, federal regulation, or state statute.

843 (6) (a) Subject to Subsections (6)(b) and (c), an entity receiving a record under this  
844 section is subject to the same restrictions on disclosure of the record as the originating entity.

845 (b) A contractor or a private provider may receive information under this section only  
846 if:

847 (i) the contractor or private provider's use of the record or record series produces a  
848 public benefit that outweighs the individual privacy right that protects the record or record  
849 series;

850 (ii) the record or record series it requests:

851 (A) is necessary for the performance of a contract with a governmental entity;

852 (B) will only be used for the performance of the contract with the governmental entity;

853 (C) will not be disclosed to any other person; and

854 (D) will not be used for advertising or solicitation purposes; and

855 (iii) the contractor or private provider gives written assurance to the governmental  
856 entity that is providing the record or record series that it will adhere to the restrictions of this  
857 Subsection (6)(b).

858 (c) The classification of a record already held by a governmental entity and the  
859 applicable restrictions on disclosure of that record are not affected by the governmental entity's  
860 receipt under this section of a record with a different classification that contains information  
861 that is also included in the previously held record.

862 (7) Notwithstanding any other provision of this section, if a more specific court rule or

863 order, state statute, federal statute, or federal regulation prohibits or requires sharing  
864 information, that rule, order, statute, or federal regulation controls.

865 (8) The following records may not be shared under this section:

866 (a) records held by the Division of Oil, Gas, and Mining that pertain to any person and  
867 that are gathered under authority of Title 40, Chapter 6, Board and Division of Oil, Gas, and  
868 Mining; [~~and~~]

869 (b) records of publicly funded libraries as described in Subsection 63G-2-302(1)(c)[~~];~~  
870 and

871 (c) subject to Section 53-16-302, a record created under Title 53, Chapter 16, Utah  
872 Pilot Accountability Permit Program Act.

873 (9) Records that may evidence or relate to a violation of law may be disclosed to a  
874 government prosecutor, peace officer, or auditor.

875 Section 31. Section **63G-2-302** is amended to read:

876 **63G-2-302. Private records.**

877 (1) The following records are private:

878 (a) records concerning an individual's eligibility for unemployment insurance benefits,  
879 social services, welfare benefits, or the determination of benefit levels;

880 (b) records containing data on individuals describing medical history, diagnosis,  
881 condition, treatment, evaluation, or similar medical data;

882 (c) records of publicly funded libraries that when examined alone or with other records  
883 identify a patron;

884 (d) records received by or generated by or for:

885 (i) the Independent Legislative Ethics Commission, except for:

886 (A) the commission's summary data report that is required under legislative rule; and

887 (B) any other document that is classified as public under legislative rule; or

888 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,  
889 unless the record is classified as public under legislative rule;

890 (e) records received or generated for a Senate confirmation committee concerning  
891 character, professional competence, or physical or mental health of an individual:

892 (i) if prior to the meeting, the chair of the committee determines release of the records:

893 (A) reasonably could be expected to interfere with the investigation undertaken by the

894 committee; or

895 (B) would create a danger of depriving a person of a right to a fair proceeding or  
896 impartial hearing; and

897 (ii) after the meeting, if the meeting was closed to the public;

898 (f) employment records concerning a current or former employee of, or applicant for  
899 employment with, a governmental entity that would disclose that individual's home address,  
900 home telephone number, Social Security number, insurance coverage, marital status, or payroll  
901 deductions;

902 (g) records or parts of records under Section 63G-2-303 that a current or former  
903 employee identifies as private according to the requirements of that section;

904 (h) that part of a record indicating a person's Social Security number, individual  
905 taxpayer identification number, or federal employer identification number if provided under  
906 Section 31A-23a-104, 31A-25-202, 31A-26-202, 53-16-302, 58-1-301, 61-1-4, or 61-2f-203;

907 (i) that part of a voter registration record identifying a voter's driver license or  
908 identification card number, Social Security number, or last four digits of the Social Security  
909 number;

910 (j) a record that:

911 (i) contains information about an individual;

912 (ii) is voluntarily provided by the individual; and

913 (iii) goes into an electronic database that:

914 (A) is designated by and administered under the authority of the Chief Information  
915 Officer; and

916 (B) acts as a repository of information about the individual that can be electronically  
917 retrieved and used to facilitate the individual's online interaction with a state agency;

918 (k) information provided to the Commissioner of Insurance under:

919 (i) Subsection 31A-23a-115(2)(a);

920 (ii) Subsection 31A-23a-302(3); or

921 (iii) Subsection 31A-26-210(3);

922 (l) information obtained through a criminal background check under Title 11, Chapter  
923 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

924 (m) information provided by an offender that is:

925 (i) required by the registration requirements of Section 77-27-21.5; and  
926 (ii) not required to be made available to the public under Subsection 77-27-21.5(27);  
927 and

928 (n) a statement and any supporting documentation filed with the attorney general in  
929 accordance with Section 34-45-107, if the federal law or action supporting the filing involves  
930 homeland security.

