

1 **WORKFORCE SERVICES AMENDMENTS**

2 1998 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Orville D. Carnahan**

5 AN ACT RELATING TO WORKFORCE SERVICES; CHANGING THE MAKE UP OF THE
6 CHILD CARE ADVISORY COMMITTEE; REPEALING SECTION ON EMPLOYMENT
7 DECISIONS; AND MAKING TECHNICAL AMENDMENTS IN TERMINOLOGY AND
8 REFERENCES.

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 AMENDS:

11 **35A-1-102**, as last amended by Chapters 174 and 375, Laws of Utah 1997

12 **35A-1-206**, as last amended by Chapter 375, Laws of Utah 1997

13 **35A-2-103**, as last amended by Chapter 375, Laws of Utah 1997

14 **35A-2-201**, as last amended by Chapter 375, Laws of Utah 1997

15 **35A-2-202**, as last amended by Chapters 174 and 375, Laws of Utah 1997

16 **35A-2-203**, as last amended by Chapter 375, Laws of Utah 1997

17 **35A-3-101**, as renumbered and amended by Chapter 375, Laws of Utah 1997

18 **35A-3-103**, as renumbered and amended by Chapter 174, Laws of Utah 1997

19 **35A-3-203**, as last amended by Chapter 196 and renumbered and amended by Chapter 375,
20 Laws of Utah 1997

21 **35A-3-205**, as last amended by Chapters 196, 276 and renumbered and amended by Chapter
22 375, Laws of Utah 1997

23 **35A-3-304**, as enacted by Chapter 174, Laws of Utah 1997

24 **35A-3-504**, as renumbered and amended by Chapter 174, Laws of Utah 1997

25 **35A-3-508**, as renumbered and amended by Chapter 174, Laws of Utah 1997

26 **35A-4-312**, as last amended by Chapter 375, Laws of Utah 1997

27 **35A-4-505**, as last amended by Chapter 375, Laws of Utah 1997

1 RENUMBERS AND AMENDS:

2 **35A-3-115**, (Renumbered from 35A-4-504, as last amended by Chapter 375, Laws of Utah
3 1997)

4 REPEALS:

5 **35A-1-209**, as renumbered and amended by Chapter 375, Laws of Utah 1997

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

7 Section 1. Section **35A-1-102** is amended to read:

8 **35A-1-102. Definitions.**

9 Unless otherwise specified, as used in this title:

10 (1) "Client" means an individual who the department has determined to be eligible for
11 services or benefits under:

12 (a) Chapter 3, Employment Support Act; and

13 ~~[(b) Section 35A-4-504; and]~~

14 ~~[(c)]~~ (b) Chapter 5, Training and Workforce Improvement Act.

15 (2) "Consortium of counties" means an organization of the counties within a regional
16 workforce services area designated under Section 35A-2-101:

17 (a) in which all of the county commissions jointly comply with this title in working with
18 the executive director of the department regarding regional workforce services areas; and

19 (b) (i) that existed as of July 1, 1997; or

20 (ii) that is created on or after July 1, 1997, with the approval of the executive director.

21 (3) "Department" means the Department of Workforce Services created in Section
22 35A-1-103.

23 (4) "Employment [advisor] counselor" means an individual responsible for developing an
24 employment plan and coordinating the services and benefits under this title in accordance with
25 Chapter 2, Regional Workforce Services Areas.

26 (5) "Employment assistance" means services or benefits provided by the department under:

27 ~~[(a) Section 35A-4-504;]~~

28 ~~[(b)]~~ (a) Chapter 3, Employment Support Act; and

29 ~~[(c)]~~ (b) Chapter 5, Training and Workforce Improvement Act.

30 (6) "Employment center" is a location in a regional workforce services area where the
31 services provided by a regional workforce services area under Section 35A-2-201 may be accessed

1 by a client.

2 (7) "Employment plan" means a written agreement between the department and a client
3 that describes:

4 (a) the relationship between the department and the client;

5 (b) the obligations of the department and the client; and

6 (c) the result if an obligation is not fulfilled by the department or the client.

7 (8) "Executive director" means the executive director of the department appointed under
8 Section 35A-1-201.

9 (9) "Public assistance" means:

10 (a) services or benefits provided under Chapter [8] 3, Employment Support Act;

11 (b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;

12 (c) foster care maintenance payments provided with the General Fund or under Title IV-E
13 of the Social Security Act;

14 (d) food stamps; and

15 (e) any other public funds expended for the benefit of a person in need of financial,
16 medical, food, housing, or related assistance.

17 (10) "Regional workforce services area" means a regional workforce services area
18 established in accordance with Chapter 2, Regional Workforce Services Areas.

19 (11) "Stabilization" means addressing the basic living, family care, and social or
20 psychological needs of the client so that the client may take advantage of training or employment
21 opportunities provided under this title or through other agencies or institutions.

22 Section 2. Section **35A-1-206** is amended to read:

23 **35A-1-206. State Council on Workforce Services -- Appointment -- Membership --**
24 **Terms of members -- Compensation.**

25 (1) There is created a State Council on Workforce Services that shall:

26 (a) perform the activities described in Subsection (8);

27 (b) advise on issues requested by the department and the Legislature; and

28 (c) make recommendations to the department regarding:

29 (i) the implementation of Chapters 2, 3, and 5; and

30 [~~(ii) the job placement functions under Chapter 4; and~~]

31 [~~(iii)~~] (ii) the coordination of apprenticeship training.

