

IMMIGRATION AND ALIEN RELATED AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Howard A. Stephenson

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to immigration and aliens.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ repeals provisions related to the Utah Immigration Accountability and Enforcement Act, and makes conforming amendments;
- ▶ amends provisions related to receipt of state, local, or federal benefits;
- ▶ amends provisions related to status verification and public employers;
- ▶ repeals the Private Employer Verification Act repeal date;
- ▶ repeals provisions related to the Identity Theft Victims Restricted Account;
- ▶ addresses enforcement of federal immigration laws;
- ▶ repeals provisions related to transporting or harboring aliens and makes conforming amendments;
- ▶ amends provisions related to arrest by police officers;
- ▶ repeals the Utah Pilot Sponsored Resident Immigrant Program Act, and makes conforming amendments; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **13-47-102 (Contingently Repealed)**, as last amended by Laws of Utah 2014, Chapter
33 189

34 **34-50-102**, as enacted by Laws of Utah 2015, Chapter 263

35 **63G-2-206**, as last amended by Laws of Utah 2012, Chapter 377

36 **63G-2-305**, as last amended by Laws of Utah 2015, Chapters 147, 283, and 411

37 **63G-12-401**, as last amended by Laws of Utah 2011, Chapter 20 and renumbered and
38 amended by Laws of Utah 2011, Chapter 18

39 **63G-12-402**, as last amended by Laws of Utah 2015, Chapter 370

40 **63I-2-213**, as enacted by Laws of Utah 2011, Chapter 18

41 **63J-1-602.4**, as last amended by Laws of Utah 2015, Chapters 179 and 283

42 **67-5-22.7**, as last amended by Laws of Utah 2011, Chapter 18

43 **76-9-1003**, as last amended by Laws of Utah 2013, Chapter 196

44 **76-9-1004**, as enacted by Laws of Utah 2011, Chapter 21 and last amended by
45 Coordination Clause, Laws of Utah 2011, Chapter 20

46 **76-9-1006**, as enacted by Laws of Utah 2011, Chapter 21

47 **77-7-2**, as last amended by Laws of Utah 2011, Chapters 18 and 21

48 RENUMBERS AND AMENDS:

49 **63G-12-403**, (Renumbered from 63G-12-302, as renumbered and amended by Laws of
50 Utah 2011, Chapter 18)

51 REPEALS:

52 **63G-12-101**, as enacted by Laws of Utah 2011, Chapter 18

53 **63G-12-102**, as last amended by Laws of Utah 2015, Chapter 258

54 **63G-12-103**, as last amended by Laws of Utah 2012, Chapter 369

55 **63G-12-104**, as enacted by Laws of Utah 2011, Chapter 18

56 **63G-12-105**, as enacted by Laws of Utah 2011, Chapter 18

57 **63G-12-106**, as enacted by Laws of Utah 2011, Chapter 18

58 **63G-12-201**, as enacted by Laws of Utah 2011, Chapter 18

- 59 **63G-12-202**, as last amended by Laws of Utah 2014, Chapter 200
- 60 **63G-12-203**, as enacted by Laws of Utah 2011, Chapter 18
- 61 **63G-12-204**, as enacted by Laws of Utah 2011, Chapter 18
- 62 **63G-12-205**, as enacted by Laws of Utah 2011, Chapter 18
- 63 **63G-12-206**, as enacted by Laws of Utah 2011, Chapter 18
- 64 **63G-12-207**, as enacted by Laws of Utah 2011, Chapter 18
- 65 **63G-12-208**, as enacted by Laws of Utah 2011, Chapter 18
- 66 **63G-12-209**, as enacted by Laws of Utah 2011, Chapter 18
- 67 **63G-12-210**, as enacted by Laws of Utah 2011, Chapter 18
- 68 **63G-12-211**, as enacted by Laws of Utah 2011, Chapter 18
- 69 **63G-12-212**, as enacted by Laws of Utah 2011, Chapter 18
- 70 **63G-12-301**, as enacted by Laws of Utah 2011, Chapter 18
- 71 **63G-12-303**, as enacted by Laws of Utah 2011, Chapter 18
- 72 **63G-12-304**, as enacted by Laws of Utah 2011, Chapter 18
- 73 **63G-12-305**, as enacted by Laws of Utah 2011, Chapter 18
- 74 **63G-12-306**, as last amended by Laws of Utah 2014, Chapter 189
- 75 **63G-14-101**, as enacted by Laws of Utah 2011, Chapter 20
- 76 **63G-14-102**, as enacted by Laws of Utah 2011, Chapter 20
- 77 **63G-14-201**, as last amended by Laws of Utah 2014, Chapter 200
- 78 **63G-14-202**, as enacted by Laws of Utah 2011, Chapter 20
- 79 **63G-14-203**, as enacted by Laws of Utah 2011, Chapter 20
- 80 **63G-14-204**, as enacted by Laws of Utah 2011, Chapter 20
- 81 **63G-14-205**, as enacted by Laws of Utah 2011, Chapter 20
- 82 **63G-14-206**, as enacted by Laws of Utah 2011, Chapter 20
- 83 **63G-14-301**, as enacted by Laws of Utah 2011, Chapter 20
- 84 **63G-14-302**, as enacted by Laws of Utah 2011, Chapter 20
- 85 **76-10-2901**, as last amended by Laws of Utah 2011, Chapters 18, 21 and last amended
- 86 by Coordination Clause, Laws of Utah 2011, Chapter 20

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

89 Section 1. Section **13-47-102 (Contingently Repealed)** is amended to read:

90 **13-47-102 (Contingently Repealed). Definitions.**

91 As used in this chapter:

92 (1) "Department" means the Department of Commerce.

93 (2) "Employee" means an individual:

94 (a) who is hired to perform services in Utah; and

95 (b) to whom a private employer provides a federal form required for federal taxation
96 purposes to report income paid to the individual for the services performed.

97 (3) (a) Except as provided in Subsection (3)(b), "private employer" means a person
98 who for federal taxation purposes is required to provide a federal form:

99 (i) to an individual who performs services for the person in Utah; and

100 (ii) to report income paid to the individual who performs the services.

101 (b) "Private employer" does not mean a public employer as defined in Section

102 ~~[63G-12-102]~~ [63G-12-403](#).

