

**ILLEGAL ALIEN RELATED AMENDMENTS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Christopher N. Herrod**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies general government provisions to convert the Utah Immigration Accountability and Enforcement Act to the Utah Illegal Alien Family Transition Pilot Program and to make related changes including addressing enforcement issues.

**Highlighted Provisions:**

This bill:

- ▶ changes the title of the relevant chapter;
- ▶ modifies definitions;
- ▶ addresses the Immigration Act Restricted Account;
- ▶ requires changes to federal law before the program can be implemented;
- ▶ requires the department, under the direction of the governor, to write a letter to Utah's congressional delegation regarding other changes in federal law;
- ▶ provides types of permits that can be obtained within a set time frame;
- ▶ addresses benefits and uses of permits;
- ▶ provides that permits are not a form of identification;
- ▶ modifies eligibility criteria to obtain and maintain a permit;
- ▶ provides when an illegal alien family is disqualified from obtaining a permit;
- ▶ modifies provisions related to background checks of applicants;
- ▶ imposes requirements related to sponsorships;
- ▶ addresses the application and renewal process, including the payment of fines;



- 28           ▶ addresses conditions during a permit term;
- 29           ▶ repeals provisions related to verification of a permit for employment purposes;
- 30           ▶ modifies prohibited conduct and related penalties;
- 31           ▶ addresses state participation in enforcement of federal immigration law;
- 32           ▶ imposes requirements related to participation in the federal IMAGE program;
- 33           ▶ creates a private right of action related to employers who do not participate in the
- 34 federal IMAGE program;
- 35           ▶ repeals certain e-verify requirements once the IMAGE program is implemented;
- 36           ▶ directs the governor to urge the Utah congressional delegation to support the
- 37 establishment of various federal visas;
- 38           ▶ modifies provisions related to the Identity Theft Victims Restricted Account;
- 39           ▶ repeals provisions related to e-verify; and
- 40           ▶ makes technical and conforming amendments.

41 **Money Appropriated in this Bill:**

42           None

43 **Other Special Clauses:**

44           None

45 **Utah Code Sections Affected:**

46 AMENDS:

- 47           **32B-1-406**, as enacted by Laws of Utah 2010, Chapter 276
- 48           **46-1-2**, as last amended by Laws of Utah 2009, Chapter 315
- 49           **58-37c-10**, as last amended by Laws of Utah 2008, Chapter 322
- 50           **63G-12-101**, as enacted by Laws of Utah 2011, Chapter 18
- 51           **63G-12-102**, as enacted by Laws of Utah 2011, Chapter 18
- 52           **63G-12-103**, as enacted by Laws of Utah 2011, Chapter 18
- 53           **63G-12-106**, as enacted by Laws of Utah 2011, Chapter 18
- 54           **63G-12-201**, as enacted by Laws of Utah 2011, Chapter 18
- 55           **63G-12-202**, as enacted by Laws of Utah 2011, Chapter 18
- 56           **63G-12-204**, as enacted by Laws of Utah 2011, Chapter 18
- 57           **63G-12-205**, as enacted by Laws of Utah 2011, Chapter 18
- 58           **63G-12-207**, as enacted by Laws of Utah 2011, Chapter 18

- 59           **63G-12-208**, as enacted by Laws of Utah 2011, Chapter 18
- 60           **63G-12-210**, as enacted by Laws of Utah 2011, Chapter 18
- 61           **63G-12-211**, as enacted by Laws of Utah 2011, Chapter 18
- 62           **63G-12-212**, as enacted by Laws of Utah 2011, Chapter 18
- 63           **63I-2-213**, as enacted by Laws of Utah 2011, Chapter 18
- 64           **67-5-22.7**, as last amended by Laws of Utah 2011, Chapter 18
- 65           **76-10-526**, as last amended by Laws of Utah 2011, Chapter 160

66 ENACTS:

- 67           **63G-12-205.5**, Utah Code Annotated 1953
- 68           **63G-12-213**, Utah Code Annotated 1953
- 69           **63G-12-501**, Utah Code Annotated 1953
- 70           **63G-12-502**, Utah Code Annotated 1953
- 71           **63G-12-503**, Utah Code Annotated 1953
- 72           **63G-12-504**, Utah Code Annotated 1953
- 73           **63G-12-601**, Utah Code Annotated 1953
- 74           **63G-12-602**, Utah Code Annotated 1953
- 75           **63G-12-604**, Utah Code Annotated 1953

76 RENUMBERS AND AMENDS:

- 77           **63G-12-403**, (Renumbered from 63G-12-302, as renumbered and amended by Laws of
- 78 Utah 2011, Chapter 18)

79 REPEALS:

- 80           **63G-12-203**, as enacted by Laws of Utah 2011, Chapter 18
- 81           **63G-12-206**, as enacted by Laws of Utah 2011, Chapter 18
- 82           **63G-12-209**, as enacted by Laws of Utah 2011, Chapter 18
- 83           **63G-12-301**, as enacted by Laws of Utah 2011, Chapter 18
- 84           **63G-12-303**, as enacted by Laws of Utah 2011, Chapter 18
- 85           **63G-12-304**, as enacted by Laws of Utah 2011, Chapter 18
- 86           **63G-12-305**, as enacted by Laws of Utah 2011, Chapter 18
- 87           **63G-12-306**, as enacted by Laws of Utah 2011, Chapter 18



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

90 Section 1. Section **32B-1-406** is amended to read:

91 **32B-1-406. Acceptance of identification.**

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

94 (a) proof of age; or

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

96 (i) proof of age; and

97 (ii) a statement of age.

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

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

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

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

105 (3) An authorized person may not accept [~~a driving privilege card issued in accordance~~  
106 ~~with Section 53-3-207]~~ the following as evidence of the legal age of an individual[-]:

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

108 (b) a permit under Title 63G, Chapter 12, Utah Illegal Alien Family Transition Pilot  
109 Program.

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

111 **46-1-2. Definitions.**

112 As used in this chapter:

113 (1) "Acknowledgment" means a notarial act in which a notary certifies that a signer,  
114 whose identity is personally known to the notary or proven on the basis of satisfactory  
115 evidence, has admitted, in the presence of the notary, to voluntarily signing a document for the  
116 document's stated purpose.

117 (2) "Commission" means:

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

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

120 (3) "Copy certification" means a notarial act in which a notary certifies that a

121 photocopy is an accurate copy of a document that is neither a public record nor publicly  
122 recorded.

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

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

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

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

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

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

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

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

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

144 (i) valid personal identification with the individual's photograph, signature, and  
145 physical description issued by the United States government, any state within the United States,  
146 or a foreign government;

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

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

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

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

152           (ii) a permit under Title 63G, Chapter 12, Utah Illegal Alien Family Transition Pilot  
153 Program; or

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

155           Section 3. Section **58-37c-10** is amended to read:

156           **58-37c-10. Reporting and recordkeeping.**

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

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

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

165           (4) The division shall adopt rules regulating:

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

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

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

176           (d) filing by each licensee the identification of all locations where any listed controlled  
177 substance precursor is held in inventory or stored and amending such filing when any change in  
178 location is made;

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

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

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

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

187 (5) A person who engages in a regulated transaction may not accept [~~a driving privilege~~  
188 ~~card issued in accordance with Section 53-3-207]~~ the following as proof of identification as  
189 required under Subsection (4)(c)[~~;~~];

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

191 (b) a permit under Title 63G, Chapter 12, Utah Illegal Alien Family Transition Pilot  
192 Program.

193 Section 4. Section **63G-12-101** is amended to read:

194 **CHAPTER 12. UTAH ILLEGAL ALIEN FAMILY TRANSITION PILOT PROGRAM**

195 **Part 1. General Provisions**

196 **63G-12-101. Title.**

197 This chapter is known as the "Utah [~~Immigration Accountability and Enforcement Act]~~  
198 Illegal Alien Family Transition Pilot Program."

199 Section 5. Section **63G-12-102** is amended to read:

200 **63G-12-102. Definitions.**

201 As used in this chapter:

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

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

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

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

210 (5) "E-verify program" means the electronic verification of the work authorization  
211 program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, 8  
212 U.S.C. Sec. 1324a, known as the e-verify program[~~;~~].

213 [~~(6) "Family member" means for an undocumented individual;~~]

214 [~~(a) a member of the undocumented individual's immediate family;~~]

215 [~~(b) the undocumented individual's grandparent;~~]

216 [~~(c) the undocumented individual's sibling;~~]

217 [~~(d) the undocumented individual's grandchild;~~]

218 [~~(e) the undocumented individual's nephew;~~]

219 [~~(f) the undocumented individual's niece;~~]

220 [~~(g) a spouse of an individual described in this Subsection (6); or]~~

221 [~~(h) an individual who is similar to one listed in this Subsection (6).]~~

222 [~~(7)~~] (6) "Federal SAVE program" means the Systematic Alien Verification for  
223 Entitlements Program operated by the United States Department of Homeland Security or an  
224 equivalent program designated by the Department of Homeland Security.