931 (2) The following records are private if properly classified by a governmental entity:

932 (a) records concerning a current or former employee of, or applicant for employment  
933 with a governmental entity, including performance evaluations and personal status information  
934 such as race, religion, or disabilities, but not including records that are public under Subsection  
935 63G-2-301(2)(b) or 63G-2-301(3)(o), or private under Subsection (1)(b);

936 (b) records describing an individual's finances, except that the following are public:

937 (i) records described in Subsection 63G-2-301(2);

938 (ii) information provided to the governmental entity for the purpose of complying with  
939 a financial assurance requirement; or

940 (iii) records that must be disclosed in accordance with another statute;

941 (c) records of independent state agencies if the disclosure of those records would  
942 conflict with the fiduciary obligations of the agency;

943 (d) other records containing data on individuals the disclosure of which constitutes a  
944 clearly unwarranted invasion of personal privacy;

945 (e) records provided by the United States or by a government entity outside the state  
946 that are given with the requirement that the records be managed as private records, if the  
947 providing entity states in writing that the record would not be subject to public disclosure if  
948 retained by it; and

949 (f) any portion of a record in the custody of the Division of Aging and Adult Services,  
950 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a  
951 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

952 (3) (a) As used in this Subsection (3), "medical records" means medical reports,  
953 records, statements, history, diagnosis, condition, treatment, and evaluation.

954 (b) Medical records in the possession of the University of Utah Hospital, its clinics,  
955 doctors, or affiliated entities are not private records or controlled records under Section

956 63G-2-304 when the records are sought:

957 (i) in connection with any legal or administrative proceeding in which the patient's  
958 physical, mental, or emotional condition is an element of any claim or defense; or

959 (ii) after a patient's death, in any legal or administrative proceeding in which any party  
960 relies upon the condition as an element of the claim or defense.

961 (c) Medical records are subject to production in a legal or administrative proceeding  
962 according to state or federal statutes or rules of procedure and evidence as if the medical  
963 records were in the possession of a nongovernmental medical care provider.

964 Section 32. Section **63G-2-305** is amended to read:

965 **63G-2-305. Protected records.**

966 The following records are protected if properly classified by a governmental entity:

967 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret  
968 has provided the governmental entity with the information specified in Section 63G-2-309;

969 (2) commercial information or nonindividual financial information obtained from a  
970 person if:

971 (a) disclosure of the information could reasonably be expected to result in unfair  
972 competitive injury to the person submitting the information or would impair the ability of the  
973 governmental entity to obtain necessary information in the future;

974 (b) the person submitting the information has a greater interest in prohibiting access  
975 than the public in obtaining access; and

976 (c) the person submitting the information has provided the governmental entity with  
977 the information specified in Section 63G-2-309;

978 (3) commercial or financial information acquired or prepared by a governmental entity  
979 to the extent that disclosure would lead to financial speculations in currencies, securities, or  
980 commodities that will interfere with a planned transaction by the governmental entity or cause  
981 substantial financial injury to the governmental entity or state economy;

982 (4) records the disclosure of which could cause commercial injury to, or confer a  
983 competitive advantage upon a potential or actual competitor of, a commercial project entity as  
984 defined in Subsection 11-13-103(4);

985 (5) test questions and answers to be used in future license, certification, registration,  
986 employment, or academic examinations;



987 (6) records the disclosure of which would impair governmental procurement  
988 proceedings or give an unfair advantage to any person proposing to enter into a contract or  
989 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this  
990 Subsection (6) does not restrict the right of a person to have access to, once the contract or  
991 grant has been awarded, a bid, proposal, or application submitted to or by a governmental  
992 entity in response to:

- 993 (a) a request for bids;
- 994 (b) a request for proposals;
- 995 (c) a grant; or
- 996 (d) other similar document;

997 (7) records that would identify real property or the appraisal or estimated value of real  
998 or personal property, including intellectual property, under consideration for public acquisition  
999 before any rights to the property are acquired unless:

- 1000 (a) public interest in obtaining access to the information outweighs the governmental  
1001 entity's need to acquire the property on the best terms possible;
- 1002 (b) the information has already been disclosed to persons not employed by or under a  
1003 duty of confidentiality to the entity;
- 1004 (c) in the case of records that would identify property, potential sellers of the described  
1005 property have already learned of the governmental entity's plans to acquire the property;
- 1006 (d) in the case of records that would identify the appraisal or estimated value of  
1007 property, the potential sellers have already learned of the governmental entity's estimated value  
1008 of the property; or
- 1009 (e) the property under consideration for public acquisition is a single family residence  
1010 and the governmental entity seeking to acquire the property has initiated negotiations to acquire  
1011 the property as required under Section 78B-6-505;

1012 (8) records prepared in contemplation of sale, exchange, lease, rental, or other  
1013 compensated transaction of real or personal property including intellectual property, which, if  
1014 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value  
1015 of the subject property, unless:

- 1016 (a) the public interest in access outweighs the interests in restricting access, including  
1017 the governmental entity's interest in maximizing the financial benefit of the transaction; or

1018 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of  
1019 the value of the subject property have already been disclosed to persons not employed by or  
1020 under a duty of confidentiality to the entity;

1021 (9) records created or maintained for civil, criminal, or administrative enforcement  
1022 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if  
1023 release of the records:

1024 (a) reasonably could be expected to interfere with investigations undertaken for  
1025 enforcement, discipline, licensing, certification, or registration purposes;

1026 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement  
1027 proceedings;

1028 (c) would create a danger of depriving a person of a right to a fair trial or impartial  
1029 hearing;

1030 (d) reasonably could be expected to disclose the identity of a source who is not  
1031 generally known outside of government and, in the case of a record compiled in the course of  
1032 an investigation, disclose information furnished by a source not generally known outside of  
1033 government if disclosure would compromise the source; or

1034 (e) reasonably could be expected to disclose investigative or audit techniques,  
1035 procedures, policies, or orders not generally known outside of government if disclosure would  
1036 interfere with enforcement or audit efforts;