103 (4) (a) "Status verification system" means an electronic system operated by the federal
104 government, through which an employer may inquire to verify the federal legal working status
105 of an individual who is a newly hired employee.

106 (b) "Status verification system" includes:

107 (i) the electronic verification of the work authorization program of the Illegal

108 Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. Sec. 1324a;

109 (ii) a federal program equivalent to the program described in Subsection (4)(b)(i) that
110 is designated by the United States Department of Homeland Security or other federal agency
111 authorized to verify the employment eligibility status of a newly hired employee pursuant to the
112 Immigration Reform and Control Act of 1986;

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

115 (iv) an independent third-party system with an equal or higher degree of reliability as
116 the programs, systems, or processes described in Subsection (4)(b)(i), (ii), or (iii).

117 Section 2. Section **34-50-102** is amended to read:

118 **34-50-102. Definitions.**

119 As used in this chapter:

120 (1) "DD 214" means the United States Department of Defense Certificate of Release or

121 Discharge from Active Duty.

122 (2) "Department" means the same as that term is defined in Section 71-11-2.

123 (3) "Preference eligible" means the same as that term is defined in Section 71-10-1.

124 (4) "Private employer" means [~~the same as that term is defined in Section 63G-12-102]~~

125 an employer that is not a governmental entity.

126 (5) "Veteran" means the same as that term is defined in Section 71-10-1.

127 Section 3. Section 63G-2-206 is amended to read:

128 **63G-2-206. Sharing records.**

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

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

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

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

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

139 (e) (i) is:

140 (A) the Legislature;

141 (B) a legislative committee;

142 (C) a member of the Legislature; or

143 (D) a legislative staff member acting at the request of the Legislature, a legislative
144 committee, or a member of the Legislature; and

145 (ii) requests the record in relation to the Legislature's duties including:

146 (A) the preparation or review of a legislative proposal or legislation;

147 (B) appropriations; or

148 (C) an investigation or review conducted by the Legislature or a legislative committee.

149 (2) (a) A governmental entity may provide a private, controlled, or protected record or
150 record series to another governmental entity, a political subdivision, a government-managed
151 corporation, the federal government, or another state if the requesting entity provides written

152 assurance:

153 (i) that the record or record series is necessary to the performance of the governmental
154 entity's duties and functions;

155 (ii) that the record or record series will be used for a purpose similar to the purpose for
156 which the information in the record or record series was collected or obtained; and

157 (iii) that the use of the record or record series produces a public benefit that is greater
158 than or equal to the individual privacy right that protects the record or record series.

159 (b) A governmental entity may provide a private, controlled, or protected record or
160 record series to a contractor or a private provider according to the requirements of Subsection
161 (6)(b).

162 (3) (a) A governmental entity shall provide a private, controlled, or protected record to
163 another governmental entity, a political subdivision, a government-managed corporation, the
164 federal government, or another state if the requesting entity:

165 (i) is entitled by law to inspect the record;

166 (ii) is required to inspect the record as a condition of participating in a state or federal
167 program or for receiving state or federal funds; or

168 (iii) is an entity described in Subsection (1)(a), (b), (c), (d), or (e).

169 (b) Subsection (3)(a)(iii) applies only if the record is a record described in Subsection
170 63G-2-305(4).

171 (4) Before disclosing a record or record series under this section to another
172 governmental entity, another state, the United States, a foreign government, or to a contractor
173 or private provider, the originating governmental entity shall:

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

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

180 (5) A governmental entity may disclose a record to another state, the United States, or a
181 foreign government for the reasons listed in Subsections (1) and (2) without complying with
182 the procedures of Subsection (2) or (4) if disclosure is authorized by executive agreement,

183 treaty, federal statute, compact, federal regulation, or state statute.

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

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

188 (i) the contractor or private provider's use of the record or record series produces a
189 public benefit that is greater than or equal to the individual privacy right that protects the record
190 or record series;

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

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

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

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

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

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

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

203 (7) Notwithstanding any other provision of this section, if a more specific court rule or
204 order, state statute, federal statute, or federal regulation prohibits or requires sharing
205 information, that rule, order, statute, or federal regulation controls.

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

207 (a) records held by the Division of Oil, Gas, and Mining that pertain to any person and
208 that are gathered under authority of Title 40, Chapter 6, Board and Division of Oil, Gas, and
209 Mining; and

210 (b) records of publicly funded libraries as described in Subsection 63G-2-302(1)(c);
211 ~~and~~].

212 [~~(c) a record described in Section 63G-12-210.~~]

213 (9) Records that may evidence or relate to a violation of law may be disclosed to a

214 government prosecutor, peace officer, or auditor.

215 Section 4. Section **63G-2-305** is amended to read:

216 **63G-2-305. Protected records.**

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

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

220 (2) commercial information or nonindividual financial information obtained from a
221 person if:

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

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

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

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

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

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

238 (6) records, the disclosure of which would impair governmental procurement
239 proceedings or give an unfair advantage to any person proposing to enter into a contract or
240 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
241 Subsection (6) does not restrict the right of a person to have access to, after the contract or
242 grant has been awarded and signed by all parties, a bid, proposal, application, or other
243 information submitted to or by a governmental entity in response to:

244 (a) an invitation for bids;

- 245 (b) a request for proposals;
- 246 (c) a request for quotes;
- 247 (d) a grant; or
- 248 (e) other similar document;
- 249 (7) information submitted to or by a governmental entity in response to a request for
- 250 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
- 251 the right of a person to have access to the information, after:
 - 252 (a) a contract directly relating to the subject of the request for information has been
 - 253 awarded and signed by all parties; or
 - 254 (b) (i) a final determination is made not to enter into a contract that relates to the
 - 255 subject of the request for information; and
 - 256 (ii) at least two years have passed after the day on which the request for information is
 - 257 issued;
 - 258 (8) records that would identify real property or the appraisal or estimated value of real
 - 259 or personal property, including intellectual property, under consideration for public acquisition
 - 260 before any rights to the property are acquired unless:
 - 261 (a) public interest in obtaining access to the information is greater than or equal to the
 - 262 governmental entity's need to acquire the property on the best terms possible;
 - 263 (b) the information has already been disclosed to persons not employed by or under a
 - 264 duty of confidentiality to the entity;
 - 265 (c) in the case of records that would identify property, potential sellers of the described
 - 266 property have already learned of the governmental entity's plans to acquire the property;
 - 267 (d) in the case of records that would identify the appraisal or estimated value of
 - 268 property, the potential sellers have already learned of the governmental entity's estimated value
 - 269 of the property; or
 - 270 (e) the property under consideration for public acquisition is a single family residence
 - 271 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
 - 272 the property as required under Section [78B-6-505](#);
 - 273 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
 - 274 compensated transaction of real or personal property including intellectual property, which, if
 - 275 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value