- 1 (2) (a) The council shall consist of the following voting members:
- 2 (i) each chair of a regional workforce services council appointed under Section 35A-2-103;
- 3 (ii) the superintendent of public instruction or the superintendent's designee;
- 4 (iii) the commissioner of higher education or the commissioner's designee; and
- 5 (iv) the following members appointed by the governor in consultation with the executive
- 6 director:
- 7 (A) four representatives of small employers as defined by rule by the department;
- 8 (B) four representatives of large employers as defined by rule by the department;
- 9 (C) four representatives of employees or employee organizations, including at least one
- 10 representative from nominees suggested by public employees organizations;
- 11 (D) two representatives of the clients served under this title including community-based
- 12 organizations;
- 13 (E) a representative of veterans in the state; and
- 14 (F) the executive director of the Utah State Office of Rehabilitation.
- 15 (b) The following shall serve as nonvoting ex officio members of the council:
- 16 (i) the executive director or the executive director's designee;
- 17 (ii) a legislator appointed by the governor from nominations of the speaker of the House
- 18 of Representatives and president of the Senate;
- 19 (iii) the executive director of the Department of Human Services;
- 20 (iv) the executive director of the Department of Community and Economic Development;
- 21 and
- 22 (v) the executive director of the Department of Health.
- 23 (3) (a) The governor shall appoint one nongovernmental member from the council to be
- 24 the chair.
- 25 (b) The chair shall serve at the pleasure of the governor.
- 26 (4) (a) A member appointed by the governor shall serve a term of four years and may be
- 27 reappointed to one additional term.
- 28 (b) A member shall continue to serve until the member's successor has been appointed and
- 29 qualified.
- 30 (c) Except as provided in Subsection (4)(d), as terms of council members expire, the
- 31 governor shall appoint each new member or reappointed member to a four-year term.

1 (d) Notwithstanding the requirements of Subsection (4)(c), the governor shall, at the time
2 of appointment or reappointment, adjust the length of terms to ensure that the terms of council
3 members are staggered so that approximately one half of the council is appointed every two years.

4 (e) When a vacancy occurs in the membership for any reason, the replacement shall be
5 appointed for the unexpired term.

6 (5) A majority of the voting members constitutes a quorum for the transaction of business.

7 (6) (a) (i) A public member may not receive compensation for the member's services, but
8 may receive per diem and expenses incurred in the performance of the member's official duties at
9 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

10 (ii) A public member may decline to receive per diem and expenses for the member's
11 service.

12 (b) (i) A state government member who does not receive salary, per diem, or expenses
13 from the state for the member's service may receive per diem and expenses incurred in the
14 performance of the member's official duties as a member at the rates established by the Division
15 of Finance under Sections 63A-3-106 and 63A-3-107.

16 (ii) A state government member who is a member because of the member's state
17 government position may not receive per diem or expenses for the member's service.

18 (iii) A state government member may decline to receive per diem and expenses for the
19 member's service.

20 (c) A legislator on the council shall receive compensation and expenses as provided by law
21 and legislative rule.

22 (d) A higher education member who does not receive salary, per diem, or expenses from
23 the entity that the member represents for the member's service may receive per diem and expenses
24 incurred in the performance of the member's official duties from the council at the rates established
25 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

26 (e) (i) A local government member who does not receive salary, per diem, or expenses
27 from the entity that the member represents for the member's service may receive per diem and
28 expenses incurred in the performance of the member's official duties at the rates established by the
29 Division of Finance under Sections 63A-3-106 and 63A-3-107.

30 (ii) A local government member may decline to receive per diem and expenses for the
31 member's service.

1 (7) The department shall provide staff and administrative support to the council at the
2 direction of the executive director.

3 (8) The council shall:

4 (a) develop a state workforce services plan in accordance with Section 35A-1-207;

5 (b) review regional workforce services plans to certify consistency with state policy
6 guidelines;

7 (c) work cooperatively with regional councils on workforce services to oversee regional
8 workforce services area operations and to ensure that services are being delivered in accordance
9 with regional workforce services plans;

10 (d) oversee the department's provision of technical assistance to the regional workforce
11 services areas;

12 (e) evaluate program performance, customer satisfaction, and other indicators to identify
13 program strengths and weaknesses;

14 (f) based on the evaluation conducted under Subsection (8)(e) develop plans to improve
15 program outcomes;

16 (g) improve the understanding and visibility of state workforce services efforts through
17 external and internal marketing strategies;

18 (h) make an annual report of accomplishments to the governor and the Legislature related
19 to the activities of the department;

20 (i) issue other studies, reports, or documents the council considers advisable that are not
21 required under Subsection (8)(h);

22 (j) coordinate the planning and delivery of workforce development services with public
23 education, higher education, vocational rehabilitation, and human services; and

24 (k) perform other responsibilities within the scope of workforce services as requested by:

25 (i) the Legislature;

26 (ii) the governor; or

27 (iii) the executive director.