1037 (10) records the disclosure of which would jeopardize the life or safety of an  
1038 individual;

1039 (11) records the disclosure of which would jeopardize the security of governmental  
1040 property, governmental programs, or governmental recordkeeping systems from damage, theft,  
1041 or other appropriation or use contrary to law or public policy;

1042 (12) records that, if disclosed, would jeopardize the security or safety of a correctional  
1043 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere  
1044 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

1045 (13) records that, if disclosed, would reveal recommendations made to the Board of  
1046 Pardons and Parole by an employee of or contractor for the Department of Corrections, the  
1047 Board of Pardons and Parole, or the Department of Human Services that are based on the  
1048 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's

1049 jurisdiction;

1050 (14) records and audit workpapers that identify audit, collection, and operational  
1051 procedures and methods used by the State Tax Commission, if disclosure would interfere with  
1052 audits or collections;

1053 (15) records of a governmental audit agency relating to an ongoing or planned audit  
1054 until the final audit is released;

1055 (16) records prepared by or on behalf of a governmental entity solely in anticipation of  
1056 litigation that are not available under the rules of discovery;

1057 (17) records disclosing an attorney's work product, including the mental impressions or  
1058 legal theories of an attorney or other representative of a governmental entity concerning  
1059 litigation;

1060 (18) records of communications between a governmental entity and an attorney  
1061 representing, retained, or employed by the governmental entity if the communications would be  
1062 privileged as provided in Section 78B-1-137;

1063 (19) (a) (i) personal files of a state legislator, including personal correspondence to or  
1064 from a member of the Legislature; and

1065 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of  
1066 legislative action or policy may not be classified as protected under this section; and

1067 (b) (i) an internal communication that is part of the deliberative process in connection  
1068 with the preparation of legislation between:

1069 (A) members of a legislative body;

1070 (B) a member of a legislative body and a member of the legislative body's staff; or

1071 (C) members of a legislative body's staff; and

1072 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of  
1073 legislative action or policy may not be classified as protected under this section;

1074 (20) (a) records in the custody or control of the Office of Legislative Research and  
1075 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated  
1076 legislation or contemplated course of action before the legislator has elected to support the  
1077 legislation or course of action, or made the legislation or course of action public; and

1078 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the  
1079 Office of Legislative Research and General Counsel is a public document unless a legislator

1080 asks that the records requesting the legislation be maintained as protected records until such  
1081 time as the legislator elects to make the legislation or course of action public;

1082 (21) research requests from legislators to the Office of Legislative Research and  
1083 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared  
1084 in response to these requests;

1085 (22) drafts, unless otherwise classified as public;

1086 (23) records concerning a governmental entity's strategy about collective bargaining or  
1087 pending litigation;

1088 (24) records of investigations of loss occurrences and analyses of loss occurrences that  
1089 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the  
1090 Uninsured Employers' Fund, or similar divisions in other governmental entities;

1091 (25) records, other than personnel evaluations, that contain a personal recommendation  
1092 concerning an individual if disclosure would constitute a clearly unwarranted invasion of  
1093 personal privacy, or disclosure is not in the public interest;

1094 (26) records that reveal the location of historic, prehistoric, paleontological, or  
1095 biological resources that if known would jeopardize the security of those resources or of  
1096 valuable historic, scientific, educational, or cultural information;

1097 (27) records of independent state agencies if the disclosure of the records would  
1098 conflict with the fiduciary obligations of the agency;

1099 (28) records of an institution within the state system of higher education defined in  
1100 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,  
1101 retention decisions, and promotions, which could be properly discussed in a meeting closed in  
1102 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of  
1103 the final decisions about tenure, appointments, retention, promotions, or those students  
1104 admitted, may not be classified as protected under this section;

1105 (29) records of the governor's office, including budget recommendations, legislative  
1106 proposals, and policy statements, that if disclosed would reveal the governor's contemplated  
1107 policies or contemplated courses of action before the governor has implemented or rejected  
1108 those policies or courses of action or made them public;

1109 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,  
1110 revenue estimates, and fiscal notes of proposed legislation before issuance of the final

1111 recommendations in these areas;

1112           (31) records provided by the United States or by a government entity outside the state  
1113 that are given to the governmental entity with a requirement that they be managed as protected  
1114 records if the providing entity certifies that the record would not be subject to public disclosure  
1115 if retained by it;

1116           (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body  
1117 except as provided in Section 52-4-206;

1118           (33) records that would reveal the contents of settlement negotiations but not including  
1119 final settlements or empirical data to the extent that they are not otherwise exempt from  
1120 disclosure;

1121           (34) memoranda prepared by staff and used in the decision-making process by an  
1122 administrative law judge, a member of the Board of Pardons and Parole, or a member of any  
1123 other body charged by law with performing a quasi-judicial function;

1124           (35) records that would reveal negotiations regarding assistance or incentives offered  
1125 by or requested from a governmental entity for the purpose of encouraging a person to expand  
1126 or locate a business in Utah, but only if disclosure would result in actual economic harm to the  
1127 person or place the governmental entity at a competitive disadvantage, but this section may not  
1128 be used to restrict access to a record evidencing a final contract;

1129           (36) materials to which access must be limited for purposes of securing or maintaining  
1130 the governmental entity's proprietary protection of intellectual property rights including patents,  
1131 copyrights, and trade secrets;