225 [~~(8) "Guest worker" means an undocumented individual who holds a guest worker~~  
226 ~~permit.]~~

227 [~~(9) "Guest worker permit" means a permit issued in accordance with Section~~  
228 ~~63G-12-207 to an undocumented individual who meets the eligibility criteria of Section~~  
229 ~~63G-12-205.]~~

230 [~~(10) "Immediate family" means for an undocumented individual:]~~

231 [~~(a) the undocumented individual's spouse; or]~~

232 [~~(b) a child of the undocumented individual if the child is:]~~

233 [~~(i) under 21 years of age; and]~~

234 [~~(ii) unmarried.]~~

235 [~~(11) "Immediate family permit" means a permit issued in accordance with Section~~  
236 ~~63G-12-207 to an undocumented individual who meets the eligibility criteria of Section~~  
237 ~~63G-12-206.]~~

238 (7) "I-9 Form" means a form issued by the United States Department of Homeland  
239 Security that has as its purpose employment eligibility verification.

240 (8) "Illegal alien family" means:

241 (a) a legally married couple and the unmarried children of the legally married couple  
242 who are 18 years of age or younger when:

243 (i) at least one of the individuals of the legally married couple is illegally in the United  
244 States; and

245 (ii) the legally married couple has at least one child who is:  
 246 (A) a dual national child born in the United States who is older than five years of age;

247 or

248 (B) foreign born and brought to the United States before eight years of age; or

249 (b) an unmarried custodial parent and the unmarried children of the unmarried  
 250 custodial parent who are 18 years of age or younger when the unmarried custodial parent:

251 (i) is illegally in the United States; and

252 (ii) has at least one child who is:

253 (A) a dual national child born in the United States who is older than five years of age;

254 or

255 (B) foreign born and brought to the United States before eight years of age.

256 (9) "IMAGE program" means the program related to verification of employment status  
 257 created by the United States Immigration and Customs Enforcement that is known as the "ICE  
 258 Mutual Agreement between Government and Employers IMAGE program" and under which an  
 259 employer enters into a mutual agreement between the government and the employer.

260 ~~[(12)]~~ (10) "Permit" means a transition A permit or transition B permit issued [under  
 261 Part 2, Guest Worker Program, and includes:] in accordance with Section 63G-12-207 to an  
 262 illegal alien family that meets the eligibility criteria of Section 63G-12-205.

263 ~~[(a) a guest worker permit; and]~~

264 ~~[(b) an immediate family permit.]~~

265 ~~[(13)]~~ (11) "Permit holder" means [an undocumented individual who holds a permit] a  
 266 qualifying member of an illegal alien family to which a permit is issued.

267 ~~[(14)]~~ (12) "Private employer" means an employer who is not the federal government  
 268 or a public employer.

269 ~~[(15)]~~ (13) "Program start date" means the day on which the department is required to  
 270 implement the program under Subsection 63G-12-202(3).

271 ~~[(16)]~~ (14) "Public employer" means an employer that is:

272 (a) the state of Utah or any administrative subunit of the state;

273 (b) a state institution of higher education, as defined in Section 53B-3-102;

274 (c) a political subdivision of the state including a county, city, town, school district,  
 275 local district, or special service district; or

276 (d) an administrative subunit of a political subdivision.

277 ~~[(17)]~~ (15) "Program" means the ~~[Guest Worker Program]~~ Utah Illegal Alien Family  
278 Transition Pilot Program described in Section 63G-12-201.

279 (16) "Qualifying member" means a member of an illegal alien family who:

280 (a) is illegally in the United States; and

281 (b) resides in Utah.

282 (17) "Regularization of status" means obtaining a status of lawful presence in the  
283 United States.

284 (18) "Relevant contact information" means the following for ~~[an undocumented~~  
285 ~~individual]~~ a qualifying member:

286 (a) the ~~[undocumented individual's]~~ qualifying member's name;

287 (b) the ~~[undocumented individual's]~~ qualifying member's residential address;

288 (c) the ~~[undocumented individual's]~~ qualifying member's residential telephone number;

289 (d) the ~~[undocumented individual's]~~ qualifying member's personal email address;

290 ~~[(e) the name of the person with whom the undocumented individual has a contract for~~  
291 ~~hire;]~~

292 ~~[(f) the name of the contact person for the person listed in Subsection (18)(e);]~~

293 ~~[(g) the address of the person listed in Subsection (18)(e);]~~

294 ~~[(h) the telephone number for the person listed in Subsection (18)(e);]~~

295 (e) the qualifying member's current and past employers' names, addresses, and  
296 telephone numbers;

297 ~~[(i)]~~ (f) the names of the [undocumented individual's] qualifying member's immediate  
298 family members[;] who reside with the qualifying member and were domiciled in Utah on  
299 January 1, 2011; and

300 ~~[(j) the names of the family members who reside with the undocumented individual;~~  
301 ~~and]~~

302 ~~[(k)]~~ (g) any other information required by the department by rule made in accordance  
303 with Chapter 3, Utah Administrative Rulemaking Act.

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

306 ~~[(20) "Serious felony" means a felony under:]~~

307 ~~[(a) Title 76, Chapter 5, Offenses Against the Person;]~~  
 308 ~~[(b) Title 76, Chapter 5a, Sexual Exploitation of Children;]~~  
 309 ~~[(c) Title 76, Chapter 6, Offenses Against Property;]~~  
 310 ~~[(d) Title 76, Chapter 7, Offenses Against the Family;]~~  
 311 ~~[(e) Title 76, Chapter 8, Offenses Against the Administration of Government;]~~  
 312 ~~[(f) Title 76, Chapter 9, Offenses Against Public Order and Decency; and]~~  
 313 ~~[(g) Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare, and~~  
 314 ~~Morals;]~~

315 ~~[(21)]~~ (20) (a) "Status verification system" means an electronic system operated by the  
 316 federal government, through which an authorized official of a state agency or a political  
 317 subdivision of the state may inquire by exercise of authority delegated pursuant to 8 U.S.C.  
 318 Sec. 1373, to verify the citizenship or immigration status of an individual within the  
 319 jurisdiction of the agency or political subdivision for a purpose authorized under this section.

320 (b) "Status verification system" includes:

321 (i) the e-verify program;

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

325 (iii) the Social Security Number Verification ~~[Service]~~ System or similar online  
 326 verification process implemented by the United States Social Security Administration that  
 327 matches name, date of birth, and Social Security number; or

328 (iv) an independent third-party system with an equal or higher degree of reliability as  
 329 the programs, systems, or processes described in Subsection ~~[(21)]~~ (20)(b)(i), (ii), or (iii).

330 (21) (a) "Transition A permit" means a permit issued to an illegal alien family  
 331 described in Subsection 63G-12-204(2).

332 (b) "Transition B permit" means a permit issued to an illegal alien family described in  
 333 Subsection 63G-12-204(3).

334 (22) "Unauthorized alien" is as defined in 8 U.S.C. Sec. 1324a(h)(3).

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

336 ~~[(a) lives or works in the state; and]~~

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

338 et seq. with regard to presence in the United States.]

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

341 Section 6. Section **63G-12-103** is amended to read:

342 **63G-12-103. Immigration Act Restricted Account.**

343 (1) There is created a restricted account within the General Fund known as the  
344 "Immigration Act Restricted Account."

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

346 (i) a fee collected under this chapter;

347 [~~(ii) a fine collected under Section 63G-12-207;~~]

348 (ii) amounts deposited from the Identity Theft Victims Restricted Account created in  
349 Section 67-5-22.7;

350 (iii) civil penalties imposed under Section 63G-12-211 [~~or 63G-12-307~~];

351 (iv) money appropriated to the restricted account by the Legislature; and

352 (v) interest earned on the restricted account.

353 (b) The restricted account shall earn interest.

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

355 (a) the department and the Office of the Governor to pay the costs associated with the  
356 implementation of [~~Section~~] Subsections 63G-12-202(1) through (3);

357 (b) the department to administer this chapter; and

358 [~~(c) the State Tax Commission for costs associated with implementing Section~~  
359 ~~63G-12-203;~~]

360 [~~(d)~~] (c) the attorney general for costs associated with [~~;(i)~~] litigation related to this  
361 chapter[;].

362 [~~(ii) a multi-agency strike force created under Section 67-5-22.7; or~~]

363 [~~(iii) a memorandum of understanding executed under Section 67-5-28; and~~]

364 [~~(e) the Identity Theft Restricted Account created in Section 67-5-22.7.~~]

365 Section 7. Section **63G-12-106** is amended to read:

366 **63G-12-106. Severability.**

367 (1) If a provision of [~~Part 2, Guest Worker Program~~] this chapter, or the application of  
368 a provision to a person or circumstance is held invalid, the remainder of this chapter may not

369 be given effect without the invalid provision or application so that the provisions of this  
370 chapter are not severable.