28 Section 3. Section **35A-2-103** is amended to read:

29 **35A-2-103. Regional council on workforce services -- Appointment -- Membership**
30 **-- Terms of members -- Compensation.**

31 (1) The executive director shall jointly with all of the consortium of counties in the regional

1 workforce services area, establish one or more regional councils on workforce services in each
2 regional workforce services area. A regional council on workforce services shall:

3 (a) perform the functions described in Subsection (9);
4 (b) work with the regional director, the department, the consortium of counties, and the
5 State Council on Workforce Services on issues requested by the director of the regional workforce
6 services area or the department; and

7 (c) make recommendations to the regional workforce services area and department
8 regarding:

9 (i) the implementation of Chapters 2, 3, and 5; and
10 [~~(ii) the job placement functions under Chapter 4; and~~]
11 [~~(iii)~~] (ii) coordination of apprenticeship training.

12 (2) Unless otherwise specified in this Subsection (2), members of a regional council on
13 workforce services shall be appointed by the consortium of counties that covers the same
14 geographic area as the regional council in the regional workforce services area, in consultation
15 with the regional director, and shall consist of the following:

16 (a) the voting members are:

17 (i) eight representatives of private sector small employers as defined by rule by the
18 department;

19 (ii) eight representatives of private sector large employers as defined by rule by the
20 department;

21 (iii) two representatives of employees including employee organizations and including at
22 least one representative from nominees suggested by public employees organizations in the region;

23 (iv) two representatives of clients including community-based organizations;

24 (v) one representative from organized labor not representing public employees;

25 (vi) three county commissioners from the counties in the regional workforce services area;

26 (vii) a representative of public education appointed jointly by the school district
27 superintendents in the region;

28 (viii) a representative of higher education appointed jointly by the presidents of the
29 institutions of higher education in the region;

30 (ix) a representative of veterans;

31 (x) a representative of the Office of Rehabilitation; and

1 (xi) an individual who works for or is a member of an economic development board or
2 committee of the state or one of its political subdivisions; and

3 (b) ex officio nonvoting members are:

4 (i) a representative of applied technology;

5 (ii) a representative of the Department of Human Services; and

6 (iii) a representative of the Department of Health.

7 (3) The director of the regional workforce services area shall be a nonvoting ex officio
8 member of the council and provide any necessary staff support for the council.

9 (4) (a) The consortium of counties in the regional workforce services area that appoints
10 the council shall, in consultation with the regional director, appoint a member of the council to be
11 the chair of the council to serve no more than two one-year terms.

12 (b) The chair shall be a representative of private sector employers.

13 (5) (a) (i) Except as provided in Subsection (5)(a)(ii), as terms of council members expire,
14 the consortium of counties in the regional workforce services area that appoints the council shall,
15 in consultation with the regional director, appoint each new member or reappointed member to a
16 four-year term.

17 (ii) Notwithstanding the requirements of Subsection (5)(a)(i), the consortium of counties
18 in the regional workforce services area that appoints the council shall, in consultation with the
19 regional director, at the time of appointment or reappointment, adjust the length of terms to ensure
20 that the terms of council members are staggered so that approximately one half of the council is
21 appointed every two years.

22 (iii) When a vacancy occurs in the membership for any reason, the replacement shall be
23 appointed for the unexpired term.

24 (b) At the expiration of the term of a council member or if a vacancy occurs on the council,
25 the consortium of counties in the regional workforce services area shall appoint a replacement to
26 the council, in consultation with the regional director.

27 (c) A member shall continue to serve as a member until the member's successor has been
28 appointed and qualified.

29 (d) A member is eligible for reappointment.

30 (e) The consortium of counties in the regional workforce services area that appoints the
31 council shall appoint, in consultation with the regional director, an individual to replace a council

1 member for the remainder of the term of the council member being replaced if the council
2 member:

- 3 (i) ceases to be representative as designated by the original appointment; or
- 4 (ii) fails to attend three council meetings, if each of the three absences are not excused by
5 the chair prior or during the meeting.

6 (6) (a) A majority of the voting members constitutes a quorum for the transaction of
7 business.

8 (b) Notwithstanding Subsection (6)(a), a majority of the private sector representatives shall
9 be present for business to be transacted.

10 (7) (a) (i) A public member may not receive compensation for the member's services, but
11 may receive per diem and expenses incurred in the performance of the member's official duties at
12 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

13 (ii) A public member may decline to receive per diem and expenses for the member's
14 service.

15 (b) (i) A state government member who does not receive salary, per diem, or expenses
16 from the state for the member's service may receive per diem and expenses incurred in the
17 performance of the member's official duties as a member at the rates established by the Division
18 of Finance under Sections 63A-3-106 and 63A-3-107.

19 (ii) A state government member who is a member because of the member's state
20 government position may not receive per diem or expenses for the member's service.

21 (iii) A state government member may decline to receive per diem and expenses for the
22 member's service.

23 (c) A higher education member who does not receive salary, per diem, or expenses from
24 the entity that the member represents for the member's service may receive per diem and expenses
25 incurred in the performance of the member's official duties from the council at the rates established
26 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

27 (d) (i) A local government member who does not receive salary, per diem, or expenses
28 from the entity that the member represents for the member's service may receive per diem and
29 expenses incurred in the performance of the member's official duties at the rates established by the
30 Division of Finance under Sections 63A-3-106 and 63A-3-107.