1132           (37) the name of a donor or a prospective donor to a governmental entity, including an  
1133 institution within the state system of higher education defined in Section 53B-1-102, and other  
1134 information concerning the donation that could reasonably be expected to reveal the identity of  
1135 the donor, provided that:

1136           (a) the donor requests anonymity in writing;

1137           (b) any terms, conditions, restrictions, or privileges relating to the donation may not be  
1138 classified protected by the governmental entity under this Subsection (37); and

1139           (c) except for an institution within the state system of higher education defined in  
1140 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged  
1141 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority

1142 over the donor, a member of the donor's immediate family, or any entity owned or controlled  
1143 by the donor or the donor's immediate family;

1144 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and  
1145 73-18-13;

1146 (39) a notification of workers' compensation insurance coverage described in Section  
1147 34A-2-205;

1148 (40) (a) the following records of an institution within the state system of higher  
1149 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,  
1150 or received by or on behalf of faculty, staff, employees, or students of the institution:

1151 (i) unpublished lecture notes;

1152 (ii) unpublished notes, data, and information:

1153 (A) relating to research; and

1154 (B) of:

1155 (I) the institution within the state system of higher education defined in Section  
1156 53B-1-102; or

1157 (II) a sponsor of sponsored research;

1158 (iii) unpublished manuscripts;

1159 (iv) creative works in process;

1160 (v) scholarly correspondence; and

1161 (vi) confidential information contained in research proposals;

1162 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public  
1163 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

1164 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

1165 (41) (a) records in the custody or control of the Office of Legislative Auditor General  
1166 that would reveal the name of a particular legislator who requests a legislative audit prior to the  
1167 date that audit is completed and made public; and

1168 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the  
1169 Office of the Legislative Auditor General is a public document unless the legislator asks that  
1170 the records in the custody or control of the Office of Legislative Auditor General that would  
1171 reveal the name of a particular legislator who requests a legislative audit be maintained as  
1172 protected records until the audit is completed and made public;

1173 (42) records that provide detail as to the location of an explosive, including a map or  
1174 other document that indicates the location of:  
1175 (a) a production facility; or  
1176 (b) a magazine;  
1177 (43) information:  
1178 (a) contained in the statewide database of the Division of Aging and Adult Services  
1179 created by Section 62A-3-311.1; or  
1180 (b) received or maintained in relation to the Identity Theft Reporting Information  
1181 System (IRIS) established under Section 67-5-22;  
1182 (44) information contained in the Management Information System and Licensing  
1183 Information System described in Title 62A, Chapter 4a, Child and Family Services;  
1184 (45) information regarding National Guard operations or activities in support of the  
1185 National Guard's federal mission;  
1186 (46) records provided by any pawn or secondhand business to a law enforcement  
1187 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and  
1188 Secondhand Merchandise Transaction Information Act;  
1189 (47) information regarding food security, risk, and vulnerability assessments performed  
1190 by the Department of Agriculture and Food;  
1191 (48) except to the extent that the record is exempt from this chapter pursuant to Section  
1192 63G-2-106, records related to an emergency plan or program prepared or maintained by the  
1193 Division of Homeland Security the disclosure of which would jeopardize:  
1194 (a) the safety of the general public; or  
1195 (b) the security of:  
1196 (i) governmental property;  
1197 (ii) governmental programs; or  
1198 (iii) the property of a private person who provides the Division of Homeland Security  
1199 information;  
1200 (49) records of the Department of Agriculture and Food relating to the National  
1201 Animal Identification System or any other program that provides for the identification, tracing,  
1202 or control of livestock diseases, including any program established under Title 4, Chapter 24,  
1203 Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Livestock Inspection and

1204 Quarantine;

1205 (50) as provided in Section 26-39-501:

1206 (a) information or records held by the Department of Health related to a complaint

1207 regarding a child care program or residential child care which the department is unable to

1208 substantiate; and

1209 (b) information or records related to a complaint received by the Department of Health

1210 from an anonymous complainant regarding a child care program or residential child care;

1211 (51) unless otherwise classified as public under Section 63G-2-301 and except as

1212 provided under Section 41-1a-116, an individual's home address, home telephone number, or

1213 personal mobile phone number, if:

1214 (a) the individual is required to provide the information in order to comply with a law,

1215 ordinance, rule, or order of a government entity; and

1216 (b) the subject of the record has a reasonable expectation that this information will be

1217 kept confidential due to:

1218 (i) the nature of the law, ordinance, rule, or order; and

1219 (ii) the individual complying with the law, ordinance, rule, or order;

1220 (52) the name, home address, work addresses, and telephone numbers of an individual

1221 that is engaged in, or that provides goods or services for, medical or scientific research that is:

1222 (a) conducted within the state system of higher education, as defined in Section

1223 53B-1-102; and

1224 (b) conducted using animals;

1225 (53) an initial proposal under Title 63M, Chapter 1, Part 26, Government Procurement

1226 Private Proposal Program, to the extent not made public by rules made under that chapter;

1227 (54) information collected and a report prepared by the Judicial Performance

1228 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter

1229 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,

1230 the information or report;

1231 (55) (a) records of the Utah Educational Savings Plan created under Section

1232 53B-8a-103 if the disclosure of the records would conflict with its fiduciary obligations;

1233 (b) proposals submitted to the Utah Educational Savings Plan; and

1234 (c) contracts entered into by the Utah Educational Savings Plan and the related



1235 payments;

1236 (56) records contained in the Management Information System created in Section

1237 62A-4a-1003;

1238 (57) records provided or received by the Public Lands Policy Coordinating Office in

1239 furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

1240 (58) information requested by and provided to the Utah State 911 Committee under

1241 Section 53-10-602;

1242 (59) recorded Children's Justice Center investigative interviews, both video and audio,

1243 the release of which are governed by Section 77-37-4; [~~and~~]

1244 (60) in accordance with Section 73-10-33:

1245 (a) a management plan for a water conveyance facility in the possession of the Division

1246 of Water Resources or the Board of Water Resources; or

1247 (b) an outline of an emergency response plan in possession of the state or a county or

1248 municipality[=];

1249 (61) subject to Section 53-16-302, a record created under Title 53, Chapter 16, Utah

1250 Pilot Accountability Permit Program Act; and

1251 (62) subject to Section 76-8-1505, the database created in Section 76-8-1504.