371 (2) The following provisions are severable from this chapter:

372 (a) Title 76, Chapter 9, Part 10, Illegal Immigration Enforcement Act;

373 (b) Section 76-10-2901; and

374 (c) Section 77-7-2.

375 Section 8. Section **63G-12-201** is amended to read:

376 **Part 2. Utah Illegal Alien Family Transition Permits**

377 **63G-12-201. Department to create program.**

378 (1) The department shall administer a program known as the [~~"Guest Worker~~  
379 ~~Program"~~] "Utah Illegal Alien Family Transition Pilot Program" created by this [part] chapter.

380 Under this program, the department shall:

381 (a) seek [~~one or more waivers, exemptions, or authorizations~~] amendments to federal  
382 immigration and other relevant federal statutes to implement the program as provided in

383 Section 63G-12-202;

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

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

387 (d) take action under Section 63G-12-211; [~~and~~]

388 (e) oversee implementation of the IMAGE Program under Part 5, IMAGE Program;

389 (f) oversee the implementation of Section 63G-12-213; and

390 [~~(e)~~] (g) report annually to the governor and the Legislature.

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

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

395 Section 9. Section **63G-12-202** is amended to read:

396 **63G-12-202. Amendments to federal law -- Program start date -- Letter regarding**  
397 **other changes to federal law.**

398 (1) The department, under the direction of the governor, shall seek [~~one or more federal~~  
399 ~~waivers, exemptions, or authorizations to implement the program~~] amendments to federal

400 immigration and other relevant federal statutes to obtain authorization for Utah to establish the  
401 program for an initial period of three years.

402 (2) The governor shall actively participate in the effort to [~~obtain one or more federal~~  
403 ~~waivers, exemptions, or authorizations~~] seek amendments to federal immigration and other  
404 relevant federal statutes necessary to implement the program under this section.

405 (3) The department shall implement the program [~~the sooner of: (a)~~] 120 days after the  
406 day on which the governor [~~finds~~] makes a written finding that the [~~state has the one or more~~  
407 ~~federal waivers, exemptions, or authorizations needed to implement the program; or (b) July~~  
408 ~~1, 2013;~~] president of the United States has signed into law amendments to federal immigration  
409 and other relevant federal statutes that allow Utah to implement the program. The governor  
410 shall provide a copy of the written finding to the department, the speaker of the House of  
411 Representatives, the president of the Senate, the director of the Office of Legislative Research  
412 and General Counsel, and legislative general counsel no later than five business days of the  
413 finding under this Subsection (3).

414 (4) The department, under the direction of the governor, shall send a letter to Utah's  
415 congressional delegation regarding the need for federal action in addition to that described in  
416 Subsections (1) and (2) including:

417 (a) securing the borders of the United States;

418 (b) enhancing the I-9 form process;

419 (c) creating a new payroll tax formula for authorized aliens working in the United  
420 States, such as replacing Social Security contributions and Social Security numbers with a new  
421 tax and employee identification number that funds the Department of Homeland Security or  
422 catastrophic healthcare insurance for authorized aliens;

423 (d) penalizing employers who hire unauthorized aliens;

424 (e) rewarding citizens who provide information that results in the conviction of an  
425 employer that willfully or knowingly hires unauthorized aliens, or who provide information  
426 that results in the conviction of a person who forges, solicits, sells, buys, trades, or distributes  
427 counterfeit documents for obtaining employment;

428 (f) creating a comprehensive socioeconomic analysis to ensure before a visa is issued  
429 that a temporary worker and the temporary worker's family will not be a burden to taxpayers  
430 and to provide protections against abuses under a new guest worker program;

431 (g) addressing issues related to a child of an illegal alien, or of a visa holder who is  
 432 born in the United States being a citizen of the United States and eligible for public benefits;  
 433 and

434 (h) clarifying that an authorized alien working in the United States pursuant to a visa  
 435 should not:

436 (i) obtain financing for the purchase of real property;

437 (ii) own a business in the United States;

438 (iii) obtain financing, for the purchase of personal property, that cannot be paid 30 days  
 439 before the expiration date of the visa pursuant to which the authorized alien works;

440 (iv) obtain state subsidized social benefits;

441 (v) obtain state subsidized housing; or

442 (vi) apply for or renew a visa if while holding the visa the authorized alien is convicted  
 443 of a serious crime.

444 Section 10. Section **63G-12-204** is amended to read:

445 **63G-12-204. Obtaining a permit -- Uses of permit.**

446 ~~[(1) An undocumented individual shall obtain a permit:]~~

447 ~~[(a) before providing services to a person in this state under a contract for hire; or]~~

448 ~~[(b) in accordance with Subsection (2), by no later than 30 days from the day on which~~  
 449 ~~the undocumented individual enters into a contract for hire.]]~~

450 ~~[(2) (a) By rule made in accordance with Chapter 3, Utah Administrative Rulemaking~~  
 451 ~~Act, the department shall provide a procedure under which a person may hire an undocumented~~  
 452 ~~individual who does not hold a permit pending the undocumented individual obtaining a permit~~  
 453 ~~within 30 days of the day on which the undocumented individual is hired to provide services.]]~~

454 ~~[(b) An undocumented individual may not provide services under a contract for hire to~~  
 455 ~~a person for more than 30 days during a two-year calendar period without obtaining a permit as~~  
 456 ~~provided under this part.]]~~

457 (1) A member of an illegal alien family shall apply for a permit for the illegal alien  
 458 family by no later than 180 days following the program start date. The department may not  
 459 accept an application after 180 days following the program start date.

460 (2) If all qualifying members of the illegal alien family to which a permit is issued have  
 461 committed only a civil violation of federal immigration law by overstaying a United States visa

462 issued by a competent authority, have never worked without legal authorization, have never  
463 obtained or used fraudulent documents, and have never committed any other infraction of  
464 immigration, labor, civil, or criminal law, the department may issue a transition A permit for  
465 the illegal alien family if the requirements of this part are met, and the transition A permit:

466 (a) exempts the qualifying members of the illegal alien family from the three and ten  
467 year bars to entry under 8 U.S.C. Sec. 1182(a)(9) that applies to foreign nationals who overstay  
468 a visa; and

469 (b) allows a permit holder to adjust the permit holder's status while in the United  
470 States, with the applicable visa being processed and issued to the permit holder in person at a  
471 designated United States Consulate in a foreign nation.

472 (3) If one or more qualifying members of the illegal alien family to which a permit is  
473 issued legally entered the United States, but subsequently overstayed a United States visa  
474 issued by a competent authority and worked without legal authorization, obtained or used  
475 fraudulent documents, or committed any other infraction of immigration, labor, civil, or  
476 criminal law, the department may issue a transition B permit to the illegal alien family if the  
477 requirements of this part are met, and the transition B permit:

478 (a) provides the illegal alien family one year from the date the transition B permit is  
479 issued to return to the country of origin;

480 (b) is considered as a positive factor in support of a request for the waiver of the three  
481 and ten year bars to entry under 8 U.S.C. Sec. 1182(a)(9) that applies to foreign nationals who  
482 overstay a visa; and

483 (c) does not allow a permit holder to adjust the permit holder's status in the United  
484 States.

485 (4) The applicant for a permit has the burden of proof as to whether:

486 (a) a qualifying member has not committed any infraction of immigration, labor, civil,  
487 or criminal law other than overstaying a properly issued United States visa; and

488 (b) the illegal alien family meets the requirements of this part.

489 ~~[(3)]~~ (5) [Subject to Subsection (4), a] A permit is not considered an identification  
490 document for purposes of Section 63G-12-401, and may not be used as identification or proof  
491 of the permit holder's age for any state or local government required purpose.

492 ~~[(4) An undocumented individual]~~

493 (6) An illegal alien may not use a permit:

494 (a) to establish entitlement to a federal, state, or local benefit as described in Section  
495 63G-12-402; or

496 (b) to obtain work or provide services [~~in a state other than Utah~~].

497 (7) (a) A permit holder of a transition A permit shall apply for regularization of status  
498 within one year of the day on which the permit is issued and actively seek regularization of  
499 status, or the permit holder is required to leave the United States.

500 (b) A permit holder of a transition B permit shall leave the United States within one  
501 year of the day on which the transition B permit is issued.

502 (8) If a permit holder obtains a visa pursuant to federal law, the recipient of the visa is  
503 not eligible for an affirmative action program or other program that provides benefits on the  
504 basis of race or ethnicity.

505 (9) If a permit holder obtains a visa pursuant to federal law under which the permit  
506 holder may be employed, an employer employing the permit holder shall:

507 (a) pay the permit holder a wage that exceeds 133% of the federal poverty level based  
508 on family size; and

509 (b) provide the permit holder at a minimum a basic health insurance plan.

