

EMPLOYABILITY TO CAREERS PROGRAM

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Schultz

Senate Sponsor: Allen M. Christensen

6	Cosponsors:	Lynn N. Hemingway	Dixon M. Pitcher
7	Carl R. Albrecht	Eric K. Hutchings	Tim Quinn
8	Bruce R. Cutler	John Knotwell	Paul Ray
9	Brad M. Daw	A. Cory Maloy	Norman K Thurston
10	Steve Eliason	Kelly B. Miles	Logan Wilde
11	Gage Froerer	Derrin R. Owens	Brad R. Wilson
12	Adam Gardiner	Lee B. Perry	Mike Winder
13	Francis D. Gibson	Jeremy A. Peterson	
	Timothy D. Hawkes		



LONG TITLE

General Description:

This bill creates the Employability to Careers Program within the Governor's Office of Management and Budget.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a restricted account called the Employability to Careers Program Restricted Account;
- ▶ creates the Employability to Careers Program Board within the Governor's Office of Management and Budget;
- ▶ authorizes the board to enter into a results-based contract with a fiscal intermediary;
- ▶ requires the Governor's Office of Management and Budget to staff the board;

- 28           ▶ describes the components of an education, employability training, and workforce
- 29 placement program that may be funded by money from the restricted account;
- 30           ▶ authorizes the board to obtain the services of a programmatic intermediary to assist
- 31 the board with validating the feasibility of entering into a results-based contract;
- 32           ▶ requires an independent evaluation of the performance outcomes of the
- 33 Employability to Careers Program; and
- 34           ▶ authorizes payments from the restricted account to the fiscal intermediary if certain
- 35 benchmarks are met by a service provider.

**36 Money Appropriated in this Bill:**

37           This bill appropriates:

- 38           ▶ to the General Fund Restricted -- Employability to Careers Program Restricted
- 39 Account, as a one-time appropriation:
  - 40           • from the General Fund, \$1,000,000; and
- 41           ▶ to the Governor's Office of Management and Budget, as a one-time appropriation:
  - 42           • from the General Fund Restricted -- Employability to Careers Program
  - 43 Restricted Account, \$1,000,000.

**44 Other Special Clauses:**

45           None

**46 Utah Code Sections Affected:**

47 AMENDS:

48           **63J-1-602.4**, as last amended by Laws of Utah 2016, Chapters 193 and 240

49 ENACTS:

- 50           **63J-4-701**, Utah Code Annotated 1953
- 51           **63J-4-702**, Utah Code Annotated 1953
- 52           **63J-4-703**, Utah Code Annotated 1953
- 53           **63J-4-704**, Utah Code Annotated 1953
- 54           **63J-4-705**, Utah Code Annotated 1953
- 55           **63J-4-706**, Utah Code Annotated 1953

56 [63J-4-707](#), Utah Code Annotated 1953

57 [63J-4-708](#), Utah Code Annotated 1953

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

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

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

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

64 (2) Funds paid to the Division of Real Estate for the cost of a criminal background  
65 check for principal broker, associate broker, and sales agent licenses, as provided in Section  
66 [61-2f-204](#).

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

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

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

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

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

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

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

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

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

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

86 (13) The Employability to Careers Program Restricted Account created in Section  
87 [63J-4-703](#).

88 [~~13~~] (14) Appropriations to the Utah Science Technology and Research Initiative  
89 created in Section [63M-2-301](#).

90 [~~14~~] (15) Appropriations to fund the Governor's Office of Economic Development's  
91 Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

92 [~~15~~] (16) The Motion Picture Incentive Account created in Section [63N-8-103](#).

93 [~~16~~] (17) Certain money payable for commission expenses of the Pete Suazo Utah  
94 Athletic Commission, as provided under Section [63N-10-301](#).

95 Section 2. Section **63J-4-701** is enacted to read:

96 **Part 7. Employability to Careers Program**

97 **63J-4-701. Definitions.**

98 As used in this part:

99 (1) "Board" means the Employability to Careers Program Board created in Section  
100 [63J-4-702](#).

101 (2) "Education, employability training, and workforce placement program" means a  
102 pay-for-success program that helps adults earn a high school diploma and obtain a full-time job  
103 with benefits in a career path through integrated employability skills development.

104 (3) "Eligible participant" means an individual who at the time of enrollment in an  
105 education, employability training, and workforce placement program:

106 (a) is between 18 and 50 years of age;

107 (b) does not have a high school diploma or the equivalent;

108 (c) is enrolled in a public assistance program; and

109 (d) is unemployed or underemployed.

110 (4) "Eligible program provider" means an organization or group of organizations with  
111 the demonstrated capability of operating an education, employability training, and workforce

112 placement program.

