

SB0237S01 compared with SB0237

~~{deleted text}~~ shows text that was in SB0237 but was deleted in SB0237S01.

Inserted text shows text that was not in SB0237 but was inserted into SB0237S01.

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Senator Howard A. Stephenson proposes the following substitute bill:

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;~~

SB0237S01 compared with SB0237

- ~~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;~~ extends dates related to certain immigration and alien related statutes; and
 - ▶ makes technical ~~{and conforming amendments}~~ changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- ~~{~~ ~~13-47-102 (Contingently Repealed)~~, as last amended by Laws of Utah 2014, Chapter 189
- ~~34-50-102~~, as enacted by Laws of Utah 2015, Chapter 263
- ~~63G-2-206~~, as last amended by Laws of Utah 2012, Chapter 377
- ~~63G-2-305~~, as last amended by Laws of Utah 2015, Chapters 147, 283, and 411
- ~~63G-12-401~~, as last amended by Laws of Utah 2011, Chapter 20 and renumbered and amended by Laws of Utah 2011, Chapter 18
- ~~63G-12-402~~, as last amended by Laws of Utah 2015, Chapter 370
- ~~63I-2-213~~, as enacted by Laws of Utah 2011, Chapter 18
- ~~63J-1-602.4~~, as last amended by Laws of Utah 2015, Chapters 179 and 283
- ~~67-5-22.7~~, as last amended by Laws of Utah 2011, Chapter 18
- ~~76-9-1003~~, as last amended by Laws of Utah 2013, Chapter 196
- ~~76-9-1004~~, as enacted by Laws of Utah 2011, Chapter 21 and last amended by Coordination Clause, Laws of Utah 2011, Chapter 20
- ~~76-9-1006~~, as enacted by Laws of Utah 2011, Chapter 21
- ~~77-7-2~~, as last amended by Laws of Utah 2011, Chapters 18 and 21

RENUMBERS AND AMENDS:

- ~~63G-12-403~~, (Renumbered from ~~63G-12-302~~, as renumbered and amended by Laws of

SB0237S01 compared with SB0237

~~Utah 2011, Chapter 18)~~

REPEALS:

- ~~63G-12-101, as enacted by Laws of Utah 2011, Chapter 18~~
- ~~63G-12-102, as last amended by Laws of Utah 2015, Chapter 258~~
- ~~63G-12-103, as last amended by Laws of Utah 2012, Chapter 369~~
- ~~63G-12-104, as enacted by Laws of Utah 2011, Chapter 18~~
- ~~63G-12-105, as enacted by Laws of Utah 2011, Chapter 18~~
- ~~63G-12-106, as enacted by Laws of Utah 2011, Chapter 18~~
- ~~63G-12-201, as enacted by Laws of Utah 2011, Chapter 18~~
- ‡ ~~63G-12-202, as last amended by Laws of Utah 2014, Chapter 200~~
- { ~~63G-12-203, as enacted by Laws of Utah 2011, Chapter 18~~
- ~~63G-12-204, as enacted by Laws of Utah 2011, Chapter 18~~
- ~~63G-12-205, as enacted by Laws of Utah 2011, Chapter 18~~
- ~~63G-12-206, as enacted by Laws of Utah 2011, Chapter 18~~
- ~~63G-12-207, as enacted by Laws of Utah 2011, Chapter 18~~
- ~~63G-12-208, as enacted by Laws of Utah 2011, Chapter 18~~
- ~~63G-12-209, as enacted by Laws of Utah 2011, Chapter 18~~
- ~~63G-12-210, as enacted by Laws of Utah 2011, Chapter 18~~
- ~~63G-12-211, as enacted by Laws of Utah 2011, Chapter 18~~
- ~~63G-12-212, as enacted by Laws of Utah 2011, Chapter 18~~
- ~~63G-12-301, as enacted by Laws of Utah 2011, Chapter 18~~
- ~~63G-12-303, as enacted by Laws of Utah 2011, Chapter 18~~
- ~~63G-12-304, as enacted by Laws of Utah 2011, Chapter 18~~
- ~~63G-12-305, as enacted by Laws of Utah 2011, Chapter 18~~
- ~~63G-12-306, as last amended by Laws of Utah 2014, Chapter 189~~
- ~~63G-14-101, as enacted by Laws of Utah 2011, Chapter 20~~
- ~~63G-14-102, as enacted by Laws of Utah 2011, Chapter 20~~
- ‡ ~~63G-14-201, as last amended by Laws of Utah 2014, Chapter 200~~
- { ~~63G-14-202, as enacted by Laws of Utah 2011, Chapter 20~~
- ~~63G-14-203, as enacted by Laws of Utah 2011, Chapter 20~~
- ~~63G-14-204, as enacted by Laws of Utah 2011, Chapter 20~~