31 (ii) A local government member may decline to receive per diem and expenses for the

1 member's service.

2 (8) The regional council shall annually provide the consortium of counties that appoints
3 the council a written report that shall include the information concerning the elements of the
4 regional plan described in Subsection 35A-2-102(4)(b).

5 (9) The regional councils on workforce services shall:

6 (a) determine the locations of employment centers in accordance with Section 35A-2-203;

7 (b) develop a regional workforce services plan in accordance with Section 35A-1-207;

8 (c) develop training priorities for the region;

9 (d) work cooperatively with the State Council on Workforce Services to oversee regional
10 workforce services areas operations and to ensure that services are being delivered in accordance
11 with regional workforce services plans;

12 (e) address concerns within the regional workforce services area related to apprenticeship
13 training coordination;

14 (f) coordinate the planning and delivery of workforce development services with public
15 education, higher education, vocational rehabilitation, and human services; and

16 (g) report annually to the State Council on Workforce Services.

17 Section 4. Section **35A-2-201** is amended to read:

18 **35A-2-201. Services provided at regional workforce services area.**

19 (1) Regional workforce services areas shall:

20 (a) through its employment centers, be the primary provider of~~[(i) benefits under Section~~
21 ~~35A-4-504; and (ii)]~~ services and support under Chapter 3, Employment Support Act;

22 (b) broker or contract for services or training under Chapter 5, Training and Workforce
23 Improvement Act; and

24 (c) serve as a regional clearinghouse of information concerning workforce development
25 and services and support available under this title.

26 (2) (a) In providing, brokering, or contracting for the services or training described in
27 Subsection (1)(b), the regional director of a regional workforce services area in consultation with
28 the executive director shall ensure that the regional workforce services area provides, brokers, or
29 contracts for services and training that meets the needs of the special needs population in the
30 regional workforce services area.

31 (b) For purposes of Subsection (2)(a), "special needs population" means individuals who

1 have special employment needs based on factors including race, gender, age, economic status,
2 education, language skills, and work history.

3 Section 5. Section 35A-2-202 is amended to read:

4 **35A-2-202. Single employment advisor -- Specialization -- Employment plan.**

5 (1) At each employment center of a regional workforce services area established under
6 Section 35A-2-101 there shall be employed one or more employment advisors.

7 (2) A client shall be assigned one employment [advisor] counselor unless a client:

8 (a) needs only limited services under this title for which expedited procedures are
9 appropriate; or

10 (b) receives diversion assistance under Section 35A-3-303.

11 (3) An employment [advisor] counselor shall:

12 (a) develop an employment plan jointly with the client; and

13 (b) coordinate any services provided, brokered, or contracted for by the department to that
14 client.

15 (4) The employment [advisor] counselor assigned to a client may be selected because of
16 the employment [advisor's] counselor's experience or knowledge in the benefits or services
17 available under the title that best meet the specific needs of the client and the employment
18 [advisor's] counselor's skills in working with groups of clients to develop plans leading to
19 self-sufficiency.

20 (5) (a) An employment [advisor] counselor shall be:

21 (i) trained in the requirements of and benefits or services provided through employment
22 centers in at least one of the following:

23 (A) Chapter 3, Employment Support Act; and

24 [~~(B) Section 35A-4-504; and~~]

25 [~~(C)~~] (B) Chapter 5, Training and Workforce Improvement Act;

26 (ii) capable of:

27 (A) conducting an effective assessment;

28 (B) negotiating an employment plan; and

29 (C) providing the necessary encouragement and support to a client; and

30 (iii) knowledgeable of:

31 (A) department policies;

- 1 (B) relevant law;
- 2 (C) current labor market conditions;
- 3 (D) education and training programs for adults; and
- 4 (E) services and supports available in the community.

5 (b) At the discretion of the director of a regional workforce services area, an employment
6 [advisor] counselor may receive special training in the requirements of or providing services under
7 the statutes listed in Subsection (5)(a)(i).

- 8 (6) (a) A client employment plan may include:
 - 9 (i) services and support necessary for stabilization;
 - 10 (ii) assessment and training; and
 - 11 (iii) placement.

12 (b) The client employment plan shall consider the job opportunities available to the client
13 based on the job market.

14 (c) The client employment plan shall be outcome-focused.

15 (7) If a client seeks cash assistance under Chapter 3, Employment Support Act, the
16 assignment of an employment [advisor] counselor and the creation and implementation of an
17 employment plan shall be consistent with Section 35A-3-304.

18 Section 6. Section **35A-2-203** is amended to read:

19 **35A-2-203. Employment centers.**

20 (1) In each county within a regional workforce services area, the regional council on
21 workforce services shall:

22 (a) designate the location of one or more employment centers, as defined in Section
23 35A-1-102, in which the services are provided by the department; or

24 (b) coordinate with the department to establish access to the services provided by the
25 department by means other than an employment center.

26 (2) An employment center shall provide a comprehensive program of employment services
27 including job placement, job development, stabilization, assessment, and job training through its
28 employment [advisors] counselors as part of a system of unified case management.

29 (3) The department may make services that are provided through employment centers
30 under this section accessible through electronic linkage.