276 of the subject property, unless:

277 (a) the public interest in access is greater than or equal to the interests in restricting
278 access, including the governmental entity's interest in maximizing the financial benefit of the
279 transaction; or

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

283 (10) records created or maintained for civil, criminal, or administrative enforcement
284 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
285 release of the records:

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

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

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

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

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

299 (11) records the disclosure of which would jeopardize the life or safety of an
300 individual;

301 (12) records the disclosure of which would jeopardize the security of governmental
302 property, governmental programs, or governmental recordkeeping systems from damage, theft,
303 or other appropriation or use contrary to law or public policy;

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

307 (14) records that, if disclosed, would reveal recommendations made to the Board of
308 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
309 Board of Pardons and Parole, or the Department of Human Services that are based on the
310 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
311 jurisdiction;

312 (15) records and audit workpapers that identify audit, collection, and operational
313 procedures and methods used by the State Tax Commission, if disclosure would interfere with
314 audits or collections;

315 (16) records of a governmental audit agency relating to an ongoing or planned audit
316 until the final audit is released;

317 (17) records that are subject to the attorney client privilege;

318 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
319 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
320 quasi-judicial, or administrative proceeding;

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

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

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

327 (A) members of a legislative body;

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

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

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

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

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

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

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

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

344 (23) records concerning a governmental entity's strategy about:

345 (a) collective bargaining; or

346 (b) imminent or pending litigation;

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

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

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

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

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

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

368 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,

369 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
370 recommendations in these areas;

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

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

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

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

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

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

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

395 (a) the donor requests anonymity in writing;

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

398 (c) except for an institution within the state system of higher education defined in
399 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged

400 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
401 over the donor, a member of the donor's immediate family, or any entity owned or controlled
402 by the donor or the donor's immediate family;

403 (38) accident reports, except as provided in Sections [41-6a-404](#), [41-12a-202](#), and
404 [73-18-13](#);

405 (39) a notification of workers' compensation insurance coverage described in Section
406 [34A-2-205](#);

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

410 (i) unpublished lecture notes;

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

412 (A) relating to research; and

413 (B) of:

414 (I) the institution within the state system of higher education defined in Section
415 [53B-1-102](#); or

416 (II) a sponsor of sponsored research;

417 (iii) unpublished manuscripts;

418 (iv) creative works in process;

419 (v) scholarly correspondence; and

420 (vi) confidential information contained in research proposals;

421 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
422 information required pursuant to Subsection [53B-16-302\(2\)\(a\)](#) or (b); and

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

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

427 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
428 Office of the Legislative Auditor General is a public document unless the legislator asks that
429 the records in the custody or control of the Office of Legislative Auditor General that would
430 reveal the name of a particular legislator who requests a legislative audit be maintained as

431 protected records until the audit is completed and made public;

432 (42) records that provide detail as to the location of an explosive, including a map or
433 other document that indicates the location of:

434 (a) a production facility; or
435 (b) a magazine;

436 (43) information:

437 (a) contained in the statewide database of the Division of Aging and Adult Services
438 created by Section [62A-3-311.1](#); or
439 (b) received or maintained in relation to the Identity Theft Reporting Information
440 System (IRIS) established under Section [67-5-22](#);

441 (44) information contained in the Management Information System and Licensing
442 Information System described in Title 62A, Chapter 4a, Child and Family Services;

443 (45) information regarding National Guard operations or activities in support of the
444 National Guard's federal mission;

445 (46) records provided by any pawn or secondhand business to a law enforcement
446 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
447 Secondhand Merchandise Transaction Information Act;

448 (47) information regarding food security, risk, and vulnerability assessments performed
449 by the Department of Agriculture and Food;

450 (48) except to the extent that the record is exempt from this chapter pursuant to Section
451 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or
452 prepared or maintained by the Division of Emergency Management, and the disclosure of
453 which would jeopardize:

454 (a) the safety of the general public; or
455 (b) the security of:

456 (i) governmental property;
457 (ii) governmental programs; or
458 (iii) the property of a private person who provides the Division of Emergency
459 Management information;

460 (49) records of the Department of Agriculture and Food that provides for the
461 identification, tracing, or control of livestock diseases, including any program established under

462 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
463 of Animal Disease;

464 (50) as provided in Section [26-39-501](#):

465 (a) information or records held by the Department of Health related to a complaint
466 regarding a child care program or residential child care which the department is unable to
467 substantiate; and

468 (b) information or records related to a complaint received by the Department of Health
469 from an anonymous complainant regarding a child care program or residential child care;

470 (51) unless otherwise classified as public under Section [63G-2-301](#) and except as
471 provided under Section [41-1a-116](#), an individual's home address, home telephone number, or
472 personal mobile phone number, if:

473 (a) the individual is required to provide the information in order to comply with a law,
474 ordinance, rule, or order of a government entity; and

475 (b) the subject of the record has a reasonable expectation that this information will be
476 kept confidential due to:

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

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

479 (52) the name, home address, work addresses, and telephone numbers of an individual
480 that is engaged in, or that provides goods or services for, medical or scientific research that is:

481 (a) conducted within the state system of higher education, as defined in Section
482 [53B-1-102](#); and

483 (b) conducted using animals;

484 (53) an initial proposal under Title 63N, Chapter 13, Part 2, Government Procurement
485 Private Proposal Program, to the extent not made public by rules made under that chapter;

486 (54) in accordance with Section [78A-12-203](#), any record of the Judicial Performance
487 Evaluation Commission concerning an individual commissioner's vote on whether or not to
488 recommend that the voters retain a judge;

489 (55) information collected and a report prepared by the Judicial Performance
490 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter
491 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
492 the information or report;