SB0237S01 compared with SB0237

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

~~63G-14-206, as enacted by Laws of Utah 2011, Chapter 20~~

~~63G-14-301, as enacted by Laws of Utah 2011, Chapter 20~~

~~63G-14-302, as enacted by Laws of Utah 2011, Chapter 20~~

~~76-10-2901, as last amended by Laws of Utah 2011, Chapters 18, 21 and last amended by Coordination Clause, Laws of Utah 2011, Chapter 20~~

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

Section 1. Section 63G-12-202 is amended to read:

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

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

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

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

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

(b) July 1, ~~[2017]~~ 2027.

Section 2. Section 63G-14-201 is amended to read:

63G-14-201. Creation of program.

(1) (a) The governor shall create a program known as the "Utah Pilot Sponsored Resident Immigrant Program":

(i) that is consistent with this chapter; and

(ii) under which a resident immigrant may reside, work, and study in Utah, except that the program may not permit a resident immigrant to travel outside of the state except as provided in Subsection 63G-14-206(1).

(b) The governor shall:

(i) begin implementation of the program by no later than July 1, ~~[2017]~~ 2027; and

(ii) end operation of the program on June 30, ~~[2022]~~ 2032.

(c) Under the program, the governor may facilitate transport to Utah for a foreign

SB0237S01 compared with SB0237

national who has been accepted into the program.

(d) The governor may recommend legislation to the Legislature to address how a resident immigrant is to be treated under statutes that relate to an alien.

(2) The department shall administer the program, except to the extent that the governor delegates a power or duty under the program to another state agency. Subject to Subsection (3), the department may make rules in accordance with Chapter 3, Utah Administrative Rulemaking Act, to implement the program to the extent expressly provided for in this chapter.

(3) The governor may act by executive order whenever the department is authorized to make rules under this chapter. If there is a conflict between a rule made by the department and an executive order of the governor, the executive order governs.

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

~~13-47-102 (Contingently Repealed). Definitions:~~

~~As used in this chapter:~~

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

~~(2) "Employee" means an individual:~~

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

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

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

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

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

~~(b) "Private employer" does not mean a public employer as defined in Section [63G-12-102] 63G-12-403.~~

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

~~(b) "Status verification system" includes:~~

~~(i) the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. Sec. 1324a;~~

~~(ii) a federal program equivalent to the program described in Subsection (4)(b)(i) that~~

SB0237S01 compared with SB0237

is designated by the United States Department of Homeland Security or other federal agency authorized to verify the employment eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986;

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

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

—— Section 2. Section ~~34-50-102~~ is amended to read:

—— ~~34-50-102. Definitions.~~

—— As used in this chapter:

—— (1) "DD 214" means the United States Department of Defense Certificate of Release or Discharge from Active Duty.

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

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

—— (4) "Private employer" means [the same as that term is defined in Section 63G-12-102] an employer that is not a governmental entity.

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

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

—— ~~63G-2-206. Sharing records.~~

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

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

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

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

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

—— (e) (i) is:

—— (A) the Legislature;