31 Section 7. Section **35A-3-101** is amended to read:

1 **35A-3-101. Title -- Employment assistance.**

2 (1) This chapter shall be known as the "Employment Support Act."

3 (2) A person eligible for employment assistance under Chapter 3 or 5~~[, or Section~~
4 35A-4-504] shall receive any assistance under the applicable chapter ~~[or section]~~, including
5 stabilization, assessment, training, or placement, through the department in accordance with
6 Chapter 2, Part 2, Service Delivery.

7 Section 8. Section **35A-3-103** is amended to read:

8 **35A-3-103. Division responsibilities.**

9 The division shall:

10 (1) administer public assistance programs assigned by the Legislature and the governor;

11 (2) determine eligibility in accordance with the requirements of this chapter for public
12 assistance programs assigned to it by the Legislature or the governor;

13 (3) cooperate with the federal government in the administration of public assistance
14 programs;

15 (4) administer the Utah state employment service in accordance with Section 35A-3-115;

16 ~~[(4)]~~ (5) provide for the compilation of necessary or desirable information, statistics, and
17 reports;

18 ~~[(5)]~~ (6) perform any other duties and functions required by law;

19 ~~[(6)]~~ (7) monitor the application of eligibility policy;

20 ~~[(7)]~~ (8) develop personnel training programs for more effective and efficient operation
21 of all programs under the administration of the division;

22 ~~[(8)]~~ (9) provide refugee resettlement services;

23 ~~[(9)]~~ (10) provide child care assistance for children; and

24 ~~[(10)]~~ (11) provide services and support that enable clients to qualify for affordable
25 housing in cooperation with:

26 (a) the Utah Housing Finance Agency;

27 (b) the Division of Community Development within the Department of Community and
28 Economic Development; and

29 (c) local housing authorities.

30 Section 9. Section **35A-3-115**, which is renumbered from Section 35A-4-504 is
31 renumbered and amended to read:

1 ~~[35A-4-504].~~ **35A-3-115. State Employment Service -- Agreements with other**
2 **authorities -- Federal system accepted -- Appropriation.**

3 ~~[(1) For purposes of this section "division" means the Division of Employment~~
4 ~~Development.]~~

5 ~~[(2) The Utah state employment service is established in the division.]~~

6 ~~[(3)]~~ (1) (a) The division~~[, in the conduct of such service,]~~ shall establish and maintain free
7 public employment offices in such manner and in such places as may be necessary for the proper
8 administration of this chapter and for the purposes of performing the functions as are within the
9 purview of the Act of Congress entitled "An act to provide for the establishment of a national
10 employment system and for co-operation with the states in the promotion of such system, and for
11 other purposes," approved June 6, 1933, 48 Stat. 113; U. S. Code, Title 29, Section 49 (c) as
12 amended, hereinafter referred to as the "Wagner-Peyser Act."

13 (b) The division shall consult with regional councils on workforce services when
14 determining the location of public employment offices.

15 (c) A public employment office may be located in connection with or as an integrated part
16 of an employment center established under Section 35A-2-203.

17 ~~[(4)]~~ (2) The provisions of the Wagner-Peyser Act, 29 U.S.C. 49-49c, 49g, 49h, 49k, and
18 557, are accepted by this state, and the department is designated and constitutes the agency of this
19 state for the purposes of the act.

20 ~~[(5)]~~ (3) All moneys received by this state under the Wagner-Peyser Act shall be paid into
21 the Employment Security Administration Fund created by Section 35A-4-505 and shall be
22 expended solely for the maintenance of the state system of public employment offices.

23 ~~[(6)]~~ (4) (a) For the purpose of establishing and maintaining free public employment
24 offices, and promoting the use of their facilities, the division is authorized to enter into agreements
25 with the railroad retirement board, or any other agency of the United States, or of this or any other
26 state, charged with the administration of any law whose purposes are reasonably related to the
27 purposes of this chapter, and as a part of such agreements may accept moneys, services or quarters
28 as a contribution to the maintenance of the state system of public employment offices or as
29 reimbursement for services performed.

30 (b) All moneys received or appropriated for such purposes shall be paid into the
31 Employment Security Administration Fund.

1 Section 10. Section **35A-3-203** is amended to read:

2 **35A-3-203. Functions and duties of office.**

3 The office shall:

4 (1) provide information:

5 (a) to employers for the development of options for child care in the work place; and

6 (b) for educating the public in obtaining quality child care;

7 (2) coordinate services for quality child care training and child care resource and referral
8 [~~care~~] core services;

9 (3) apply for, accept, or expend gifts or donations from public or private sources;

10 (4) provide administrative support services to the committee;

11 (5) work collaboratively with the following for the delivery of quality child care and early
12 childhood programs, and school age programs in the state:

13 (a) the State Board of Education;

14 [~~(b) the Department of Human Services;~~]

15 [~~(c)~~] (b) the Department of Community and Economic Development; and

16 [~~(d)~~] (c) the Department of Health;

17 (6) recommend to the Legislature legislation that will further the purposes of the office and
18 child care, early childhood programs, and school age programs; and

19 (7) provide planning and technical assistance for the development and implementation of
20 programs in communities that lack child care, early childhood programs, and school age programs.

21 Section 11. Section **35A-3-205** is amended to read:

22 **35A-3-205. Creation of committee.**

23 (1) There is created a Child Care Advisory Committee.