510 Section 11. Section **63G-12-205** is amended to read:

511 **63G-12-205. Eligibility criteria to obtain and maintain a permit.**

512 (1) [~~For~~] For an illegal alien family to be eligible to obtain or maintain a [guest worker  
513 permit, an undocumented individual shall:] permit, each qualifying member of the illegal alien  
514 family shall:

515 [~~(a) (i) be 18 years of age or older; or]~~

516 [~~(ii) if younger than 18 years of age, have the permission of a parent or guardian;]~~

517 [~~(b) live in Utah;]~~

518 [~~(c) have worked or lived in Utah before May 10, 2011;]~~

519 (a) have lived in the United States for at least five years;

520 (b) have been domiciled in Utah on January 1, 2011, as proven by documents provided  
521 to the department directly by employers, utility companies, or other primary sources under  
522 penalty of perjury;

523 (c) have been and continue to be self-sufficient;

524 (d) be sponsored by a sponsor that meets the requirements of Section 63G-12-205.5;

525 (e) cease illegal activities, including unlawful employment and employment related  
526 felonies;

527 (f) pay any fine required under Section 63G-12-207 and, when applicable, verify that  
528 the qualifying member's employer's business license is revoked or is in the process of being  
529 revoked;

530 ~~[(d)]~~ (g) provide relevant contact information and regularly update the relevant contact  
531 information in a manner required by rule made in accordance with Chapter 3, Utah  
532 Administrative Rulemaking Act;

533 ~~[(e) provide documentation of a contract for hire under which the undocumented~~  
534 ~~individual begins to provide services within at least 30 days of the day on which the~~  
535 ~~undocumented individual obtains the permit;]~~

536 ~~[(f)]~~ (h) (i) agree to a ~~[criminal]~~ background check described in Subsection ~~[(3); and]~~  
537 (4) if the qualifying member is 16 years of age or older;

538 (ii) provide proof of a residence in Utah;

539 (iii) provide the information as required under Subsection (4); and

540 ~~[(ii)]~~ (iv) not have been convicted of, pled guilty to, pled no contest to, pled guilty in a  
541 similar manner to, or resolved by diversion or its equivalent to a ~~[serious]~~ felony or a crime that  
542 would make the qualifying member inadmissible under 8 U.S.C. Sec. 1182;

543 ~~[(g)]~~ (i) provide evidence satisfactory to the department that the ~~[person]~~ qualifying  
544 member would not be inadmissible for public health grounds under 8 U.S.C. Sec. 1182;

545 ~~[(h)]~~ (j) (i) be covered by a basic health insurance plan; or

546 (ii) provide evidence satisfactory to the department that the ~~[undocumented individual]~~  
547 qualifying member has no medical debt that is past due and agrees to have no medical debt that  
548 is past due during the term of the permit; and

549 ~~[(i)]~~ (i) ~~hold a driving privilege card issued in accordance with Section 53-3-207; or]~~

550 ~~[(ii)]~~ (k) provide evidence satisfactory to the department that the ~~[undocumented~~  
551 ~~individual]~~ qualifying member will not drive a motor vehicle in the state.

552 (2) The department may not issue a permit to an illegal alien family and an illegal alien  
553 family may not hold a permit if a qualifying member of the illegal alien family;

554 (a) has used or is using a fraudulent document to obtain employment or other benefit

555 that the qualifying member is not entitled to receive as an illegal alien unless the qualifying  
556 member:

557 (i) ends the illegal activity;

558 (ii) pays the fine under Subsection 63G-12-207(3)(a)(i); and

559 (iii) verifies that any private employer who employed the qualifying member has its  
560 business license either revoked or is in the process of being revoked as provided in Subsection  
561 63G-12-207(3)(c);

562 (b) has falsified an I-9 form unless the qualifying member pays the fine under  
563 Subsection 63G-12-207(3)(a)(i) and any private employer who employed the qualifying  
564 member has its business license either revoked or is in the process of being revoked as  
565 provided in Subsection 63G-12-207(3)(c);

566 (c) collects or has collected a federal, state, or local benefit described in Section  
567 63G-12-402 unless the fine is paid under Subsection 63G-12-207(3)(a)(ii);

568 (d) is convicted of, pled guilty to, pled no contest to, pled guilty in a similar manner to,  
569 or resolved by diversion or its equivalent to a felony in this state or any other state;

570 (e) is convicted of, pled guilty to, pled no contest to, pled guilty in a similar manner to,  
571 or resolved by diversion or its equivalent to driving under the influence of alcohol or drugs in  
572 this state or any other state;

573 (f) is or has been involved in a criminal street gang as defined in Section 76-9-802;

574 (g) fails to file a federal or state income tax return that the qualifying member was  
575 required to file during the five years immediately preceding the day on which the application  
576 for a permit is filed, unless taxes are paid or a fine is paid in accordance with Subsections  
577 63G-12-207(3)(a)(iii)(A) and (B);

578 (h) has illegally entered the United States; or

579 (i) participates in organized criminal conduct, including organized crime that has as a  
580 purpose the creation, distribution, and sale of fraudulent documents.

581 ~~(2)~~ (3) The department may by rule made in accordance with Chapter 3, Utah  
582 Administrative Rulemaking Act, provide for the documentation required to establish eligibility  
583 under Subsection (1) and that an illegal alien family is not disqualified under Subsection (2).  
584 When making a rule under this section, the department shall use federal standards as a  
585 guideline to avoid unnecessary duplication and additional costs.

586           ~~[(3)]~~ (4) (a) The department shall require ~~[an undocumented individual applying for a~~  
587 ~~guest worker permit, or renewing a guest worker]~~ each qualifying member who is 16 years of  
588 age or older of an illegal alien family applying for a permit, to submit to a [criminal]  
589 background check as a condition of receiving a permit or renewing [the guest worker] a  
590 transition permit.

591           (b) ~~[An undocumented individual]~~ A qualifying member required to submit to a  
592 ~~[criminal]~~ background check under Subsection ~~[(3)]~~ (4)(a), shall:

593           (i) submit a fingerprint card in a form acceptable to the department; ~~and]~~

594           (ii) provide a list of all residences in Utah;

595           (iii) provide a list of current and past employers in Utah;

596           (iv) provide all names and aliases used by the qualifying member while in the United  
597 States;

598           (v) provide the documents used to gain employment and pay taxes for the qualifying  
599 member, including Social Security cards, W-2 forms, income tax returns, and documents used  
600 to prove legal status when completing an I-9 form;

601           (vi) authorize current and former employers to provide copies of all documents  
602 associated with employment, including:

603           (A) W-2 forms or other certified payroll forms that include the one or more Social  
604 Security numbers used to obtain employment; and

605           (B) copies of I-9 forms completed by the qualifying member;

606           (vii) complete a request for a transcript for a tax return from the Internal Revenue  
607 Service and designate the department as the recipient of the information for each year the  
608 qualifying member has resided in the United States;

609           (viii) provide a police record from the country of origin if the qualifying member was  
610 18 years of age or older before entering the United States;

611           (ix) provide a certified birth certificate from the country of origin that is sent directly  
612 from the issuing office in the country of origin to the department; and

613           ~~[(4)]~~ (x) consent to a fingerprint background check by:

614           (A) the Utah Bureau of Criminal Identification; and

615           (B) the Federal Bureau of Investigation, including the secure communities program  
616 when possible.

617 (c) For ~~[an undocumented individual]~~ a qualifying member who submits a fingerprint  
618 card and consents to a fingerprint background check under Subsection ~~[(3)]~~ (4)(b), the  
619 department may request:

620 (i) criminal background information maintained pursuant to Title 53, Chapter 10, Part  
621 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

622 (ii) complete Federal Bureau of Investigation criminal background checks through the  
623 national criminal history system and secure communities program.

624 (d) Information obtained by the department from the review of criminal history records  
625 received under this Subsection ~~[(3)]~~ (4) shall be used by the department to determine eligibility  
626 to obtain a permit.

627 (e) The department shall:

628 (i) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau  
629 of Investigation in providing the department criminal background information under this  
630 Subsection ~~[(3)]~~ (4); and

631 (ii) in accordance with Section 63J-1-504, charge the ~~[undocumented individual]~~  
632 qualifying member applying for the permit a fee equal to the aggregate of the costs incurred by  
633 the department under this Subsection ~~[(3)]~~ (4) and the amount paid under Subsection ~~[(3)]~~  
634 (4)(e)(i).

635 Section 12. Section **63G-12-205.5** is enacted to read:

636 **63G-12-205.5. Sponsorships.**

637 (1) (a) An individual who is a United States citizen, a business, or an organization may  
638 sponsor an illegal alien family to which a permit is issued under this part by agreeing to assume  
639 100% of the financial responsibility for the illegal alien family that is not covered by the illegal  
640 alien family.

641 (b) To sponsor an illegal alien family to which is issued a transition A permit, the  
642 sponsor shall agree to sponsor the illegal alien family for five years.

643 (c) To sponsor an illegal alien family to which is issued a transition B permit, the  
644 sponsor shall agree to sponsor the illegal alien family for the shorter of:

645 (i) the term of the permit; or

646 (ii) until the family departs the United States.