- 493 (56) records contained in the Management Information System created in Section
494 62A-4a-1003;
- 495 (57) records provided or received by the Public Lands Policy Coordinating Office in
496 furtherance of any contract or other agreement made in accordance with Section 63J-4-603;
- 497 (58) information requested by and provided to the 911 Division under Section
498 63H-7a-302;
- 499 (59) in accordance with Section 73-10-33:
- 500 (a) a management plan for a water conveyance facility in the possession of the Division
501 of Water Resources or the Board of Water Resources; or
- 502 (b) an outline of an emergency response plan in possession of the state or a county or
503 municipality;
- 504 (60) the following records in the custody or control of the Office of Inspector General
505 of Medicaid Services, created in Section 63A-13-201:
- 506 (a) records that would disclose information relating to allegations of personal
507 misconduct, gross mismanagement, or illegal activity of a person if the information or
508 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
509 through other documents or evidence, and the records relating to the allegation are not relied
510 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
511 report or final audit report;
- 512 (b) records and audit workpapers to the extent they would disclose the identity of a
513 person who, during the course of an investigation or audit, communicated the existence of any
514 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
515 regulation adopted under the laws of this state, a political subdivision of the state, or any
516 recognized entity of the United States, if the information was disclosed on the condition that
517 the identity of the person be protected;
- 518 (c) before the time that an investigation or audit is completed and the final
519 investigation or final audit report is released, records or drafts circulated to a person who is not
520 an employee or head of a governmental entity for the person's response or information;
- 521 (d) records that would disclose an outline or part of any investigation, audit survey
522 plan, or audit program; or
- 523 (e) requests for an investigation or audit, if disclosure would risk circumvention of an

524 investigation or audit;

525 (61) records that reveal methods used by the Office of Inspector General of Medicaid
526 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
527 abuse;

528 (62) information provided to the Department of Health or the Division of Occupational
529 and Professional Licensing under Subsection 58-68-304(3) or (4);

530 [~~(63) a record described in Section 63G-12-210;~~]

531 [~~(64)~~] (63) captured plate data that is obtained through an automatic license plate
532 reader system used by a governmental entity as authorized in Section 41-6a-2003; and

533 [~~(65)~~] (64) any record in the custody of the Utah Office for Victims of Crime relating
534 to a victim, including:

535 (a) a victim's application or request for benefits;

536 (b) a victim's receipt or denial of benefits; and

537 (c) any administrative notes or records made or created for the purpose of, or used to,
538 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim
539 Reparations Fund.

540 Section 5. Section 63G-12-401 is amended to read:

541 **63G-12-401. Creation of identity documents -- Issuance to citizens, nationals, and**
542 **legal permanent resident aliens -- Exceptions.**

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

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

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

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

554 (2) The name of the issuing entity shall be clearly printed upon the face of the

555 identification document.

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

- 559 (a) a United States citizen;
- 560 (b) a national; or
- 561 (c) a legal permanent resident alien.

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

- 564 (i) unexpired immigrant or nonimmigrant visa status for admission into the United
565 States;
- 566 (ii) pending or approved application for asylum in the United States;
- 567 (iii) admission into the United States as a refugee;
- 568 (iv) pending or approved application for temporary protected status in the United
569 States;
- 570 (v) approved deferred action status; or
- 571 (vi) pending application for adjustment of status to legal permanent resident or
572 conditional resident.

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

- 575 (ii) Except as otherwise provided by federal law, the document is valid only:
 - 576 (A) during the period of time of the individual's authorized stay in the United States; or
 - 577 (B) for one year from the date of issuance if there is no definite end to the individual's
578 period of authorized stay.

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

- 581 (A) that it is temporary; and
- 582 (B) its expiration date.

583 (c) An individual may renew a document issued under this Subsection (4) only upon
584 presentation of valid documentary evidence that the status by which the individual originally
585 qualified for the identification document has been extended by the United States Citizenship

586 and Immigration Services or other authorized agency of the United States Department of
587 Homeland Security.

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

590 (i) is only valid for use on the educational institution's campus or facility; and

591 (ii) includes a statement of the restricted use conspicuously printed upon the face of the
592 identification document.

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

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

597 (i) is only valid for use on the public transit system; and

598 (ii) includes a statement of the restricted use conspicuously printed on the face of the
599 public transit pass.

600 [~~(d) Subsection (3) does not apply to a permit issued under Section 63G-12-207.~~]

601 [~~(e) Subsection (3) does not apply to a permit issued under Chapter 14, Utah Pilot
602 Sponsored Resident Immigrant Program Act.~~]

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

605 Section 6. Section **63G-12-402** is amended to read:

606 **63G-12-402. Receipt of state, local, or federal public benefits -- Verification --**
607 **Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.**

608 (1) As used in this section, "federal program" means the Systematic Alien Verification
609 for Entitlements Program operated by the United States Department of Homeland Security or
610 an equivalent program designated by the Department of Homeland Security.

611 [(1)] (2) (a) Except as provided in Subsection [(3)] (4) or when exempted by federal
612 law, an agency or political subdivision of the state shall verify the lawful presence in the
613 United States of an individual at least 18 years of age who applies for:

614 (i) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or

615 (ii) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an
616 agency or political subdivision of this state.

617 (b) For purpose of a license issued under Title 58, Chapter 55, Utah Construction
618 Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of
619 Commerce shall verify in accordance with this Subsection ~~[(1)]~~ (2) the lawful presence in the
620 United States of each individual who:

621 (i) owns an interest in the contractor that is an unincorporated entity; and

622 (ii) engages, or will engage, in a construction trade in Utah as an owner of the
623 contractor described in Subsection ~~[(1)]~~ (2)(b)(i).

624 ~~[(2)]~~ (3) This section shall be enforced without regard to race, religion, gender,
625 ethnicity, or national origin.