24 (2) The committee shall counsel and advise the office in fulfilling its statutory obligations.

25 (3) The committee shall be composed of 13 members as follows:

26 (a) one expert in early childhood development appointed by the executive director in
27 accordance with Subsection (4);

28 (b) one child care provider who operates a center appointed by the executive director in
29 accordance with Subsection (4);

30 (c) one child care provider who operates a family child care business appointed by the
31 executive director in accordance with Subsection (4);

1 (d) one parent of preschool or elementary school-aged children appointed by the executive
2 director in accordance with Subsection (4);

3 (e) one representative [~~of the Department of Human Services~~] from the public at-large
4 appointed by the director in accordance with Subsection (4);

5 (f) one representative of the State Office of Education;

6 (g) one representative of the Department of Health;

7 (h) two representatives from the corporate community appointed by the executive director
8 in accordance with Subsection (4);

9 (i) two representatives from the small business community appointed by the executive
10 director in accordance with Subsection (4);

11 (j) one representative from child care advocacy groups appointed by the executive director
12 in accordance with Subsection (4); and

13 (k) one representative from the Division of Employment Development appointed by the
14 executive director [~~in accordance with Subsection (4)~~].

15 (4) Of those members appointed by the executive director under Subsection (3), with the
16 exception of the representative from the Division of Employment Development, no more than [six]
17 five may be from the same political party.

18 (5) (a) Except as required by Subsection (5)(b), as terms of current committee members
19 expire, the executive director shall appoint each new member or reappointed member to a
20 four-year term.

21 (b) Notwithstanding the requirements of Subsection (5)(a), the executive director shall,
22 at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of
23 committee members are staggered so that approximately half of the committee is appointed every
24 two years.

25 (6) When a vacancy occurs in the membership for any reason, the replacement shall be
26 appointed for the unexpired term.

27 (7) A majority of the members constitutes a quorum for the transaction of business.

28 (8) The executive director shall select a chair from the committee membership. The chair's
29 term of office expires on April 1 of each year and a chair may serve no more than two one-year
30 terms as chair.

31 (9) (a) (i) Members who are not government employees may not receive compensation or

1 benefits for their services, but may receive per diem and expenses incurred in the performance of
2 the member's official duties at the rates established by the Division of Finance under Sections
3 63A-3-106 and 63A-3-107.

4 (ii) Members may decline to receive per diem and expenses for their service.

5 (b) (i) State government officer and employee members who do not receive salary, per
6 diem, or expenses from their agency for their service may receive per diem and expenses incurred
7 in the performance of their official duties from the committee at the rates established by the
8 Division of Finance under Sections 63A-3-106 and 63A-3-107.

9 (ii) State government officer and employee members may decline to receive per diem and
10 expenses for their service.

11 Section 12. Section **35A-3-304** is amended to read:

12 **35A-3-304. Assessment -- Participation requirements and limitations -- Mentors.**

13 (1) (a) Within 20 business days of the date of enrollment, a parent client shall:

14 (i) be assigned an employment [advisor] counselor; and

15 (ii) complete an assessment provided by the division regarding the parent client's family
16 circumstances, education, work history, skills, and ability to become self-sufficient.

17 (b) The assessment provided under Subsection (1) shall include a survey to be completed
18 by the parent client with the assistance of the division.

19 (2) (a) Within 15 business days of a parent client completing an assessment, the division
20 and the parent client shall enter into an employment plan.

21 (b) The employment plan shall contain a target date for entry into employment.

22 (c) The division shall provide a copy of the employment plan to the parent client.

23 (d) As to the parent client, the plan may include:

24 (i) participation in the Workforce Reentry Program described in Section 35A-3-305;

25 (ii) job searching requirements;

26 (iii) participation in an educational program to obtain a high school diploma, or its
27 equivalent, if the parent client does not have a high school diploma;

28 (iv) education or training necessary to obtain employment;

29 (v) a combination of work and education or training;

30 (vi) assisting the Office of Recovery Services in good faith to:

31 (A) establish the paternity of a minor child; and

1 (B) establish or enforce a child support order; and
2 (vii) participation in available treatment for drug dependency and progress toward
3 overcoming that dependency if the parent client is a drug dependent person as defined in Section
4 58-37-2.

5 (e) As to the division, the plan may include:

6 (i) providing cash and other types of public and employment assistance, including child
7 care;

8 (ii) assisting the parent client to obtain education or training necessary for employment;

9 (iii) assisting the parent client to set up and follow a household budget; and

10 (iv) assisting the parent client to obtain employment.

11 (f) An employment plan may be amended to reflect new information or changed
12 circumstances.

13 (g) If immediate employment is an activity contained in the employment plan the parent
14 client shall:

15 (i) promptly commence a search for a specified number of hours each week for
16 employment; and

17 (ii) regularly submit a report to the division on:

18 (A) how time was spent in search for a job;

19 (B) the number of job applications completed;

20 (C) the interviews attended;

21 (D) the offers of employment extended; and

22 (E) other related information required by the division.

23 (h) If full-time education or training to secure employment is an activity contained in an
24 employment plan, the parent client shall promptly undertake a full-time education or training
25 program. The employment plan may describe courses, education or training goals, and classroom
26 hours.