1252 Section 33. Section **63G-11-102** is amended to read:

1253 **63G-11-102. Creation of identity documents -- Issuance to citizens, nationals, and**

1254 **legal permanent resident aliens -- Exceptions.**

1255 (1) The following entities may create, publish, or otherwise manufacture an

1256 identification document, identification card, or identification certificate and possess an

1257 engraved plate or other device for the printing of an identification document:

1258 (a) a federal, state, or local government agency for employee identification, which is

1259 designed to identify the bearer as an employee;

1260 (b) a federal, state, or local government agency for purposes authorized or required by

1261 law or a legitimate purpose consistent with the duties of the agency, including such documents

1262 as voter identification cards, identification cards, passports, birth certificates, and Social

1263 Security cards; and

1264 (c) a public school or state or private educational institution to identify the bearer as an

1265 administrator, faculty member, student, or employee.

1266 (2) The name of the issuing entity shall be clearly printed upon the face of the  
1267 identification document.

1268 (3) Except as otherwise provided in Subsections (4) and (5) or by federal law, an entity  
1269 providing an identity document, card, or certificate under Subsection (1)(b) or (c) shall issue  
1270 the document, card, or certificate only to:

1271 (a) a United States citizen;

1272 (b) a national; or

1273 (c) a legal permanent resident alien.

1274 (4) (a) Subsection (3) does not apply to an applicant for an identification document  
1275 who presents, in person, valid documentary evidence of the applicant's:

1276 (i) unexpired immigrant or nonimmigrant visa status for admission into the United  
1277 States;

1278 (ii) pending or approved application for asylum in the United States;

1279 (iii) admission into the United States as a refugee;

1280 (iv) pending or approved application for temporary protected status in the United  
1281 States;

1282 (v) approved deferred action status; or

1283 (vi) pending application for adjustment of status to legal permanent resident or  
1284 conditional resident.

1285 (b) (i) An entity listed in Subsection (1)(b) or (c) may issue a Subsection (1)(b) or (c)  
1286 identification document to an applicant who satisfies the requirements of Subsection (4)(a).

1287 (ii) Except as otherwise provided by federal law, the document is valid only:

1288 (A) during the period of time of the individual's authorized stay in the United States; or

1289 (B) for one year from the date of issuance if there is no definite end to the individual's  
1290 period of authorized stay.

1291 (iii) An entity issuing an identification document under this Subsection (4) shall clearly  
1292 indicate on the document:

1293 (A) that it is temporary; and

1294 (B) its expiration date.

1295 (c) An individual may renew a document issued under this Subsection (4) only upon  
1296 presentation of valid documentary evidence that the status by which the individual originally

1297 qualified for the identification document has been extended by the United States Citizenship  
1298 and Immigration Services or other authorized agency of the United States Department of  
1299 Homeland Security.

1300 (5) (a) Subsection (3) does not apply to an identification document issued under  
1301 Subsection (1)(c) that:

1302 (i) is only valid for use on the educational institution's campus or facility; and  
1303 (ii) includes a statement of the restricted use conspicuously printed upon the face of the  
1304 identification document.

1305 (b) Subsection (3) does not apply to:

1306 (i) a license certificate, driving privilege card, or identification card issued or renewed  
1307 under Title 53, Chapter 3, Uniform Driver License Act[-]; or

1308 (ii) an accountability permit issued in accordance with Title 53, Chapter 16, Utah Pilot  
1309 Accountability Permit Program Act.

1310 (c) Subsection (3) does not apply to a public transit pass issued by a public transit  
1311 district as defined in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that:

1312 (i) is only valid for use on the public transit system; and  
1313 (ii) includes a statement of the restricted use conspicuously printed on the face of the  
1314 public transit pass.

1315 (6) This section shall be enforced without regard to race, religion, gender, ethnicity, or  
1316 national origin.

1317 Section 34. Section **63J-1-602.3** is amended to read:

1318 **63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**

1319 (1) Certain funds associated with the Law Enforcement Operations Account, as  
1320 provided in Section 51-9-411.

1321 (2) The Public Safety Honoring Heroes Restricted Account created in Section  
1322 53-1-118.

1323 (3) Funding for the Search and Rescue Financial Assistance Program, as provided in  
1324 Section 53-2-107.

1325 (4) Appropriations made to the Department of Public Safety from the Department of  
1326 Public Safety Restricted Account, as provided in Section 53-3-106.