647 (2) The department by rule made in accordance with Chapter 3, Utah Administrative

648 Rulemaking Act, shall establish eligibility requirements to be a sponsor, except that at a  
649 minimum the eligibility requirements shall require that a sponsor:

650 (a) who is an individual:

651 (i) prove an income level at or above 133% of the federal poverty level for household  
652 size; or

653 (ii) meet an alternative test created by the department that considers assets as well as  
654 income; and

655 (b) that is a business or organization:

656 (i) prove it has income and assets adequate to accept the financial obligation described  
657 in Subsection (1); and

658 (ii) have a director, officer, or person in a similar position, personally guaranty that if  
659 the business or organization fails to meet an obligation under this section, the individual will be  
660 personally liable for the obligation under this section.

661 (3) (a) The department by rule made in accordance with Chapter 3, Utah  
662 Administrative Rulemaking Act, shall define what constitutes an assumption of financial  
663 responsibility for an illegal alien family, except that at a minimum the rules shall require that  
664 the sponsor agrees:

665 (i) to accept responsibility for any financial liability the illegal alien family incurs while  
666 participating in the program; and

667 (ii) that the state may consider the sponsor's income and assets to be available for the  
668 support of the illegal alien family sponsored by the sponsor.

669 (b) A sponsor violates this chapter if the sponsor fails to pay a financial liability of an  
670 illegal alien family that is not paid by the illegal alien family and that is subject to the sponsor's  
671 assumption of financial responsibility for the illegal alien family.

672 (4) (a) To terminate the sponsorship of an illegal alien family, an individual, business,  
673 or organization shall:

674 (i) notify the department; and

675 (ii) provide evidence satisfactory to the department that the illegal alien family no  
676 longer resides in the United States.

677 (b) A sponsorship is terminated the day on which the department certifies that the  
678 sponsor has complied with Subsection (4)(a).

679 (5) A sponsor shall prove to the satisfaction of the department that an illegal alien  
680 family leaves the United States if:

681 (a) the illegal alien family is disqualified from the program; or

682 (b) the sponsor terminates sponsorship.

683 Section 13. Section **63G-12-207** is amended to read:

684 **63G-12-207. Application and renewal process.**

685 (1) (a) The department may not issue a permit under this part until the program is  
686 implemented under Section 63G-12-202. The department may not issue a permit to an illegal  
687 alien family until all members of the illegal alien family meet the requirements for the permit.

688 (b) The department shall reject a permit received after the 180-day deadline described  
689 in Section 63G-12-204 or that is not complete when the 180-day deadline expires.

690 (c) The department shall issue a permit within 90 days of receipt of a complete permit  
691 application.

692 (d) A permit is valid for one year from the date of issuance. A transition A permit may  
693 be renewed annually in accordance with this section.

694 (2) The department shall:

695 (a) create a permit that:

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

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

698 (b) ensure that a permit:

699 (i) includes a photograph of the ~~[undocumented individual to whom]~~ qualifying  
700 member of the illegal alien family to which the permit is issued;

701 (ii) prominently states the day on which the permit expires; and

702 (iii) prominently states the type of permit.

703 ~~[(3) A permit expires two years from the day on which the department issues the~~  
704 ~~permit.]~~

705 ~~[(4) (a) Before an undocumented individual may apply for an initial permit under this~~  
706 ~~part the undocumented individual shall commit to pay a fine equal to:]~~

707 ~~[(i) \$1,000, if the undocumented individual enters into the United States legally, but at~~  
708 ~~the time of paying the fine is not in compliance with the Immigration and Nationality Act, 8~~  
709 ~~U.S.C. Sec. 1101 et seq. with regard to presence in the United States; or]~~

710 ~~[(ii) \$2,500, if the undocumented individual enters into the United States illegally;]~~

711 ~~[(b) The department by rule made in accordance with Chapter 3, Utah Administrative~~  
712 ~~Rulemaking Act, shall make rules that provide for:]~~

713 ~~[(i) how an undocumented individual demonstrates a commitment to pay the fine~~  
714 ~~required under Subsection (4)(a);]~~

715 ~~[(ii) one or more payment plans that an undocumented individual may use to pay a fine~~  
716 ~~required under Subsection (4)(a); and]~~

717 ~~[(iii) the consequences for failure to pay the entire amount of a fine required under~~  
718 ~~Subsection (4)(a);]~~

719 ~~[(5) After committing to pay the fine in accordance with Subsection (4), to apply for or~~  
720 ~~renew a permit, an undocumented individual]~~

721 (3) (a) The department by rule made in accordance with Chapter 3, Utah  
722 Administrative Rulemaking Act, shall make rules that provide for the payment of the following  
723 as a condition for applying for a permit:

724 (i) the payment of a fine of \$5,000 for an illegal alien family when one qualifying  
725 member of the illegal alien family, or \$10,000 for an illegal alien family when more than one  
726 qualifying member of the illegal alien family has used one or more of the following:

727 (A) a fraudulent document;

728 (B) an unlawfully obtained Social Security number;

729 (C) a Social Security number that is no longer valid for employment purposes;

730 (D) a tax identification number for employment; or

731 (E) false information on an I-9 form;

732 (ii) the payment by the illegal alien family of a fine equal to 100% of the value of the  
733 federal, state, or local benefits described in Section 63G-12-402 received by any qualifying  
734 member up to \$10,000 and 25% of the value of benefits received in excess of \$10,000; and

735 (iii) the payment by the illegal alien family of:

736 (A) all unpaid state and federal income taxes and payroll taxes required to be paid by a  
737 qualifying member when income tax returns have not been filed or when payroll taxes owed by  
738 the qualifying member have not been paid; or

739 (B) if income was not documented by the issuance of an Internal Revenue Service  
740 form, for each qualifying member who has earned income during any of the past five years, a

741 penalty of \$3,000 per year of unpaid taxes.

742 (b) A fine paid under this Subsection (3) shall be deposited into the Identity Theft  
743 Victims Restricted Account created in Section 67-5-22.7.

744 (c) If a government entity that issues a private employer a business license is notified  
745 that the private employer has done one of the following, the government entity shall revoke the  
746 business license if the government entity finds that the private employer has done one of the  
747 following:

748 (i) paid cash to a qualifying member for services rendered;

749 (ii) used the services of the qualifying member as an independent contractor who was  
750 hired for more than five days in a calendar year; or

751 (iii) unless the private employer can prove that the private employer used a status  
752 verification system and the status verification system indicated that the qualifying member  
753 could be employed, employed a qualifying member who has done the following:

754 (A) used a fraudulent document;

755 (B) used an unlawfully obtained Social Security number or the identifying information  
756 of a citizen of the United States; or

757 (C) falsified an I-9 form.

758 (4) An applicant shall submit to the department, in a form acceptable under this part:

759 (a) an application;

760 (b) documentation of meeting the criteria in Section 63G-12-205 [~~or 63G-12-206~~];

761 (c) for a renewal of a transition A permit, documentation of efforts to [~~comply with~~  
762 Section 63G-12-209] apply for regularization of status in the United States as required by  
763 Section 63G-12-204;

764 (d) a signed statement verifying the information in the application and documentation;  
765 and

766 (e) a fee established by the department in accordance with Section 63J-1-504 that  
767 covers the costs associated with the processing, issuance, and administration of the program.

768 ~~[(6) If an undocumented individual]~~

769 (5) If a member of an illegal alien family submits a complete application under  
770 Subsection [~~(5)~~] (4) and the department determines that the [~~undocumented individual~~] illegal  
771 alien family meets the criteria of Section 63G-12-205 [~~or 63G-12-206~~], the department shall

772 issue ~~[or] a transition A or B permit, or for a transition A permit,~~ renew~~[-]~~ the transition A  
 773 permit.

774 ~~[(a) a guest worker permit, if the undocumented individual qualifies under Section~~  
 775 ~~63G-12-205; and]~~

776 ~~[(b) an immediate family permit, if the undocumented individual qualifies under~~  
 777 ~~Section 63G-12-206.]~~

778 ~~[(7) An undocumented individual]~~

779 (6) A member of an illegal alien family may appeal a denial of a permit under this  
 780 section in accordance with Chapter 4, Administrative Procedures Act.

781 ~~[(8) (a) If a waiver, exemption, or authorization provides]~~

782 (7) If the changes to federal law described in Section 63G-12-202 provide for the  
 783 following, in addition to the requirements of Subsection ~~[(5)]~~ (4), for an application to be  
 784 considered complete for purposes of Subsection ~~[(6)]~~ (5), an ~~[undocumented individual]~~ illegal  
 785 alien family applying for a ~~[guest worker]~~ permit shall:

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

788 ~~[(ii)]~~ (b) provide written certification by the ~~[undocumented individual's]~~ illegal alien  
 789 family's country of origin ~~[in accordance with Subsection (8)(b)]~~ of a guarantee of compliance  
 790 with this part.