27 (i) (i) As a condition of receiving cash assistance under this part, a parent client shall agree
28 to make a good faith effort to comply with the employment plan.

29 (ii) If a parent client consistently fails to show good faith in complying with the
30 employment plan, the division may seek under Subsection (2)(i)(iii) to terminate all or part of the
31 cash assistance services provided under this part.

1 (iii) The division shall establish a process to reconcile disputes between a client and the
2 division as to whether:

3 (A) the parent client has made a good faith effort to comply with the employment plan;

4 or

5 (B) the division has complied with the employment plan.

6 (3) (a) Except as provided in Subsection (3)(b), a parent client's participation in education
7 or training beyond that required to obtain a high school diploma or its equivalent is limited to the
8 lesser of:

9 (i) 24 months; or

10 (ii) the completion of the education and training requirements of the employment plan.

11 (b) A parent client may participate in education or training for up to six months beyond
12 the 24-month limit of Subsection (3)(a) if:

13 (i) the parent client is employed for 80 or more hours a month; and

14 (ii) the extension is for good cause shown and approved by the director.

15 (c) A parent client who receives an extension under Subsection (3)(b) remains subject to
16 Subsection (4).

17 (4) A parent client with a high school diploma or equivalent who has received 24 months
18 of education or training shall participate in full-time work activities. The 24 months need not be
19 continuous and the department may define "full-time work activities" by rule.

20 (5) Beginning on July 1, 1998, as a condition for receiving cash assistance on behalf of
21 a minor child under this part, the minor child shall be:

22 (a) enrolled in and attending school in compliance with Section 53A-11-101; or

23 (b) exempt from school attendance under Section 53A-11-102.

24 (6) This section does not apply to a person who has received diversion assistance under
25 Section 35A-3-303.

26 (7) (a) The division shall recruit and train volunteers to serve as mentors for parent clients.

27 (b) A mentor may advocate on behalf of a parent client and help a parent client:

28 (i) develop life skills;

29 (ii) implement an employment plan; or

30 (iii) obtain services and supports from:

31 (A) the volunteer mentor;

- 1 (B) the division; or
- 2 (C) civic organizations.

3 Section 13. Section **35A-3-504** is amended to read:

4 **35A-3-504. Relationship of civic and state services.**

5 (1) (a) Services and supports provided by a civic organization under this part are in
6 addition to, and not in lieu of, any service or support provided by the division to a client.

7 (b) Receipt of services from a civic organization may not diminish a person's eligibility
8 for services or supports from the division.

9 (2) A person is under no obligation to receive services from a civic organization.

10 (3) A civic organization is under no obligation to provide services to a person, except as
11 provided in a contract between the organization and the division pursuant to Section [35A-3-508]
12 35A-3-507.

13 Section 14. Section **35A-3-508** is amended to read:

14 **35A-3-508. Inventory of civic organizations.**

15 (1) To enable the division to refer a client or applicant to an appropriate civic organization
16 under this part, the division, in cooperation with the coalition described in Section 35A-3-511,
17 shall complete a statewide inventory of civic organizations. For those organizations that wish to
18 participate, the inventory shall include:

- 19 (a) a description of the services and supports provided;
- 20 (b) the geographical locations served;
- 21 (c) methods of accessing services; and
- 22 (d) eligibility for services.

23 (2) The inventory shall be stored, updated annually, and made available in a usable form
24 as a resource directory for all employment [advisors] counselors.

25 Section 15. Section **35A-4-312** is amended to read:

26 **35A-4-312. Records.**

27 (1) Each employing unit shall keep true and accurate work records containing any
28 information the department may prescribe by rule. The records shall be open to inspection and
29 subject to being copied by the division or its authorized representatives at any reasonable time and
30 as often as may be necessary. The employing unit shall make the records available in the state for
31 three years after the calendar year in which the services were rendered.

1 (2) The division may require from any employing unit any sworn or unsworn reports with
2 respect to persons employed by it that the division considers necessary for the effective
3 administration of this chapter.

4 (3) (a) Except as provided in this section or in Sections 35A-4-103[;] and 35A-4-106, [and
5 35A-4-504,] information obtained under this chapter or obtained from any individual may not be
6 published or open to public inspection in any manner revealing the employing unit's or individual's
7 identity.

8 (b) The information obtained by the division pursuant to this section may not be used in
9 any court or admitted into evidence in an action or proceeding, except:

10 (i) in an action or proceeding arising out of this chapter;

11 (ii) in an action or proceeding by the Labor Commission to enforce the workers'
12 compensation coverage requirements of Title 34A, Chapter 2 or 3; or

13 (iii) where obtained pursuant to a court order.

14 (4) The information obtained by the division pursuant to this section shall be disclosed to:

15 (a) a party to a hearing before an administrative law judge or the division to the extent
16 necessary for the proper presentation of the party's case; or

17 (b) an employer, upon request in writing for any information concerning claims for benefits
18 with respect to the employer's former employees.