SB0237S01 compared with SB0237

- ~~—— (B) a legislative committee;~~
- ~~—— (C) a member of the Legislature; or~~
- ~~—— (D) a legislative staff member acting at the request of the Legislature, a legislative committee, or a member of the Legislature; and~~
- ~~—— (ii) requests the record in relation to the Legislature's duties including:~~
 - ~~—— (A) the preparation or review of a legislative proposal or legislation;~~
 - ~~—— (B) appropriations; or~~
 - ~~—— (C) an investigation or review conducted by the Legislature or a legislative committee.~~
- ~~—— (2) (a) A governmental entity may provide a private, controlled, or protected record or record series to another governmental entity, a political subdivision, a government-managed corporation, the federal government, or another state if the requesting entity provides written assurance:~~
 - ~~—— (i) that the record or record series is necessary to the performance of the governmental entity's duties and functions;~~
 - ~~—— (ii) that the record or record series will be used for a purpose similar to the purpose for which the information in the record or record series was collected or obtained; and~~
 - ~~—— (iii) that the use of the record or record series produces a public benefit that is greater than or equal to the individual privacy right that protects the record or record series.~~
- ~~—— (b) A governmental entity may provide a private, controlled, or protected record or record series to a contractor or a private provider according to the requirements of Subsection (6)(b):~~
- ~~—— (3) (a) A governmental entity shall provide a private, controlled, or protected record to another governmental entity, a political subdivision, a government-managed corporation, the federal government, or another state if the requesting entity:~~
 - ~~—— (i) is entitled by law to inspect the record;~~
 - ~~—— (ii) is required to inspect the record as a condition of participating in a state or federal program or for receiving state or federal funds; or~~
 - ~~—— (iii) is an entity described in Subsection (1)(a), (b), (c), (d), or (e):~~
- ~~—— (b) Subsection (3)(a)(iii) applies only if the record is a record described in Subsection 63G-2-305(4).~~
- ~~—— (4) Before disclosing a record or record series under this section to another~~

SB0237S01 compared with SB0237

~~governmental entity, another state, the United States, a foreign government, or to a contractor or private provider, the originating governmental entity shall:~~

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

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

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

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

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

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

~~—— (ii) the record or record series it requests:~~

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

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

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

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

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

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

SB0237S01 compared with SB0237

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

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

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

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

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

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

~~—— Section 4. Section 63G-2-305 is amended to read:~~

~~—— **63G-2-305. Protected records.**~~

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

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

~~—— (2) commercial information or nonindividual financial information obtained from a person if:~~

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

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

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

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

~~—— (4) records, the disclosure of which could cause commercial injury to, or confer a~~

SB0237S01 compared with SB0237

~~competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);~~

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

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

~~—— (a) an invitation for bids;~~

~~—— (b) a request for proposals;~~

~~—— (c) a request for quotes;~~

~~—— (d) a grant; or~~

~~—— (e) other similar document;~~

~~—— (7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:~~

~~—— (a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or~~

~~—— (b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and~~

~~—— (ii) at least two years have passed after the day on which the request for information is issued;~~

~~—— (8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:~~

~~—— (a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;~~

~~—— (b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;~~

SB0237S01 compared with SB0237

~~—— (c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;~~

~~—— (d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or~~

~~—— (e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;~~

~~—— (9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:~~

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

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

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

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

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

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

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

SB0237S01 compared with SB0237

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

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

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

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

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

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

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

~~—— (17) records that are subject to the attorney-client privilege;~~

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

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

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

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

SB0237S01 compared with SB0237

- ~~—— (A) members of a legislative body;~~
- ~~—— (B) a member of a legislative body and a member of the legislative body's staff; or~~
- ~~—— (C) members of a legislative body's staff; and~~
- ~~—— (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;~~
- ~~—— (20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and~~
- ~~—— (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;~~
- ~~—— (21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;~~
- ~~—— (22) drafts, unless otherwise classified as public;~~
- ~~—— (23) records concerning a governmental entity's strategy about:~~
 - ~~—— (a) collective bargaining; or~~
 - ~~—— (b) imminent or pending litigation;~~
- ~~—— (24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;~~
- ~~—— (25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;~~
- ~~—— (26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;~~
- ~~—— (27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;~~

SB0237S01 compared with SB0237

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

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

~~———(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;~~

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

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

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

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

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

~~———(36) materials to which access must be limited for purposes of securing or maintaining~~

SB0237S01 compared with SB0237

~~the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;~~

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

~~—— (a) the donor requests anonymity in writing;~~

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

~~—— (c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;~~

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

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

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

~~—— (i) unpublished lecture notes;~~

~~—— (ii) unpublished notes, data, and information:~~

~~—— (A) relating to research; and~~

~~—— (B) of:~~

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

~~—— (II) a sponsor of sponsored research;~~

~~—— (iii) unpublished manuscripts;~~

~~—— (iv) creative works in process;~~

~~—— (v) scholarly correspondence; and~~

SB0237S01 compared with SB0237

- ~~—— (vi) confidential information contained in research proposals;~~
- ~~—— (b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and~~
- ~~—— (c) Subsection (40)(a) may not be construed to affect the ownership of a record;~~
- ~~—— (41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and~~
- ~~—— (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;~~
- ~~—— (42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:~~
 - ~~—— (a) a production facility; or~~
 - ~~—— (b) a magazine;~~
- ~~—— (43) information:~~
 - ~~—— (a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or~~
 - ~~—— (b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;~~
- ~~—— (44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;~~
- ~~—— (45) information regarding National Guard operations or activities in support of the National Guard's federal mission;~~
- ~~—— (46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;~~
- ~~—— (47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;~~
- ~~—— (48) except to the extent that the record is exempt from this chapter pursuant to Section~~