626 ~~[(3)]~~ (4) Verification of lawful presence under this section is not required for:

627 (a) any purpose for which lawful presence in the United States is not restricted by law,
628 ordinance, or regulation;

629 (b) assistance for health care items and services that:

630 (i) are necessary for the treatment of an emergency medical condition, as defined in 42
631 U.S.C. Sec. 1396b(v)(3), of the individual involved; and

632 (ii) are not related to an organ transplant procedure;

633 (c) short-term, noncash, in-kind emergency disaster relief;

634 (d) public health assistance for immunizations with respect to immunizable diseases
635 and for testing and treatment of symptoms of communicable diseases whether or not the
636 symptoms are caused by the communicable disease;

637 (e) programs, services, or assistance such as soup kitchens, crisis counseling and
638 intervention, and short-term shelter, specified by the United States Attorney General, in the
639 sole and unreviewable discretion of the United States Attorney General after consultation with
640 appropriate federal agencies and departments, that:

641 (i) deliver in-kind services at the community level, including through public or private
642 nonprofit agencies;

643 (ii) do not condition the provision of assistance, the amount of assistance provided, or
644 the cost of assistance provided on the income or resources of the individual recipient; and

645 (iii) are necessary for the protection of life or safety;

646 (f) the exemption for paying the nonresident portion of total tuition as set forth in
647 Section [53B-8-106](#);

648 (g) an applicant for a license under Section 61-1-4, if the applicant:
649 (i) is registered with the Financial Industry Regulatory Authority; and
650 (ii) files an application with the state Division of Securities through the Central
651 Registration Depository;

652 (h) a state public benefit to be given to an individual under Title 49, Utah State
653 Retirement and Insurance Benefit Act;

654 (i) a home loan that will be insured, guaranteed, or purchased by:
655 (i) the Federal Housing Administration, the Veterans Administration, or any other
656 federal agency; or
657 (ii) an enterprise as defined in 12 U.S.C. Sec. 4502;
658 (j) a subordinate loan or a grant that will be made to an applicant in connection with a
659 home loan that does not require verification under Subsection [~~(3)~~] (4)(i);

660 (k) an applicant for a license issued by the Department of Commerce or individual
661 described in Subsection [~~(1)~~] (2)(b), if the applicant or individual provides the Department of
662 Commerce:

663 (i) certification, under penalty of perjury, that the applicant or individual is:
664 (A) a United States citizen;
665 (B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or
666 (C) lawfully present in the United States; and
667 (ii) (A) the number assigned to a driver license or identification card issued under Title
668 53, Chapter 3, Uniform Driver License Act; or
669 (B) the number assigned to a driver license or identification card issued by a state other
670 than Utah if, as part of issuing the driver license or identification card, the state verifies an
671 individual's lawful presence in the United States; and

672 (l) an applicant for:
673 (i) a Regents' scholarship described in Section 53B-8-109;
674 (ii) a New Century scholarship described in Section 53B-8-105; or
675 (iii) a privately funded scholarship:
676 (A) for an individual who is a graduate of a high school located within Utah; and
677 (B) administered by an institution of higher education as defined in Section 53B-2-101.
678 [~~(4)(a)~~] (5) An agency or political subdivision required to verify the lawful presence in

679 the United States of an applicant under this section shall require the applicant to certify under
680 penalty of perjury that:

681 ~~[(i)]~~ (a) the applicant is a United States citizen; or

682 ~~[(ii)]~~ (b) the applicant is:

683 ~~[(A)]~~ (i) a qualified alien as defined in 8 U.S.C. Sec. 1641; and

684 ~~[(B)]~~ (ii) lawfully present in the United States.

685 ~~[(b) The certificate required under this Subsection (4) shall include a statement
686 advising the signer that providing false information subjects the signer to penalties for perjury.]~~

687 ~~[(5)]~~ (6) An agency or political subdivision shall verify a certification required under
688 Subsection ~~[(4)(a)(ii)]~~ (5)(b) through the federal [SAVE] program.

689 ~~[(6)]~~ (7) (a) An individual who knowingly and willfully makes a false, fictitious, or
690 fraudulent statement or representation in a certification under Subsection ~~[(3)(k) or]~~ (4)(k) or
691 (5) is subject to the criminal penalties applicable in this state for:

692 (i) making a written false statement under Subsection 76-8-504(2); and

693 (ii) fraudulently obtaining:

694 (A) public assistance program benefits under Sections 76-8-1205 and 76-8-1206; or

695 (B) unemployment compensation under Section 76-8-1301.

696 (b) If the certification constitutes a false claim of United States citizenship under 18
697 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United
698 States Attorney General for the applicable district based upon the venue in which the
699 application was made.

700 ~~[(c) If an agency or political subdivision receives verification that a person making an
701 application for a benefit, service, or license is not a qualified alien, the agency or political
702 subdivision shall provide the information to the Office of the Attorney General unless
703 prohibited by federal mandate.]~~

704 ~~[(7)]~~ (8) An agency or political subdivision may adopt variations to the requirements of
705 this section that:

706 (a) clearly improve the efficiency of or reduce delay in the verification process; or

707 (b) provide for adjudication of unique individual circumstances where the verification
708 procedures in this section would impose an unusual hardship on a legal resident of Utah.

709 ~~[(8)]~~ (9) It is unlawful for an agency or a political subdivision of this state to provide a

710 state, local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this
711 section.

712 ~~[(9)] (10)~~ A state agency or department that administers a program of state or local
713 public benefits shall:

714 (a) provide an annual report to the governor, the president of the Senate, and the
715 speaker of the House regarding its compliance with this section; and

716 (b) (i) monitor the federal [SAVE] program for application verification errors and
717 significant delays;

718 (ii) provide an annual report on the errors and delays to ensure that the application of
719 the federal [SAVE] program is not erroneously denying a state or local benefit to a legal
720 resident of the state; and

721 (iii) report delays and errors in the federal [SAVE] program to the United States
722 Department of Homeland Security.

723 Section 7. Section **63G-12-403**, which is renumbered from Section 63G-12-302 is
724 renumbered and amended to read:

725 ~~[63G-12-302].~~ **63G-12-403. Status verification system -- Registration and**
726 **use -- Performance of services -- Unlawful practice.**

727 (1) As used in this section:

728 (a) "Contract" means an agreement for the procurement of goods or services that is
729 awarded through a request for proposals process with a public employer and includes a sole
730 source contract.

731 (b) "Contractor" means a subcontractor, contract employee, staffing agency, or any
732 contractor regardless of its tier.

733 (c) "Public employer" means a department, agency, instrumentality, or political
734 subdivision of the state.

735 (d) (i) "Status Verification System" means an electronic system operated by the federal
736 government, through which an authorized official of a state agency or a political subdivision of
737 the state may inquire by exercise of authority delegated pursuant to 8 U.S.C. Sec. 1373, to
738 verify the citizenship or immigration status of an individual within the jurisdiction of the
739 agency or political subdivision for a purpose authorized under this section.