19 (5) The information obtained by the division pursuant to this section may be disclosed to:

20 (a) an employee of the department in the performance of the employee's duties in
21 administering this chapter;

22 (b) an employee of the Labor Commission for the purpose of carrying out the programs
23 administered by the department for the protection of workers in the workplace;

24 (c) an employee of the governor's office and other state governmental agencies
25 administratively responsible for statewide economic development, to the extent necessary for
26 economic development policy analysis and formulation;

27 (d) an employee of the department or other governmental agency that is specifically
28 identified and authorized by federal or state law to receive the information for the purposes stated
29 in the law authorizing the employee of the agency to receive the information;

30 (e) an employee of a governmental agency to the extent the information will aid in the
31 detection or avoidance of duplicate, inconsistent, or fraudulent claims against public assistance

1 funds, or the recovery of overpayments of public assistance funds;

2 (f) an employee of a law enforcement agency to the extent the disclosure is necessary to
3 avoid a significant risk to public safety or in aid of a felony criminal investigation;

4 (g) an employee of the State Tax Commission or the Internal Revenue Service for the
5 purposes of audit verification or simplification, state or federal tax compliance, verification of
6 Standard Industry Codes, and statistics;

7 (h) an employee of the department, an educational institution, or other governmental entity
8 engaged in programs providing job training to individuals for the purpose of coordinating services
9 and evaluating the effectiveness of the job training programs; or

10 (i) an employee of the Department of Community and Economic Development, for the
11 purpose of periodically publishing in the Directory of Business and Industry, the name, address,
12 telephone number, number of employees by range, Standard Industrial Code, and type of
13 ownership of Utah employers.

14 (6) Disclosure of private information pursuant to Subsection (5), with the exception of
15 Subsections (5)(d) and (f), shall be made only if:

16 (a) the division determines that the disclosure will not have a negative effect on the
17 willingness of employers to report wage and employment information or on the willingness of
18 individuals to file claims for unemployment benefits; and

19 (b) the agency enters into a written agreement with the division in accordance with rules
20 made by the department.

21 (7) The employees of a division of the department other than the Division of Workforce
22 Information and Payment Services or an agency receiving private information from the division
23 under this chapter are subject to the same requirements of privacy and confidentiality and to the
24 same penalties for misuse or improper disclosure of the information as employees of the division.
25 Use of private information obtained from the department by a person, or for a purpose other than
26 one authorized in Subsection (4) or (5) violates Subsection 35A-4-104(4).

27 Section 16. Section **35A-4-505** is amended to read:

28 **35A-4-505. Employment Security Administration Fund.**

29 (1) (a) There is created in the General Fund a restricted account known as the Employment
30 Security Administration Fund.

31 (b) All moneys which are deposited or paid into this fund shall be continuously available

1 to the [division] department for expenditure in accordance with the provisions of this chapter and
2 Chapter 3, Employment Support Act, and shall not lapse at any time or be transferred to any other
3 fund.

4 (c) All moneys in this fund which are received from the Secretary of Labor under Title III
5 of the Social Security Act, 42 U.S.C. 501 et seq. shall be expended solely for the purposes and in
6 the amounts found necessary, after reasonable notice and opportunity for hearing to the division,
7 by the Secretary of Labor for the proper and efficient administration of this chapter.

8 (2) The fund shall consist of all moneys appropriated by this state, all moneys received
9 from the United States of America, or any agency thereof, including the Secretary of Labor, and
10 all moneys received from any other source for such purpose, and shall also include any moneys
11 received from any agency of the United States or any other state as compensation for services or
12 facilities supplied to such agency, any amounts received pursuant to any surety bond or insurance
13 policy or from other sources for losses sustained by the Employment Security Administration Fund
14 or by reason of damage to equipment or supplies purchased from moneys in such fund, and any
15 proceeds realized from the sale or disposition of any equipment or supplies which may no longer
16 be necessary for the proper administration of this chapter.

17 (3) (a) All moneys in this fund shall be deposited, administered, and disbursed, in
18 accordance with the directions of the department.

19 (b) The state treasurer shall pay all warrants drawn upon it by the division in accordance
20 with rules prescribed by the department.

21 (4) The state treasurer shall be liable on his official bond for the faithful performance of
22 his duties in connection with the employment security administration fund provided for under this
23 chapter. Such liability on the official bond shall be effective immediately upon the enactment of
24 this provision, and such liability shall exist in addition to any liability upon any separate bond
25 existent on the effective date of this provision, or which may be given in the future. All sums
26 recovered on any surety bond for losses sustained by the employment security administration fund
27 shall be deposited in said fund.

28 (5) If any moneys received after June 30, 1941, from the Secretary of Labor under Title
29 III of the Social Security Act, or any unencumbered balances in the employment security
30 administration fund as of that date, are found, after reasonable notice and opportunity for hearing
31 to the division, by the Secretary of Labor to have been lost or been expended for purposes other

1 than, or in amounts in excess of, those found necessary by the Secretary of Labor for the proper
2 administration of this chapter, the moneys shall be replaced within a reasonable time by moneys
3 appropriated for this purpose from the general funds of this state to the Employment Security
4 Administration Fund for expenditure as provided in Subsection (1). Upon receipt of notice of such
5 a finding by the Secretary of Labor, the division shall promptly report the amount required for such
6 replacement to the governor.

7 Section 17. **Repealer.**

8 This act repeals:

9 Section **35A-1-209, Employment decisions.**

Legislative Review Note
as of 12-1-97 1:29 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Committee Note

The Workforce Services Interim Committee recommended this bill.