SB0237S01 compared with SB0237

~~63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:~~

~~—— (a) the safety of the general public; or~~

~~—— (b) the security of:~~

~~—— (i) governmental property;~~

~~—— (ii) governmental programs; or~~

~~—— (iii) the property of a private person who provides the Division of Emergency Management information;~~

~~—— (49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;~~

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

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

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

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

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

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

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

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

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

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

SB0237S01 compared with SB0237

~~53B-1-102; and~~

~~—— (b) conducted using animals;~~

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

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

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

~~—— (56) records contained in the Management Information System created in Section 62A-4a-1003;~~

~~—— (57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;~~

~~—— (58) information requested by and provided to the 911 Division under Section 63H-7a-302;~~

~~—— (59) in accordance with Section 73-10-33;~~

~~—— (a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or~~

~~—— (b) an outline of an emergency response plan in possession of the state or a county or municipality;~~

~~—— (60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:~~

~~—— (a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;~~

~~—— (b) records and audit workpapers to the extent they would disclose the identity of a~~

SB0237S01 compared with SB0237

~~person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;~~

~~—— (c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;~~

~~—— (d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or~~

~~—— (e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;~~

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

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

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

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

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

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

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

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

~~—— Section 5. Section **63G-12-401** is amended to read:~~

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

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

SB0237S01 compared with SB0237

~~identification document, identification card, or identification certificate and possess an engraved plate or other device for the printing of an identification document:~~

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

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

~~—— (c) a public school or state or private educational institution to identify the bearer as an administrator, faculty member, student, or employee:~~

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

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

~~—— (a) a United States citizen;~~

~~—— (b) a national; or~~

~~—— (c) a legal permanent resident alien.~~

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

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

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

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

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

~~—— (v) approved deferred action status; or~~

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

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

SB0237S01 compared with SB0237

- ~~—— (ii) Except as otherwise provided by federal law, the document is valid only:~~
- ~~—— (A) during the period of time of the individual's authorized stay in the United States; or~~
- ~~—— (B) for one year from the date of issuance if there is no definite end to the individual's period of authorized stay.~~
- ~~—— (iii) An entity issuing an identification document under this Subsection (4) shall clearly indicate on the document:~~
- ~~—— (A) that it is temporary; and~~
- ~~—— (B) its expiration date.~~
- ~~—— (c) An individual may renew a document issued under this Subsection (4) only upon presentation of valid documentary evidence that the status by which the individual originally qualified for the identification document has been extended by the United States Citizenship and Immigration Services or other authorized agency of the United States Department of Homeland Security.~~
- ~~—— (5) (a) Subsection (3) does not apply to an identification document issued under Subsection (1)(c) that:~~
- ~~—— (i) is only valid for use on the educational institution's campus or facility; and~~
- ~~—— (ii) includes a statement of the restricted use conspicuously printed upon the face of the identification document.~~
- ~~—— (b) Subsection (3) does not apply to a license certificate, driving privilege card, or identification card issued or renewed under Title 53, Chapter 3, Uniform Driver License Act.~~
- ~~—— (c) Subsection (3) does not apply to a public transit pass issued by a public transit district as defined in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that:~~
- ~~—— (i) is only valid for use on the public transit system; and~~
- ~~—— (ii) includes a statement of the restricted use conspicuously printed on the face of the public transit pass.~~
- ~~—— [(d) Subsection (3) does not apply to a permit issued under Section 63G-12-207.]~~
- ~~—— [(e) Subsection (3) does not apply to a permit issued under Chapter 14, Utah Pilot Sponsored Resident Immigrant Program Act.]~~
- ~~—— (6) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.~~
- ~~—— Section 6. Section 63G-12-402 is amended to read:~~

SB0237S01 compared with SB0237

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0237S01 compared with SB0237