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

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

798 Section 14. Section **63G-12-208** is amended to read:

799 **63G-12-208. Conditions during permit term.**

800 (1) ~~[A permit holder]~~ An illegal alien family and an illegal alien family's sponsor shall  
 801 continue to meet the eligibility criteria under ~~[Section]~~ Sections 63G-12-205 ~~[or 63G-12-206]~~  
 802 and 63G-12-205.5 for the ~~[type of]~~ permit held by the ~~[permit holder.]~~ illegal alien family. An

803 illegal alien family shall leave the United States no later than 90 days after the date that the  
804 permit is revoked if:

805 (a) a permit holder or a sponsor fails to meet the eligibility criteria of the permit; or

806 (b) a permit is revoked under Subsection (2).

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

808 (a) ~~[the permit holder to whom it]~~ a qualifying member of the illegal alien family to  
809 which the permit is issued is convicted of, pleads guilty to, pleads no contest to, pleads guilty  
810 in a similar manner to, or has resolved by diversion or its equivalent a [serious felony] violation  
811 of a felony or class A, B, or C misdemeanor;

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

814 ~~[(c) for an immediate family permit, the guest worker permit under which the~~  
815 ~~immediate family member's permit is issued is revoked or expires under this part.]~~

816 (b) a qualifying member of the illegal alien family to which the permit is issued applies  
817 for or elects to receive public benefits either for the qualifying member or for another  
818 qualifying family member of the illegal alien family;

819 (c) a qualifying member obtains or uses a fraudulently obtained document or Social  
820 Security number;

821 (d) a sponsor fails to meet its obligations; or

822 (e) any member of the illegal alien family works in violation of Subsection  
823 63G-12-211(2).

824 (3) (a) A permit holder of a transition A permit is required to provide, during the first  
825 term of the transition A permit, 160 hours of community service with refugees in the  
826 community in which the permit holder resides, or if refugees are not present, with other legal  
827 immigrants in the community if the permit holder is 18 years of age or older and is eligible to  
828 regularize status in the United States.

829 (b) The department shall by rule, made in accordance with Title 63G, Chapter 3, Utah  
830 Administrative Rulemaking Act, provide:

831 (i) criteria for what constitutes community service; and

832 (ii) for monitoring compliance with this Subsection (3) by a permit holder.

833 Section 15. Section **63G-12-210** is amended to read:

834 **63G-12-210. Protected status of information -- Database.**

835 ~~[(1) (a) The department shall develop a verification procedure by rule made in~~  
836 ~~accordance with Chapter 3, Utah Administrative Rulemaking Act, for a person who hires a~~  
837 ~~permit holder to verify with the department that the permit is valid as required by Section~~  
838 ~~63G-12-301.]~~

839 ~~[(b) The verification procedure adopted under this Subsection (1) shall:]~~

840 ~~[(i) be substantially similar to the employer requirements to verify federal employment~~  
841 ~~status under the e-verify program; and]~~

842 ~~[(ii) provide that an undocumented individual may appeal a determination that a permit~~  
843 ~~is invalid in accordance with Chapter 4, Administrative Procedures Act.]~~

844 ~~[(2)]~~ (1) Subject to Section 63G-12-212 and Subsection (2), a record under this part is  
845 a protected record under Chapter 2, Government Records Access and Management Act, except  
846 that a record may not be shared under Section 63G-2-206, unless:

847 (a) requested by the Office of Legislative Auditor General in accordance with Section  
848 36-12-15; or

849 ~~[(b) disclosed to the State Tax Commission as provided in Subsection~~  
850 ~~63G-12-203(2)(e)(vi); or]~~

851 ~~[(c)]~~ (b) disclosed to a federal government entity in accordance with this part [or a  
852 waiver, exemption, or authorization] the requirements imposed in a change in federal law  
853 described in Section 63G-12-202.

854 ~~[(3) The state is not liable to any person for:]~~

855 ~~[(a) the design, implementation, or operation of a verification procedure under this~~  
856 ~~part;]~~

857 ~~[(b) the collection and disclosure of information as part of a verification procedure~~  
858 ~~under this part; or]~~

859 ~~[(c) the determination that a permit is invalid.]~~

860 (2) The department shall create a secure database that can be accessed by Social  
861 Security number holders and the legal guardians of Social Security number holders to  
862 determine if the individual's Social Security number has been used by a permit holder for  
863 employment purposes. A victim of employment related identity theft may use the report from  
864 the database to provide that the individual is a victim of employment related identity theft and

865 to claim reimbursement from the Identity Theft Victims Restricted Account under Section  
 866 67-5-22.7.

867 Section 16. Section **63G-12-211** is amended to read:

868 **63G-12-211. Prohibited conduct -- Administrative penalties -- Criminal penalties.**

869 (1) (a) A permit holder may not file for or receive unemployment benefits.

870 (b) A permit holder may not claim an earned income tax credit or child tax credit when  
 871 back taxes are filed in order to qualify for a transition A permit.

872 (2) A person may not:

873 (a) furnish false or forged information or documentation in support of an application;

874 (b) alter the information on a permit;

875 [~~(c) if the person is a guest worker, be reported absent from work for 10 consecutive~~  
 876 ~~days without the approval of the person who hires the guest worker;]~~

877 [~~(d)~~] (c) allow an individual to use a permit if the individual is not entitled to use the  
 878 permit;

879 [~~(e)~~] (d) display or represent that a permit is issued to an individual, if the permit is not  
 880 issued to the individual;

881 [~~(f)~~] (e) display a revoked permit as a valid permit;

882 [~~(g)~~] (f) knowingly or with reckless disregard acquire, use, display, or transfer an item  
 883 that purports to be a valid permit, but that is not a valid permit; [~~or~~]

884 (g) provide services for compensation as an employee, independent contractor, or  
 885 owner of a business; or

886 (h) otherwise violate this part.

887 (3) For a violation described in Subsections (1) and (2), the department may:

888 (a) [~~suspend, limit, or~~] revoke and repossess a permit and report the illegal alien family  
 889 to which the permit is issued to the United States Immigration and Custom Enforcement;

890 (b) impose a civil penalty not to exceed [~~\$750~~] \$5,000 for each violation; or

891 (c) take a combination of actions under this section.

892 (4) A person is guilty of a class B misdemeanor if the person:

893 (a) furnishes false or forged information or documentation in support of an application;

894 or

895 (b) alters the information on a permit.

896 Section 17. Section **63G-12-212** is amended to read:

897 **63G-12-212. Sharing of information related to enforcement.**

898 (1) The department shall provide the notice described in Subsection (2), if the  
899 department determines that an ~~[undocumented individual]~~ illegal alien:

900 (a) has the ~~[undocumented individual's]~~ illegal alien's permit revoked; or

901 (b) permits the ~~[undocumented individual's]~~ illegal alien's permit to expire and the  
902 department has reason to believe that the ~~[undocumented individual]~~ illegal alien continues to  
903 reside in the state.

904 (2) (a) The department shall provide the notice required by Subsection (1) to:

905 (i) Utah's attorney general; and

906 (ii) United States Immigration and Customs Enforcement.

907 (b) The notice described in Subsection (2)(a) shall:

908 (i) include:

909 (A) the last known address of the ~~[undocumented individual]~~ illegal alien; and

910 (B) the basis of the notice described in Subsection (1); and

911 (ii) be sent promptly after the day on which the time to appeal, if any, the action that is  
912 the basis for the notification under Subsection (1) ends.

913 Section 18. Section **63G-12-213** is enacted to read:

914 **63G-12-213. State participation in law enforcement.**

915 (1) As used in this section:

916 (a) "Enforcement program start date" means the day on which the governor makes a  
917 written finding that the president of the United States has signed into law the amendments to  
918 federal immigration law described in Subsection (3).

919 (b) "Law enforcement agency" means a public agency having general police power and  
920 charged with making arrests in connection with enforcement of the criminal statutes and  
921 ordinances of this state or a political subdivision.

922 (2) The governor shall provide the speaker of the House of Representatives, the  
923 president of the Senate, the director of the Office of Legislative Research and General Counsel,  
924 and legislative general counsel a copy of the written finding no later than five business days of  
925 the finding under Subsection (1)(a).

926 (3) In accordance with Section 63G-12-202, the department, under the direction of the

927 governor, shall seek amendments to federal immigration law that authorizes the law  
928 enforcement agencies in the state to:

929 (a) enroll in the federal government's program established pursuant to 8 U.S.C. Sec.  
930 1357(g) on an expedited basis to allow Utah law enforcement officers to enforce federal laws,  
931 including investigations, apprehensions, detentions, and removals of persons who are illegally  
932 present in the United States;

933 (b) receive training provided without cost by the Department of Homeland Security in  
934 Utah; and

935 (c) allow the state to impose sanctions on a law enforcement agency that does not  
936 comply with the program described in Subsection (3)(a).