1327 (5) Appropriations to the Motorcycle Rider Education Program, as provided in Section

- 1328 53-3-905.
- 1329 (6) The DNA Specimen Restricted Account created in Section 53-10-407.
- 1330 (7) The Pilot Accountability Permit Program Restricted Account created in Section
- 1331 53-16-203.
- 1332 [~~(7)~~] (8) Appropriations to the State Board of Education, as provided in Section
- 1333 53A-17a-105.
- 1334 [~~(8)~~] (9) Certain funds appropriated from the Uniform School Fund to the State Board
- 1335 of Education for new teacher bonus and performance-based compensation plans, as provided in
- 1336 Section 53A-17a-148.
- 1337 [~~(9)~~] (10) Certain funds appropriated from the Uniform School Fund to the State Board
- 1338 of Education for implementation of proposals to improve mathematics achievement test scores,
- 1339 as provided in Section 53A-17a-152.
- 1340 [~~(10)~~] (11) The School Building Revolving Account created in Section 53A-21-401.
- 1341 [~~(11)~~] (12) Money received by the State Office of Rehabilitation for the sale of certain
- 1342 products or services, as provided in Section 53A-24-105.
- 1343 [~~(12)~~] (13) The State Board of Regents, as provided in Section 53B-6-104.
- 1344 [~~(13)~~] (14) Certain funds appropriated from the General Fund to the State Board of
- 1345 Regents for teacher preparation programs, as provided in Section 53B-6-104.
- 1346 [~~(14)~~] (15) A certain portion of money collected for administrative costs under the
- 1347 School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.
- 1348 [~~(15)~~] (16) Certain surcharges on residence and business telecommunications access
- 1349 lines imposed by the Public Service Commission, as provided in Section 54-8b-10.
- 1350 [~~(16)~~] (17) Certain fines collected by the Division of Occupational and Professional
- 1351 Licensing for violation of unlawful or unprofessional conduct that are used for education and
- 1352 enforcement purposes, as provided in Section 58-17b-505.
- 1353 [~~(17)~~] (18) The Nurse Education and Enforcement Account created in Section
- 1354 58-31b-103.
- 1355 [~~(18)~~] (19) The Certified Nurse Midwife Education and Enforcement Account created
- 1356 in Section 58-44a-103.
- 1357 [~~(19)~~] (20) Certain fines collected by the Division of Occupational and Professional
- 1358 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as

1359 provided in Section 58-63-103.

1360 [~~(20)~~] (21) The Professional Geologist Education and Enforcement Account created in  
1361 Section 58-76-103.

1362 [~~(21)~~] (22) Certain money in the Water Resources Conservation and Development  
1363 Fund, as provided in Section 59-12-103.

1364 Section 35. Section **67-5-22.7** is amended to read:

1365 **67-5-22.7. Multi-agency strike force to combat violent and other major felony**  
1366 **crimes associated with illegal immigration and human trafficking -- Fraudulent**  
1367 **Documents Identification Unit.**

1368 (1) The Office of the Attorney General is authorized to administer and coordinate the  
1369 operation of a multi-agency strike force to combat violent and other major felony crimes  
1370 committed within the state that are associated with illegal immigration and human trafficking.

1371 (2) The office shall invite officers of the U.S. Immigration and Customs Enforcement  
1372 and state and local law enforcement personnel to participate in this mutually supportive,  
1373 multi-agency strike force to more effectively utilize their combined skills, expertise, and  
1374 resources.

1375 (3) The strike force shall focus its efforts on detecting, investigating, deterring, and  
1376 eradicating violent and other major felony criminal activity related to illegal immigration and  
1377 human trafficking.

1378 (4) In conjunction with the strike force and subject to available funding, the Office of  
1379 the Attorney General shall establish a Fraudulent Documents Identification Unit:

1380 (a) for the primary purpose of investigating, apprehending, and prosecuting individuals  
1381 or entities that participate in the sale or distribution of fraudulent documents used for  
1382 identification purposes; [~~and~~]

1383 (b) to specialize in fraudulent identification documents created and prepared for  
1384 individuals who are unlawfully residing within the state[~~;~~]; and

1385 (c) to administer the Identity Theft Victims Restricted Account created under  
1386 Subsection (5).

1387 (5) (a) There is created a restricted account in the General Fund known as the "Identity  
1388 Theft Victims Restricted Account."

1389 (b) The Identity Theft Victims Restricted Account shall consist of money appropriated

1390 to the Identity Theft Victims Restricted Account by the Legislature.

1391 (c) Subject to appropriations from the Legislature, the Fraudulent Documents  
1392 Identification Unit may expend the money in the Identity Theft Victims Restricted Account to  
1393 pay a claim as provided in this Subsection (5) to a person who is a victim of identity theft  
1394 prosecuted under Section 76-6-1102 or 76-10-1801.

1395 (d) To obtain restitution from the Identity Theft Victims Restricted Account, a person  
1396 shall file a claim with the Fraudulent Documents Identification Unit by no later than one year  
1397 after the day on which an individual is convicted, pleads guilty, pleads no contest to, pleads  
1398 guilty in a similar manner to, or resolved by diversion or its equivalent an offense under  
1399 Section 76-6-1102 or 76-10-1801 for the theft of the identity of the person filing the claim.

1400 (e) A claim filed under this Subsection (5) shall include evidence satisfactory to the  
1401 Fraudulent Documents Identification Unit:

1402 (i) that the person is the victim of identity theft described in Subsection (5)(d); and

1403 (ii) of the actual damages experienced by the person as a result of the identity theft that  
1404 are not recovered from a public or private source.