740 (ii) "Status Verification System" includes:

741 (A) the electronic verification of the work authorization program of the Illegal
742 Immigration Reform and Immigration Responsibility Act of 1996, 8 U.S.C. Sec. 1324a, known
743 as the E-verify Program;

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

747 (C) the Social Security Number Verification Service or similar online verification
748 process implemented by the United States Social Security Administration; or

749 (D) an independent third-party system with an equal or higher degree of reliability as
750 the programs, systems, or processes described in Subsection (1)(d)(ii)(A), (B), or (C).

751 (e) "Unauthorized alien" means an alien as defined in 8 U.S.C. Sec. 1324a(h)(3).

752 (2) (a) [~~Subject to Subsection (5), a~~] A public employer shall register with and use a
753 Status Verification System to verify the federal employment authorization status of a new
754 employee.

755 (b) This section shall be enforced without regard to race, religion, gender, ethnicity, or
756 national origin.

757 (3) (a) [~~Subject to Subsection (5), beginning~~] Beginning July 1, 2009:

758 (i) a public employer may not enter into a contract for the physical performance of
759 services within the state with a contractor unless the contractor registers and participates in the
760 Status Verification System to verify the work eligibility status of the contractor's new
761 employees that are employed in the state; and

762 (ii) a contractor shall register and participate in the Status Verification System in order
763 to enter into a contract with a public employer.

764 (b) (i) For purposes of compliance with Subsection (3)(a), a contractor is individually
765 responsible for verifying the employment status of only new employees who work under the
766 contractor's supervision or direction and not those who work for another contractor or
767 subcontractor, except as otherwise provided in Subsection (3)(b)(ii).

768 (ii) Each contractor or subcontractor who works under or for another contractor shall
769 certify to the main contractor by affidavit that the contractor or subcontractor has verified
770 through the Status Verification System the employment status of each new employee of the
771 respective contractor or subcontractor.

772 (c) Subsection (3)(a) does not apply to a contract:

773 (i) entered into by the entities referred to in Subsection (3)(a) prior to July 1, 2009,
774 even though the contract may involve the physical performance of services within the state on
775 or after July 1, 2009; or

776 (ii) that involves underwriting, remarketing, broker-dealer activities, securities
777 placement, investment advisory, financial advisory, or other financial or investment banking
778 services.

779 (4) (a) It is unlawful for an employing entity in the state to discharge an employee
780 working in Utah who is a United States citizen or permanent resident alien and replace the
781 employee with, or have the employee's duties assumed by, an employee who:

782 (i) the employing entity knows, or reasonably should have known, is an unauthorized
783 alien hired on or after July 1, 2009; and

784 (ii) is working in the state in a job category:

785 (A) that requires equal skill, effort, and responsibility; and

786 (B) which is performed under similar working conditions, as defined in 29 U.S.C.[;]
787 Sec. 206 (d)(1), as the job category held by the discharged employee.

788 (b) An employing entity, which on the date of a discharge in question referred to in
789 Subsection (4)(a) is enrolled in and using the Status Verification System to verify the
790 employment eligibility of its employees in Utah who are hired on or after July 1, 2009, is
791 exempt from liability, investigation, or lawsuit arising from an action under this section.

792 (c) A cause of action for a violation of this Subsection (4) arises exclusively from the
793 provisions of this Subsection (4).

794 [~~(5) On and after the program start date:]~~

795 [~~(a) a public employer, after hiring an employee, shall verify the employment eligibility
796 of the new employee:]~~

797 [~~(i) through the status verification system if the individual does not hold a permit; and]~~

798 [~~(ii) through the u-verify program if the individual holds a permit; and]~~

799 [~~(b) a contractor is considered to be in compliance with this section if, after hiring an
800 employee, the contractor verifies the employment eligibility of the new employee:]~~

801 [~~(i) through the status verification system if the individual does not hold a permit; and]~~

802 [~~(ii) through the u-verify program if the individual holds a permit.]~~

803 Section 8. Section **63I-2-213** is amended to read:

804 **63I-2-213. Repeal dates -- Title 13.**

805 [~~Title 13, Chapter 47, Private Employer Verification Act, is repealed on the program~~
806 ~~start date, as defined in Section [63G-12-102](#).]~~

807 Section 9. Section **63J-1-602.4** is amended to read:

808 **63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63N.**

809 (1) Funds paid to the Division of Real Estate for the cost of a criminal background
810 check for a mortgage loan license, as provided in Section [61-2c-202](#).

811 (2) Funds paid to the Division of Real Estate for the cost of a criminal background
812 check for principal broker, associate broker, and sales agent licenses, as provided in Section
813 [61-2f-204](#).

814 (3) Certain funds donated to the Department of Human Services, as provided in
815 Section [62A-1-111](#).

816 (4) Appropriations from the National Professional Men's Basketball Team Support of
817 Women and Children Issues Restricted Account created in Section [62A-1-202](#).

818 (5) Certain funds donated to the Division of Child and Family Services, as provided in
819 Section [62A-4a-110](#).

820 (6) Appropriations from the Choose Life Adoption Support Restricted Account created
821 in Section [62A-4a-608](#).

822 (7) Appropriations to the Division of Services for People with Disabilities, as provided
823 in Section [62A-5-102](#).

824 (8) Appropriations to the Division of Fleet Operations for the purpose of upgrading
825 underground storage tanks under Section [63A-9-401](#).

826 (9) A portion of the funds appropriated to the Utah Seismic Safety Commission, as
827 provided in Section [63C-6-104](#).

828 (10) Funds appropriated or collected for publishing the Division of Administrative
829 Rules' publications, as provided in Section [63G-3-402](#).

830 [~~(11) The Immigration Act Restricted Account created in Section [63G-12-103](#).]~~

831 [~~(12)~~] (11) Money received by the military installation development authority, as
832 provided in Section [63H-1-504](#).

833 [~~(13)~~] (12) Appropriations to fund the Governor's Office of Economic Development's

834 Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

835 ~~[(14)]~~ (13) The Motion Picture Incentive Account created in Section ~~63N-8-103~~.

836 ~~[(15)]~~ (14) Certain money payable for commission expenses of the Pete Suazo Utah
837 Athletic Commission, as provided under Section ~~63N-10-301~~.