937 (4) After the enforcement program start date, a law enforcement agency shall identify  
938 and enroll officers in training courses. An officer, upon completion of training, shall enforce  
939 federal laws in accordance with 8 U.S.C. Sec. 1357(g).

940 (5) (a) After the enforcement program start date, a law enforcement agent shall report  
941 by December 31 of each year to the department whether the law enforcement agency is in  
942 compliance with the program described under Subsection (3).

943 (b) If a law enforcement agency fails to report, or on the basis of the report the  
944 department determines that the law enforcement agency is not in compliance with the program:

945 (i) for a first finding of noncompliance, the department shall issue a warning to the law  
946 enforcement agency of noncompliance with this section; and

947 (ii) for a second or subsequent finding of noncompliance:

948 (A) the department shall notify the Division of Finance to suspend the payment of state  
949 money related to law enforcement owed to the state law enforcement agency, or to a county,  
950 city, or town with which the law enforcement agency is affiliated, up to 10% of the state money  
951 owed for the fiscal year in which the suspension of payment occurs until the law enforcement  
952 agency shows compliance; and

953 (B) the chief administrative officer of the law enforcement agency is subject to loss of  
954 certification by the Peace Officer Standards and Training Division as provided in Title 53,  
955 Chapter 6, Peace Officer Standards and Training Act.

956 Section 19. Section **63G-12-403**, which is renumbered from Section 63G-12-302 is  
957 renumbered and amended to read:

958           ~~[63G-12-302].~~           **63G-12-403. Status verification system -- Registration and**  
959 **use -- Performance of services -- Unlawful practice.**

960           (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

989 or after July 1, 2009; or

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

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

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

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

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

1000 (B) which is performed under similar working conditions, as defined in 29 U.S.C.[;]  
1001 Sec. 206 (d)(1), as the job category held by the discharged employee.

1002 (b) An employing entity, which on the date of a discharge in question referred to in  
1003 Subsection (4)(a) is enrolled in and using the Status Verification System to verify the  
1004 employment eligibility of its employees in Utah who are hired on or after July 1, 2009, is  
1005 exempt from liability, investigation, or lawsuit arising from an action under this section.

1006 (c) A cause of action for a violation of this Subsection (4) arises exclusively from the  
1007 provisions of this Subsection (4).

1008 [~~(5) On and after the program start date:~~]

1009 [~~(a) a public employer, after hiring an employee, shall verify the employment eligibility  
1010 of the new employee:]~~

1011 [~~(i) through the status verification system if the individual does not hold a permit; and]~~

1012 [~~(ii) through the u-verify program if the individual holds a permit; and]~~

1013 [~~(b) a contractor is considered to be in compliance with this section if, after hiring an  
1014 employee, the contractor verifies the employment eligibility of the new employee:]~~

1015 [~~(i) through the status verification system if the individual does not hold a permit; and]~~

1016 [~~(ii) through the u-verify program if the individual holds a permit.]~~

1017 Section 20. Section **63G-12-501** is enacted to read:

1018 **Part 5. IMAGE Program**

1019 **63G-12-501. Definition.**

1020 (1) As used in this part, "IMAGE program start date" means the day that is 90 days  
1021 after the day on which the governor makes a written finding that the state has received the  
1022 amendments to federal law under Section 63G-12-502.

1023 (2) The governor shall provide the speaker of the House of Representatives, the  
1024 president of the Senate, the director of the Office of Legislative Research and General Counsel,  
1025 and legislative general counsel a copy of the written finding no later than five business days of  
1026 the finding under Subsection (1).

1027 Section 21. Section **63G-12-502** is enacted to read:

1028 **63G-12-502. Amendments to federal immigration law.**

1029 In accordance with Section 63-12-202, the department, under the direction of the  
1030 governor, shall seek amendments to federal immigration law that:

1031 (1) authorizes Utah to require private employers to enroll in the IMAGE program on an  
1032 expedited basis;

1033 (2) requires the appropriate federal agency to meet enrollment demands; and

1034 (3) authorizes the state to impose sanctions on private employers who do not comply  
1035 with the requirement to participate in the IMAGE program.

1036 Section 22. Section **63G-12-503** is enacted to read:

1037 **63G-12-503. Participation in IMAGE program.**

1038 (1) On or after the IMAGE program start date, a private employer employing one or  
1039 more employees within the state shall enroll in the IMAGE program.

1040 (2) A private employer shall display a record of its enrollment in the IMAGE program  
1041 in a location that is visible to the general public.

1042 (3) On or after the IMAGE program start date, a private employer shall submit proof to  
1043 the agency issuing a business permit of enrollment in the IMAGE program when the private  
1044 employer applies for or renews a business license.

1045 (4) On or after the IMAGE program start date, an agency may not issue or renew a  
1046 business license to a private employer if the private employer is not enrolled in the IMAGE  
1047 program.

1048 Section 23. Section **63G-12-504** is enacted to read:

1049 **63G-12-504. Private right of action.**

1050 On or after the IMAGE program start date, an individual who is a victim of identity

1051 theft by an illegal alien employed by a private employer who is not enrolled in the IMAGE  
1052 program may bring an action in a court of competent jurisdiction for damages against the  
1053 employer.

1054 Section 24. Section **63G-12-601** is enacted to read:

1055 **Part 6. Visa Programs**

1056 **63G-12-601. Visa tied to United States Agency for International Development.**

1057 (1) The governor shall urge Utah's congressional delegation to support the  
1058 establishment of a temporary worker program that coordinates with United States Agency for  
1059 International Development programs and meets the requirements of this section.

1060 (2) Under the temporary worker program established under Subsection (1), a temporary  
1061 worker shall be sponsored by the United States Agency for International Development and  
1062 work in the United States in an appropriate job, as determined by the United States Agency for  
1063 International Development, for three years to learn skills directly related to a United States  
1064 Agency for International Development's development assistance program that is funded in a  
1065 foreign nation.

1066 (3) A temporary worker in the program created under this section shall be:

1067 (a) paid a competitive wage and benefits;

1068 (b) receive on-the-job training;

1069 (c) learn English; and

1070 (d) be taught basic business skills that will be applied upon return to the participant's  
1071 country of origin.

1072 (4) At the end of three years, the temporary worker will return to the temporary  
1073 worker's country of origin to apply the skills learned.

1074 Section 25. Section **63G-12-602** is enacted to read:

1075 **63G-12-602. Employment visas lined to unemployment rate.**

1076 (1) The governor shall urge Utah's congressional delegation to support the  
1077 establishment of a flexible program that coordinates existing temporary worker visa categories  
1078 with the unemployment rate in the United States and meets the requirements of this section.

1079 (2) (a) Under the program established under this section the number of temporary  
1080 worker visas issued shall be based on the unemployment rate in the local market and in each  
1081 sector of the economy.

1082           **(b) Visa numbers may increase when the unemployment rate falls below 4% and**  
1083 **continue to increase as unemployment decreases.**

1084           **(c) When unemployment increases, temporary workers will be the first to be terminated**  
1085 **from employment and the number of visas will decrease and visa renewals will be limited to**  
1086 **ensure that citizens of the United States remain employed.**

1087           Section 26. Section **63G-12-604** is enacted to read:

1088           **63G-12-604. Three year agriculture visa.**

1089           **(1) The governor shall urge Utah's congressional delegation to support the**  
1090 **establishment of a three year agriculture visa that applies to year around operations and meets**  
1091 **the requirements of this section.**

1092           **(2) A visa established under this section shall:**

1093           **(a) be the equivalent of the H1B Visa;**

1094           **(b) allow a temporary worker to remain for three years, except that the visa may be**  
1095 **renewed for an additional three-year period; and**

1096           **(c) require that the visa holder is authorized to work for one specific company and have**  
1097 **the ability to change employers only under limited circumstances.**

1098           Section 27. Section **63I-2-213** is amended to read:

1099           **63I-2-213. Repeal dates -- Title 13.**

1100           Title 13, Chapter 47, Private Employer Verification Act, is repealed on the IMAGE  
1101 program start date, as defined in Section [~~63G-12-102~~] 63G-12-501.

1102           Section 28. Section **67-5-22.7** is amended to read:

1103           **67-5-22.7. Multi-agency strike force to combat violent and other major felony**  
1104 **crimes associated with illegal immigration and human trafficking -- Fraudulent**  
1105 **Documents Identification Unit.**

1106           (1) The Office of the Attorney General is authorized to administer and coordinate the  
1107 operation of a multi-agency strike force to combat violent and other major felony crimes  
1108 committed within the state that are associated with illegal immigration and human trafficking.

1109           (2) The office shall invite officers of the U.S. Immigration and Customs Enforcement  
1110 and state and local law enforcement personnel to participate in this mutually supportive,  
1111 multi-agency strike force to more effectively utilize their combined skills, expertise, and  
1112 resources.

1113 (3) The strike force shall focus its efforts on detecting, investigating, deterring, and  
1114 eradicating violent and other major felony criminal activity related to illegal immigration and  
1115 human trafficking.