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

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

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

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

~~_____ (f) the exemption for paying the nonresident portion of total tuition as set forth in Section 53B-8-106;~~

~~_____ (g) an applicant for a license under Section 61-1-4, if the applicant:~~

~~_____ (i) is registered with the Financial Industry Regulatory Authority, and~~

~~_____ (ii) files an application with the state Division of Securities through the Central Registration Depository;~~

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

~~_____ (i) a home loan that will be insured, guaranteed, or purchased by:~~

~~_____ (i) the Federal Housing Administration, the Veterans Administration, or any other federal agency; or~~

~~_____ (ii) an enterprise as defined in 12 U.S.C. Sec. 4502;~~

~~_____ (j) a subordinate loan or a grant that will be made to an applicant in connection with a home loan that does not require verification under Subsection [(3)] (4)(i);~~

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

~~_____ (i) certification, under penalty of perjury, that the applicant or individual is:~~

~~_____ (A) a United States citizen;~~

~~_____ (B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or~~

~~_____ (C) lawfully present in the United States; and~~

~~_____ (ii) (A) the number assigned to a driver license or identification card issued under Title~~

SB0237S01 compared with SB0237

~~53, Chapter 3, Uniform Driver License Act; or~~

~~—— (B) the number assigned to a driver license or identification card issued by a state other than Utah if, as part of issuing the driver license or identification card, the state verifies an individual's lawful presence in the United States; and~~

~~—— (i) an applicant for:~~

~~—— (i) a Regents' scholarship described in Section 53B-8-109;~~

~~—— (ii) a New Century scholarship described in Section 53B-8-105; or~~

~~—— (iii) a privately funded scholarship;~~

~~—— (A) for an individual who is a graduate of a high school located within Utah; and~~

~~—— (B) administered by an institution of higher education as defined in Section 53B-2-101.~~

~~—— [(4) (a)] (5) An agency or political subdivision required to verify the lawful presence in the United States of an applicant under this section shall require the applicant to certify under penalty of perjury that:~~

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

~~—— [(ii)] (b) the applicant is:~~

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

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

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

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

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

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

~~—— (ii) fraudulently obtaining:~~

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

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

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

SB0237S01 compared with SB0237

~~application was made.~~

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

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

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

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

~~—— [(8)] (9) It is unlawful for an agency or a political subdivision of this state to provide a state, local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.~~

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

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

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

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

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

~~—— Section 7. Section ~~63G-12-403~~, which is renumbered from Section 63G-12-302 is renumbered and amended to read:~~

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

~~—— (1) As used in this section:~~

~~—— (a) "Contract" means an agreement for the procurement of goods or services that is awarded through a request for proposals process with a public employer and includes a sole~~

SB0237S01 compared with SB0237

~~source contract.~~

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

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

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

~~—— (ii) "Status Verification System" includes:~~

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

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

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

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

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

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

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

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

~~—— (i) a public employer may not enter into a contract for the physical performance of services within the state with a contractor unless the contractor registers and participates in the Status Verification System to verify the work eligibility status of the contractor's new~~

SB0237S01 compared with SB0237

~~employees that are employed in the state; and~~

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

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

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

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

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

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

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

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

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

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

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

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

SB0237S01 compared with SB0237

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

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

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

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

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

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

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

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

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

~~—— **63I-2-213. Repeal dates -- Title 13.**~~

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

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

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

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

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

~~—— (3) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.~~

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

~~—— (5) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.~~

~~—— (6) Appropriations from the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.~~

~~—— (7) Appropriations to the Division of Services for People with Disabilities, as provided~~

SB0237S01 compared with SB0237

~~in Section 62A-5-102:~~

~~—— (8) Appropriations to the Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.~~

~~—— (9) A portion of the funds appropriated to the Utah Seismic Safety Commission, as provided in Section 63C-6-104.~~

~~—— (10) Funds appropriated or collected for publishing the Division of Administrative Rules' publications, as provided in Section 63G-3-402.~~

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

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

~~—— [(13)] (12) Appropriations to fund the Governor's Office of Economic Development's Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.~~

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

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

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

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

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

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

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

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

SB0237S01 compared with SB0237

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

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

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

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

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

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

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

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

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

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

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

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

~~—— [(ii) in the order that claims are filed with the Fraudulent Documents Identification~~

SB0237S01 compared with SB0237

~~Unit, and]~~

~~—— [(iii) to the extent that there is money in the Identity Theft Victims Restricted Account.]~~