838 Section 10. Section ~~67-5-22.7~~ is amended to read:

839 **67-5-22.7. Multi-agency strike force to combat violent and other major felony**
840 **crimes associated with illegal immigration and human trafficking -- Fraudulent**
841 **Documents Identification Unit.**

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

845 (2) The office shall invite officers of the ~~[U.S.]~~ United States Immigration and
846 Customs Enforcement and state and local law enforcement personnel to participate in this
847 mutually supportive, multi-agency strike force to more effectively utilize their combined skills,
848 expertise, and resources.

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

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

854 (a) for the primary purpose of investigating, apprehending, and prosecuting individuals
855 or entities that participate in the sale or distribution of fraudulent documents used for
856 identification purposes; and

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

859 ~~[(c) to administer the Identity Theft Victims Restricted Account created under~~
860 ~~Subsection (5).]~~

861 ~~[(5) (a) There is created a restricted account in the General Fund known as the "Identity~~
862 ~~Theft Victims Restricted Account."]~~

863 ~~[(b) The Identity Theft Victims Restricted Account shall consist of money appropriated~~
864 ~~to the Identity Theft Victims Restricted Account by the Legislature.]~~

865 ~~[(c) Subject to appropriations from the Legislature, beginning on the program start~~
866 ~~date, as defined in Section 63G-12-102, the Fraudulent Documents Identification Unit may~~
867 ~~expend the money in the Identity Theft Victims Restricted Account to pay a claim as provided~~
868 ~~in this Subsection (5) to a person who is a victim of identity theft prosecuted under Section~~
869 ~~76-6-1102 or 76-10-1801.]~~

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

875 ~~[(e) A claim filed under this Subsection (5) shall include evidence satisfactory to the~~
876 ~~Fraudulent Documents Identification Unit:]~~

877 ~~[(i) that the person is the victim of identity theft described in Subsection (5)(d); and]~~

878 ~~[(ii) of the actual damages experienced by the person as a result of the identity theft~~
879 ~~that are not recovered from a public or private source.]~~

880 ~~[(f) The Fraudulent Documents Identification Unit shall pay a claim from the Identity~~
881 ~~Theft Victims Restricted Account:]~~

882 ~~[(i) if the Fraudulent Documents Identification Unit determines that the person has~~
883 ~~provided sufficient evidence to meet the requirements of Subsection (5)(e);]~~

884 ~~[(ii) in the order that claims are filed with the Fraudulent Documents Identification~~
885 ~~Unit; and]~~

886 ~~[(iii) to the extent that it there is money in the Identity Theft Victims Restricted~~
887 ~~Account:]~~

888 ~~[(g) If there is insufficient money in the Identity Theft Victims Restrict Account when~~
889 ~~a claim is filed under this Subsection (5) to pay the claim in full, the Fraudulent Documents~~
890 ~~Identification Unit may pay a claim when there is sufficient money in the account to pay the~~
891 ~~claim in the order that the claims are filed.]~~

892 ~~[(6)] (5) The strike force shall make an annual report on its activities to the governor~~
893 ~~and the Legislature's Law Enforcement and Criminal Justice Interim Committee by December~~
894 ~~1, together with any proposed recommendations for modifications to this section.~~

895 Section 11. Section **76-9-1003** is amended to read:

896 **76-9-1003. Detention or arrest -- Determination of immigration status.**

897 (1) (a) Except as provided in Subsection (1)(b), (c), or (d), any law enforcement officer
898 who, acting in the enforcement of any state law or local ordinance, conducts any lawful stop,
899 detention, or arrest of a person as specified in Subsection (1)(a)(i) or (ii), and the person is
900 unable to provide to the law enforcement officer a document listed in Subsection 76-9-1004(1)
901 and the officer is otherwise unable to verify the identity of the person, the officer:

902 (i) shall request verification of the citizenship or the immigration status of the person
903 under 8 U.S.C. Sec. 1373(c), except as allowed under Subsection (1)(b), (c), or (d), if the
904 person is arrested for an alleged offense that is a class A misdemeanor or a felony; and

905 (ii) may attempt to verify the immigration status of the person, except as exempted
906 under Subsection (1)(b), (c), or (d), if the alleged offense is a class B or C misdemeanor, except
907 that if the person is arrested and booked for a class B or C misdemeanor, the arresting law
908 enforcement officer or the law enforcement agency booking the person shall attempt to verify
909 the immigration status of the person.

910 (b) In individual cases, the law enforcement officer may forego the verification of
911 immigration status under Subsection (1)(a) if the determination could hinder or obstruct a
912 criminal investigation.

913 (c) Subsection (1)(a) does not apply to a law enforcement officer who is acting as a
914 school resource officer for any elementary or secondary school.

915 (d) Subsection (1)(a) does not apply to a county or municipality when it has only one
916 law enforcement officer on duty and response support from another law enforcement agency is
917 not available.

918 (2) When a law enforcement officer makes a lawful stop, detention, or arrest under
919 Subsection (1) of the operator of a vehicle, and while investigating or processing the primary
920 offense, the officer makes observations that give the officer reasonable suspicion that the
921 operator or any of the passengers in the vehicle are violating Section 76-5-308[;] or 76-5-310[;
922 or 76-10-2901, which concern smuggling and transporting illegal aliens,] the officer shall, to
923 the extent possible within a reasonable period of time:

924 (a) detain the occupants of the vehicle to investigate the suspected violations; and

925 (b) inquire regarding the immigration status of the occupants of the vehicle.

926 (3) When a person under Subsection (1) is arrested or booked into a jail, juvenile

927 detention facility, or correctional facility, the arresting officer or the booking officer shall
 928 ensure that a request for verification of immigration status of the arrested or booked person is
 929 submitted as promptly as is reasonably possible.

930 (4) The law enforcement agency that has custody of a person verified to be an illegal
 931 alien shall request that the United States Department of Homeland Security issue a detainer
 932 requesting transfer of the illegal alien into federal custody.

933 (5) A law enforcement officer may not consider race, color, or national origin in
 934 implementing this section, except to the extent permitted by the constitutions of the United
 935 States and this state.