1405 (f) The Fraudulent Documents Identification Unit shall pay a claim of restitution from  
1406 the Identity Theft Victims Restricted Account:

1407 (i) if the Fraudulent Documents Identification Unit determines that the person has  
1408 provided sufficient evidence to meet the requirements of Subsection (5)(e);

1409 (ii) in the order that claims are filed with the Fraudulent Documents Identification  
1410 Unit; and

1411 (iii) to the extent that it there is money in the Identity Theft Victims Restricted  
1412 Account.

1413 (g) If there is insufficient money in the Identity Theft Victims Restrict Account when a  
1414 claim is filed under this Subsection (5) to pay the claim in full, the Fraudulent Documents  
1415 Identification Unit may pay a claim when there is sufficient money in the account to pay the  
1416 claim.

1417 ~~[(5)]~~ (6) The strike force shall make an annual report on its activities to the governor  
1418 and the Legislature's Law Enforcement and Criminal Justice Interim Committee by December  
1419 1, together with any proposed recommendations for modifications to this section.

1420 Section 36. Section **76-8-1501** is enacted to read:

1421 **Part 15. Identity Enforcement Act**

1422 **76-8-1501. Title.**

1423 This part is known as the "Identity Enforcement Act."

1424 Section 37. Section **76-8-1502** is enacted to read:

1425 **76-8-1502. Definitions.**

1426 As used in this part:

1427 (1) "Database" means the identity database created in Section 76-8-1504.

1428 (2) "Department" means the Department of Public Safety.

1429 (3) "Law enforcement agency" means an entity of the federal government, a state, or a  
1430 political subdivision of a state, including a state institution of higher education, that exists  
1431 primarily to prevent and detect crime and enforce criminal laws, statutes, and ordinances.

1432 (4) "Law enforcement officer" has the same meaning as in Section 53-13-103.

1433 (5) (a) "Photographic document" means a document that is:

1434 (i) a form of positive identification that:

1435 (A) is issued by a federal, state, or tribal government entity; and

1436 (B) contains a numerical identifier and a photograph of the person identified; or

1437 (ii) (A) a driving privilege card issued in accordance with Section 53-3-207; or

1438 (B) an accountability permit issued in accordance with Title 53, Chapter 16, Utah Pilot  
1439 Accountability Permit Program Act.

1440 (b) "Photographic document" includes:

1441 (i) an identification card issued by the state;

1442 (ii) an identification card issued by another state that is similar to an identification card  
1443 issued by this state;

1444 (iii) a driver license issued by any state;

1445 (iv) a United States military identification card; or

1446 (v) one of the following if it contains a photograph of the individual:

1447 (A) a valid tribal identification card;

1448 (B) a Bureau of Indian Affairs card; or

1449 (C) a tribal treaty card.

1450 Section 38. Section **76-8-1503** is enacted to read:

1451 **76-8-1503. Providing photographic document -- Fingerprinting and**

1452 **photographing.**

1453 (1) (a) Except as otherwise provided in this Subsection (1), on and after the day on  
1454 which the Department of Public Safety may issue an accountability permit under Section  
1455 53-16-301, a law enforcement officer shall require an individual to provide the law  
1456 enforcement officer at least one form of photographic document if the law enforcement officer  
1457 conducts a lawful stop, detention, or arrest of the individual when acting in the enforcement of  
1458 a state law or local ordinance.

1459 (b) If a law enforcement officer requires an individual to provide a photographic  
1460 document under Subsection (1)(a) and the individual is a permit holder, as defined in Section  
1461 53-16-102, the individual shall provide the law enforcement officer the accountability permit  
1462 issued to the individual in accordance with Title 53, Chapter 16, Utah Pilot Accountability  
1463 Permit Program Act.

1464 (c) On a case-by-case basis, a law enforcement officer may elect not to request that the  
1465 individual provide a photographic document as required under this Subsection (1) if the law  
1466 enforcement officer determines that to require the photographic document could hinder or  
1467 obstruct a criminal investigation.

1468 (2) If an individual fails to provide a law enforcement officer a photographic document  
1469 as required under Subsection (1), the law enforcement officer shall:

1470 (a) make a record of the time and location where the lawful stop, detention, or arrest  
1471 occurs;

1472 (b) fingerprint the individual; and

1473 (c) take a photograph of the individual.

1474 (3) (a) An individual is guilty of a class C misdemeanor if the individual violates  
1475 Subsection (1), except that the fine is \$1,000.

1476 (b) An individual is guilty of a class B misdemeanor if the individual refuses to allow a  
1477 law enforcement officer to do the following as required by Subsection (2):

1478 (i) fingerprint the individual; or

1479 (ii) take a photograph of the individual.

1480 (4) An arrest made under this section shall be conducted in accordance with Section  
1481 77-7-2.

1482 (5) A law enforcement officer may not consider race, color, or national origin in



1483 implementing this section, except to the extent permitted by the constitutions of the United  
1484 States and this state.

1485 Section 39. Section **76-8-1504** is enacted to read:

1486 **76-8-1504. Identity database.**

1487 (1) A law enforcement agency shall forward the information described in Subsection  
1488 76-8-1503(2) to the department in an electronic format.

1489 (2) The department shall maintain a database of the information provided to the  
1490 department under Subsection (1).

1491 (3) The department shall develop and maintain the database to facilitate the disclosures  
1492 required by Section 76-8-1505.

1493 (4) The database created under this section is a protected record under Title 63G,  
1494 Chapter 2, Government Records Access and Management Act.

1495 (5) The department shall maintain a record created as part of the database for at least  
1496 three years from the day on which the record is created in the database.