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

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

~~—— Section 11. Section ~~76-9-1003~~ is amended to read:~~

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

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

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

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

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

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

~~—— (d) Subsection (1)(a) does not apply to a county or municipality when it has only one~~

SB0237S01 compared with SB0237

law enforcement officer on duty and response support from another law enforcement agency is not available:

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

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

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

~~—— (3) When a person under Subsection (1) is arrested or booked into a jail, juvenile detention facility, or correctional facility, the arresting officer or the booking officer shall ensure that a request for verification of immigration status of the arrested or booked person is submitted as promptly as is reasonably possible.~~

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

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

~~—— Section 12. Section ~~76-9-1004~~ is amended to read:~~

~~—— ~~76-9-1004. Grounds for presumption of lawful presence in United States =~~~~

~~**Statement to officer:**~~

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

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

~~—— (b) a valid Utah identification card issued under Section 53-3-804 and issued on or after January 1, 2010;~~

~~—— (c) a valid tribal enrollment card or other valid form of tribal membership identification~~

SB0237S01 compared with SB0237

~~that includes photo identification; or~~

~~—— (d) a valid identification document that:~~

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

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

~~—— [(c) a valid resident immigrant permit issued under Section 63G-14-204.]~~

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

~~—— Section 13. Section ~~76-9-1006~~ is amended to read:~~

~~—— ~~76-9-1006. Enforcement of federal immigration laws.~~~~

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

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

~~—— Section 14. Section ~~77-7-2~~ is amended to read:~~

~~—— ~~77-7-2. Arrest by peace officers.~~~~

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

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

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

~~—— (2) when the peace officer has reasonable cause to believe a felony or a class A~~

SB0237S01 compared with SB0237

~~misdemeanor has been committed and has reasonable cause to believe that the person arrested has committed it;~~

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

~~—— (a) flee or conceal himself to avoid arrest;~~

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

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

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

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

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

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

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

~~—— Section 15. **Repealer.**~~

~~—— This bill repeals:~~

~~—— Section 63G-12-101, **Title.**~~

~~—— Section 63G-12-102, **Definitions.**~~

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

~~—— Section 63G-12-104, **Determining immigration status == Transfer or maintenance of information.**~~

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

~~—— Section 63G-12-106, **Severability.**~~

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

~~—— Section 63G-12-202, **Federal waivers, exemptions, or authorizations == Implementation without waiver, exemption, or authorization.**~~

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

~~—— Section 63G-12-204, **Obtaining a permit == Uses of permit.**~~

~~—— Section 63G-12-205, **Eligibility criteria to obtain and maintain a guest worker**~~

SB0237S01 compared with SB0237

permit:

~~Section 63G-12-206, Eligibility to obtain and maintain an immediate family~~

permit:

~~Section 63G-12-207, Application and renewal process:~~

~~Section 63G-12-208, Conditions during permit term:~~

~~Section 63G-12-209, Proficiency standards for English:~~

~~Section 63G-12-210, Verification of valid permit -- Protected status of information:~~

~~Section 63G-12-211, Prohibited conduct -- Administrative penalties -- Criminal~~

penalties:

~~Section 63G-12-212, Sharing of information related to enforcement:~~

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

eligibility:

~~Section 63G-12-303, Liability protections:~~

~~Section 63G-12-304, Voluntary registration by private employer certifying~~

participation in verification:

~~Section 63G-12-305, Administrative actions -- Defenses:~~

~~Section 63G-12-306, Penalties:~~

~~Section 63G-14-101, Title:~~

~~Section 63G-14-102, Definitions:~~

~~Section 63G-14-201, Creation of program:~~

~~Section 63G-14-202, Approval as a resident immigrant -- Ineligibility:~~

~~Section 63G-14-203, Sponsorship:~~

~~Section 63G-14-204, Resident immigrant permit:~~

~~Section 63G-14-205, Employment and taxation obligations under the program:~~

~~Section 63G-14-206, Restrictions on activities of resident immigrant:~~

~~Section 63G-14-301, Disqualification from program:~~

~~Section 63G-14-302, Penalties on sponsors:~~

~~Section 76-10-2901, Transporting or harboring aliens -- Definition -- Penalty:~~

SB0237S01 compared with SB0237

Legislative Review Note

Office of Legislative Research and General Counsel