936 Section 12. Section **76-9-1004** is amended to read:

937 **76-9-1004. Grounds for presumption of lawful presence in United States --**
 938 **Statement to officer.**

939 (1) A person is presumed to be lawfully present in the United States for the purposes of
 940 this part if the person provides one of the following documents to the law enforcement officer,
 941 unless the law enforcement officer has a reasonable suspicion that the document is false or
 942 identifies a person other than the person providing the document:

943 (a) a valid Utah driver license issued on or after January 1, 2010;

944 (b) a valid Utah identification card issued under Section [53-3-804](#) and issued on or
 945 after January 1, 2010;

946 (c) a valid tribal enrollment card or other valid form of tribal membership identification
 947 that includes photo identification; or

948 (d) a valid identification document that:

949 (i) includes a photo or biometric identifier of the holder of the document; and

950 (ii) is issued by a federal, state, or local governmental agency that requires proof or
 951 verification of legal presence in the United States as a condition of issuance of the document[;
 952 ~~or~~].

953 [~~(e) a valid resident immigrant permit issued under Section [63G-14-204](#).]~~

954 (2) A person is presumed to be a citizen or national of the United States for purposes of
 955 this part if the person makes a statement or affirmation to the law enforcement officer that the
 956 person is a United States citizen or national, unless the officer has a reasonable suspicion that
 957 the statement or affirmation is false.

958 Section 13. Section **76-9-1006** is amended to read:

959 **76-9-1006. Enforcement of federal immigration laws.**

960 A state or local governmental agency of this state, or any representative of the agency,
961 may not~~[(1)]~~ limit or restrict by ordinance, regulation, or policy the authority of any law
962 enforcement agency or other governmental agency to assist the federal government in the
963 enforcement of any federal law or regulation governing immigration~~[, or].~~

964 ~~[(2) limit or restrict by ordinance, regulation, or policy the authority of any law
965 enforcement agency to investigate or enforce any violation of the federal misdemeanor offenses
966 of willful failure to register as an alien or willful failure to personally possess an alien
967 registration document as required by 8 U.S.C. Sec. 1304(e) or 1306(a).]~~

968 Section 14. Section **77-7-2** is amended to read:

969 **77-7-2. Arrest by peace officers.**

970 A peace officer may make an arrest under authority of a warrant or may, without
971 warrant, arrest a person:

972 (1) (a) for any public offense committed or attempted in the presence of any peace
973 officer; and

974 (b) as used in this Subsection (1), "presence" includes all of the physical senses or any
975 device that enhances the acuity, sensitivity, or range of any physical sense, or records the
976 observations of any of the physical senses;

977 (2) when the peace officer has reasonable cause to believe a felony or a class A
978 misdemeanor has been committed and has reasonable cause to believe that the person arrested
979 has committed it;

980 (3) when the peace officer has reasonable cause to believe the person has committed a
981 public offense, and there is reasonable cause for believing the person may:

982 (a) flee or conceal himself to avoid arrest;

983 (b) destroy or conceal evidence of the commission of the offense; or

984 (c) injure another person or damage property belonging to another person; or

985 (4) when the peace officer has reasonable cause to believe the person has committed
986 the offense of failure to disclose identity under Section **76-8-301.5**~~[, or].~~

987 ~~[(5) when the peace officer has reasonable cause to believe that the person is an alien.]~~

988 ~~[(a) subject to a civil removal order issued by an immigration judge;]~~

989 ~~[(b) regarding whom a civil detainer warrant has been issued by the federal Department~~
990 ~~of Homeland Security, or]~~

991 ~~[(c) who has been charged or convicted in another state with one or more aggravated~~
992 ~~felonies as defined by 8 U.S.C. Sec. 1101(a)(43).]~~

993 Section 15. **Repealer.**

994 This bill repeals:

995 Section **63G-12-101**, Title.

996 Section **63G-12-102**, Definitions.

997 Section **63G-12-103**, Immigration Act Restricted Account.

998 Section **63G-12-104**, Determining immigration status -- Transfer or maintenance
999 of information.

1000 Section **63G-12-105**, Implementation to be consistent with federal law and civil
1001 rights.

1002 Section **63G-12-106**, Severability.

1003 Section **63G-12-201**, Department to create program.

1004 Section **63G-12-202**, Federal waivers, exemptions, or authorizations --
1005 Implementation without waiver, exemption, or authorization.

1006 Section **63G-12-203**, Coordination with other federal or state laws or programs.

1007 Section **63G-12-204**, Obtaining a permit -- Uses of permit.

1008 Section **63G-12-205**, Eligibility criteria to obtain and maintain a guest worker
1009 permit.

1010 Section **63G-12-206**, Eligibility to obtain and maintain an immediate family
1011 permit.

1012 Section **63G-12-207**, Application and renewal process.

1013 Section **63G-12-208**, Conditions during permit term.

1014 Section **63G-12-209**, Proficiency standards for English.

1015 Section **63G-12-210**, Verification of valid permit -- Protected status of information.

1016 Section **63G-12-211**, Prohibited conduct -- Administrative penalties -- Criminal
1017 penalties.

1018 Section **63G-12-212**, Sharing of information related to enforcement.

1019 Section **63G-12-301**, Employing unauthorized alien -- Verification of employment

- 1020 **eligibility.**
- 1021 Section **63G-12-303**, Liability protections.
- 1022 Section **63G-12-304**, Voluntary registration by private employer certifying
- 1023 **participation in verification.**
- 1024 Section **63G-12-305**, Administrative actions -- Defenses.
- 1025 Section **63G-12-306**, Penalties.
- 1026 Section **63G-14-101**, Title.
- 1027 Section **63G-14-102**, Definitions.
- 1028 Section **63G-14-201**, Creation of program.
- 1029 Section **63G-14-202**, Approval as a resident immigrant -- Ineligibility.
- 1030 Section **63G-14-203**, Sponsorship.
- 1031 Section **63G-14-204**, Resident immigrant permit.
- 1032 Section **63G-14-205**, Employment and taxation obligations under the program.
- 1033 Section **63G-14-206**, Restrictions on activities of resident immigrant.
- 1034 Section **63G-14-301**, Disqualification from program.
- 1035 Section **63G-14-302**, Penalties on sponsors.
- 1036 Section **76-10-2901**, Transporting or harboring aliens -- Definition -- Penalty.

Legislative Review Note
Office of Legislative Research and General Counsel