1497 Section 40. Section **76-8-1505** is enacted to read:

1498 **76-8-1505. Sharing of information with federal agencies.**

1499 In accordance with a memorandum of understanding entered into by the state under  
1500 Section 67-5-28, the department shall share one or more records in the database with the  
1501 United States Department of Justice or the United States Department of Homeland Security as  
1502 provided in 8 U.S.C. Sec. 1357(g) for the enforcement of federal immigration and customs  
1503 laws.

1504 Section 41. Section **76-10-526** is amended to read:

1505 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**  
1506 **Exemption for concealed firearm permit holders.**

1507 (1) For purposes of this section, "valid permit to carry a concealed firearm" does not  
1508 include a temporary permit issued pursuant to Section 53-5-705.

1509 (2) (a) To establish personal identification and residence in this state for purposes of  
1510 this part, a dealer shall require an individual receiving a firearm to present one photo  
1511 identification on a form issued by a governmental agency of the state.

1512 (b) A dealer may not accept [~~a driving privilege card issued in accordance with Section~~  
1513 ~~53-3-207~~] as proof of identification for the purpose of establishing personal identification and

1514 residence in this state as required under this Subsection (2)[-]:

1515 (i) a driving privilege card issued in accordance with Section 53-3-207; or

1516 (ii) an accountability permit issued in accordance with Title 53, Chapter 16, Utah Pilot

1517 Accountability Permit Program Act.

1518 (3) A criminal history background check is required for the sale of a firearm by a  
1519 licensed firearm dealer in the state.

1520 (4) (a) An individual, except a dealer, purchasing a firearm from a dealer shall consent  
1521 in writing to a criminal background check, on a form provided by the bureau.

1522 (b) The form shall contain the following information:

1523 (i) the dealer identification number;

1524 (ii) the name and address of the individual receiving the firearm;

1525 (iii) the date of birth, height, weight, eye color, and hair color of the individual  
1526 receiving the firearm; and

1527 (iv) the Social Security number or any other identification number of the individual  
1528 receiving the firearm.

1529 (5) (a) The dealer shall send the form required by Subsection (4) to the bureau  
1530 immediately upon its completion.

1531 (b) A dealer may not sell or transfer a firearm to an individual until the dealer has  
1532 provided the bureau with the information in Subsection (4) and has received approval from the  
1533 bureau under Subsection (7).

1534 (6) The dealer shall make a request for criminal history background information by  
1535 telephone or other electronic means to the bureau and shall receive approval or denial of the  
1536 inquiry by telephone or other electronic means.

1537 (7) When the dealer calls for or requests a criminal history background check, the  
1538 bureau shall:

1539 (a) review the criminal history files, including juvenile court records, to determine if  
1540 the individual is prohibited from purchasing, possessing, or transferring a firearm by state or  
1541 federal law;

1542 (b) inform the dealer that:

1543 (i) the records indicate the individual is so prohibited; or

1544 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;

1545 (c) provide the dealer with a unique transaction number for that inquiry; and  
1546 (d) provide a response to the requesting dealer during the call for a criminal  
1547 background, or by return call, or other electronic means, without delay, except in case of  
1548 electronic failure or other circumstances beyond the control of the bureau, the bureau shall  
1549 advise the dealer of the reason for the delay and give the dealer an estimate of the length of the  
1550 delay.

1551 (8) (a) The bureau may not maintain any records of the criminal history background  
1552 check longer than 20 days from the date of the dealer's request if the bureau determines that the  
1553 individual receiving the gun is not prohibited from purchasing, possessing, or transferring the  
1554 firearm under state or federal law.

1555 (b) However, the bureau shall maintain a log of requests containing the dealer's federal  
1556 firearms number, the transaction number, and the transaction date for a period of 12 months.

1557 (9) If the criminal history background check discloses information indicating that the  
1558 individual attempting to purchase the firearm is prohibited from purchasing, possessing, or  
1559 transferring a firearm, the bureau shall inform the law enforcement agency in the jurisdiction  
1560 where the person resides.

1561 (10) If an individual is denied the right to purchase a firearm under this section, the  
1562 individual may review the individual's criminal history information and may challenge or  
1563 amend the information as provided in Section 53-10-108.

1564 (11) The bureau shall make rules as provided in Title 63G, Chapter 3, Utah  
1565 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all  
1566 records provided by the division pursuant to this part are in conformance with the requirements  
1567 of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

1568 (12) (a) (i) A dealer shall collect a criminal history background check fee related to the  
1569 sale of a firearm under this section, which is \$7.50.

1570 (ii) This fee remains in effect until changed by the bureau through the process under  
1571 Section 63J-1-504.

1572 (b) (i) The dealer shall forward at one time all fees collected for criminal history  
1573 background checks performed during the month to the bureau by the last day of the month  
1574 following the sale of a firearm.

1575 (ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover

1576 the cost of administering and conducting the criminal history background check program.

1577 (13) An individual with a concealed firearm permit issued pursuant to Title 53, Chapter  
1578 5, Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee  
1579 required in this section for the purchase of a firearm if:

1580 (a) the individual presents the individual's concealed firearm permit to the dealer prior  
1581 to purchase of the firearm; and

1582 (b) the dealer verifies with the division that the individual's concealed firearm permit is  
1583 valid.

1584 Section 42. **Effective date.**

1585 (1) Except as provided in Subsection (2), this bill takes effect on May 10, 2011.

1586 (2) The amendments to the following sections take effect on July 1, 2011:

1587 (a) Section 32B-1-404 (Effective 07/01/11); and

1588 (b) Section 32B-1-406 (Effective 07/01/11).