1116 (4) In conjunction with the strike force and subject to available funding, the Office of  
1117 the Attorney General shall establish a Fraudulent Documents Identification Unit:

1118 (a) for the primary purpose of investigating, apprehending, and prosecuting individuals  
1119 or entities that participate in the sale or distribution of fraudulent documents used for  
1120 identification purposes;

1121 (b) to specialize in fraudulent identification documents created and prepared for  
1122 individuals who are unlawfully residing within the state; and

1123 (c) to administer the Identity Theft Victims Restricted Account created under  
1124 Subsection (5).

1125 (5) (a) There is created a restricted account in the General Fund known as the "Identity  
1126 Theft Victims Restricted Account."

1127 (b) The Identity Theft Victims Restricted Account shall consist of money [~~appropriated~~  
1128 ~~to the Identity Theft Victims Restricted Account by the Legislature.~~] deposited into the Identity  
1129 Theft Victims Restricted Account under Section 63G-12-207. If the balance in the Identity  
1130 Theft Victims Restricted Account exceeds \$1,000,000 at the close of any fiscal year, the excess  
1131 shall be transferred to the Immigration Act Restricted Account created in Section 63G-12-103.

1132 (c) Subject to appropriations from the Legislature, beginning on the program start date,  
1133 as defined in Section 63G-12-102, the Fraudulent Documents Identification Unit may expend  
1134 the money in the Identity Theft Victims Restricted Account to pay a claim as provided in this  
1135 Subsection (5) to a person who is a victim of employment related identity theft [~~prosecuted~~  
1136 ~~under Section 76-6-1102 or 76-10-1801~~].

1137 (d) To obtain payment from the Identity Theft Victims Restricted Account, a person  
1138 shall file a claim with the Fraudulent Documents Identification Unit by no later than one year  
1139 after the day on which [~~an individual is convicted, pleads guilty to, pleads no contest to, pleads~~  
1140 ~~guilty in a similar manner to, or resolved by diversion or its equivalent an offense under~~  
1141 ~~Section 76-6-1102 or 76-10-1801 for the theft of the identity of the person filing the claim]~~ the  
1142 person discovers that the person is a victim of employment related identity theft.

1143 (e) A claim filed under this Subsection (5) shall include evidence satisfactory to the

1144 Fraudulent Documents Identification Unit:

- 1145 (i) that the person is the victim of identity theft described in Subsection (5)(d); and
- 1146 (ii) of the actual damages experienced by the person as a result of the identity theft that
- 1147 are not recovered from a public or private source.

1148 (f) The Fraudulent Documents Identification Unit shall pay a claim from the Identity  
1149 Theft Victims Restricted Account:

1150 (i) if the Fraudulent Documents Identification Unit determines that the person has  
1151 provided sufficient evidence to meet the requirements of Subsection (5)(e);

1152 (ii) in the order that claims are filed with the Fraudulent Documents Identification  
1153 Unit; and

1154 (iii) to the extent that it there is money in the Identity Theft Victims Restricted  
1155 Account.

1156 (g) If there is insufficient money in the Identity Theft Victims Restrict Account when a  
1157 claim is filed under this Subsection (5) to pay the claim in full, the Fraudulent Documents  
1158 Identification Unit may pay a claim when there is sufficient money in the account to pay the  
1159 claim in the order that the claims are filed.

1160 (6) The strike force shall make an annual report on its activities to the governor and the  
1161 Legislature's Law Enforcement and Criminal Justice Interim Committee by December 1,  
1162 together with any proposed recommendations for modifications to this section.

1163 Section 29. Section **76-10-526** is amended to read:

1164 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**  
1165 **Exemption for concealed firearm permit holders.**

1166 (1) For purposes of this section, "valid permit to carry a concealed firearm" does not  
1167 include a temporary permit issued under Section 53-5-705.

1168 (2) (a) To establish personal identification and residence in this state for purposes of  
1169 this part, a dealer shall require an individual receiving a firearm to present one photo  
1170 identification on a form issued by a governmental agency of the state.

1171 (b) A dealer may not accept [~~a driving privilege card issued under Section 53-3-207~~]  
1172 the following as proof of identification for the purpose of establishing personal identification  
1173 and residence in this state as required under this Subsection (2)[~~:-~~];

1174 (i) a driving privilege card issued under Section 53-3-207; or

1175           (ii) a permit under Title 63G, Chapter 12, Utah Illegal Alien Family Transition Pilot  
1176 Program.

1177           (3) (a) A criminal history background check is required for the sale of a firearm by a  
1178 licensed firearm dealer in the state.

1179           (b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms  
1180 Licensee.

1181           (4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a  
1182 criminal background check, on a form provided by the bureau.

1183           (b) The form shall contain the following information:

1184           (i) the dealer identification number;

1185           (ii) the name and address of the individual receiving the firearm;

1186           (iii) the date of birth, height, weight, eye color, and hair color of the individual  
1187 receiving the firearm; and

1188           (iv) the Social Security number or any other identification number of the individual  
1189 receiving the firearm.

1190           (5) (a) The dealer shall send the information required by Subsection (4) to the bureau  
1191 immediately upon its receipt by the dealer.

1192           (b) A dealer may not sell or transfer a firearm to an individual until the dealer has  
1193 provided the bureau with the information in Subsection (4) and has received approval from the  
1194 bureau under Subsection (7).

1195           (6) The dealer shall make a request for criminal history background information by  
1196 telephone or other electronic means to the bureau and shall receive approval or denial of the  
1197 inquiry by telephone or other electronic means.

1198           (7) When the dealer calls for or requests a criminal history background check, the  
1199 bureau shall:

1200           (a) review the criminal history files, including juvenile court records, to determine if  
1201 the individual is prohibited from purchasing, possessing, or transferring a firearm by state or  
1202 federal law;

1203           (b) inform the dealer that:

1204           (i) the records indicate the individual is prohibited; or

1205           (ii) the individual is approved for purchasing, possessing, or transferring a firearm;

1206 (c) provide the dealer with a unique transaction number for that inquiry; and  
1207 (d) provide a response to the requesting dealer during the call for a criminal  
1208 background, or by return call, or other electronic means, without delay, except in case of  
1209 electronic failure or other circumstances beyond the control of the bureau, the bureau shall  
1210 advise the dealer of the reason for the delay and give the dealer an estimate of the length of the  
1211 delay.

1212 (8) (a) The bureau may not maintain any records of the criminal history background  
1213 check longer than 20 days from the date of the dealer's request, if the bureau determines that  
1214 the individual receiving the firearm is not prohibited from purchasing, possessing, or  
1215 transferring the firearm under state or federal law.

1216 (b) However, the bureau shall maintain a log of requests containing the dealer's federal  
1217 firearms number, the transaction number, and the transaction date for a period of 12 months.

1218 (9) If the criminal history background check discloses information indicating that the  
1219 individual attempting to purchase the firearm is prohibited from purchasing, possessing, or  
1220 transferring a firearm, the bureau shall inform the law enforcement agency in the jurisdiction  
1221 where the individual resides.

1222 (10) If an individual is denied the right to purchase a firearm under this section, the  
1223 individual may review the individual's criminal history information and may challenge or  
1224 amend the information as provided in Section 53-10-108.

1225 (11) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah  
1226 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all  
1227 records provided by the bureau under this part are in conformance with the requirements of the  
1228 Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

1229 (12) (a) (i) A dealer shall collect a criminal history background check fee of \$7.50 for  
1230 the sale of a firearm under this section.

1231 (ii) This fee remains in effect until changed by the bureau through the process under  
1232 Section 63J-1-504.

1233 (b) (i) The dealer shall forward at one time all fees collected for criminal history  
1234 background checks performed during the month to the bureau by the last day of the month  
1235 following the sale of a firearm.

1236 (ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover

1237 the cost of administering and conducting the criminal history background check program.

1238 (13) An individual with a concealed firearm permit issued under Title 53, Chapter 5,  
1239 Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee  
1240 required in this section for the purchase of a firearm if:

1241 (a) the individual presents the individual's concealed firearm permit to the dealer prior  
1242 to purchase of the firearm; and

1243 (b) the dealer verifies with the bureau that the individual's concealed firearm permit is  
1244 valid.

1245 Section 30. **Repealer.**

1246 This bill repeals:

1247 Section **63G-12-203, Coordination with other federal or state laws or programs.**

1248 Section **63G-12-206, Eligibility to obtain and maintain an immediate family  
1249 permit.**

1250 Section **63G-12-209, Proficiency standards for English.**

1251 Section **63G-12-301, Employing unauthorized alien -- Verification of employment  
1252 eligibility.**

1253 Section **63G-12-303, Liability protections.**

1254 Section **63G-12-304, Voluntary registration by private employer certifying  
1255 participation in verification.**

1256 Section **63G-12-305, Administrative actions -- Defenses.**

1257 Section **63G-12-306, Penalties.**

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Legislative Review Note  
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Office of Legislative Research and General Counsel