113 (5) "Employability programs and services" means programs that assist adults in  
114 developing job skills, attaining education, obtaining employment, increasing income, and  
115 realizing self-sufficiency.

116 (6) "Employability skills" means technical, professional, and life skills that are  
117 necessary for success in the labor market, which may include verbal and written  
118 communication, time management, problem solving, professionalism, and teamwork.

119 (7) "Fiscal intermediary" means a nonprofit community foundation located in the state  
120 that establishes and manages charitable funds and that has the necessary experience to  
121 coordinate the funding and management of a results-based contract and related program.

122 (8) "Multitiered system of supports" means a systemic, continuous improvement  
123 framework in which data-based problem solving and decision making is practiced for  
124 supporting participants.

125 (9) "Performance outcome measure" means an education or workforce placement  
126 outcome for an eligible participant, including earning an accredited high school diploma,  
127 employment placement, job retention, and wage advancement within a career path, which  
128 results in a demonstrated benefit to the state through increased tax revenue or lower state  
129 expenditures for public assistance programs.

130 (10) "Programmatic intermediary" means a nonprofit entity or academic institution that  
131 has the necessary experience in results-based financing and evidence-based policy to:

132 (a) validate a feasibility analysis of an eligible program provider;

133 (b) structure the terms and conditions of results-based contracts by developing  
134 cost-benefit financial models, performance outcome measures, payment schedules, and  
135 performance thresholds; and

136 (c) raise the private investment capital necessary to fund program services related to a  
137 results-based contract.

138 (11) "Restricted account" means the Employability to Careers Program Restricted  
139 Account created in Section [63J-4-703](#).

140           (12) "Results-based contract" means a contract entered into between the board, a fiscal  
141 intermediary, and an eligible program provider that will result in repayment to the fiscal  
142 intermediary if certain performance outcome measures are achieved.

143           Section 3. Section **63J-4-702** is enacted to read:

144           **63J-4-702. Employability to Careers Program Board.**

145           (1) There is created within the office the Employability to Careers Program Board  
146 composed of the following members:

147           (a) the executive director of the Department of Workforce Services or the executive  
148 director's designee;

149           (b) the executive director of the Department of Human Services or the executive  
150 director's designee; and

151           (c) three members appointed by the governor with the consent of the Senate as follows:

152           (i) one member from the private or nonprofit sector with expertise in finance;

153           (ii) one member from the private or nonprofit sector chosen from among two  
154 individuals recommended by the president of the Senate; and

155           (iii) one member from the private or nonprofit sector chosen from among two  
156 individuals recommended by the speaker of the House of Representatives.

157           (2) (a) An appointed member of the board shall serve for a term of three years, but may  
158 be reappointed for one additional term.

159           (b) If a vacancy occurs in the board for any reason, the governor with the consent of the  
160 Senate shall appoint a replacement to serve the remainder of the board member's term.

161           (3) The board shall elect a chair from among the board's membership.

162           (4) The board shall meet at least quarterly upon the call of the chair.

163           (5) Four members of the board constitute a quorum.

164           (6) Action by a majority present constitutes the action of the board.

165           (7) A board member may not receive compensation or benefits for the member's  
166 service, but a member may receive per diem and travel expenses in accordance with:

167           (a) Section [63A-3-106](#);

168           (b) Section 63A-3-107; and  
169           (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
170 63A-3-107.  
171           (8) The office shall provide staff support to the board.  
172           Section 4. Section **63J-4-703** is enacted to read:  
173           **63J-4-703. Employability to Careers Program Restricted Account.**  
174           (1) There is created in the General Fund a restricted account known as the  
175 "Employability to Careers Program Restricted Account."  
176           (2) The restricted account consists of:  
177           (a) money appropriated to the restricted account by the Legislature;  
178           (b) income and interest derived from the deposit and investment of money in the  
179 account; and  
180           (c) private donations.  
181           (3) Subject to legislative appropriations, money in the restricted account may be used  
182 for the following purposes:  
183           (a) to contract with a fiscal intermediary for the management of a results-based  
184 contract;  
185           (b) to contract with a programmatic intermediary to validate a feasibility analysis and  
186 structure the terms and conditions of a results-based contract, including developing cost-benefit  
187 financial models, performance outcome measures, payment schedules, and success thresholds;  
188           (c) to contract with an independent evaluator as described in Section 63J-4-704;  
189           (d) to pay for office expenses related to administering the Employability to Careers  
190 Program and providing staff support to the board;  
191           (e) to make payments to a fiscal intermediary that has entered into a results-based  
192 contract with the board as described in Section 63J-4-704, if the independent evaluator selected  
193 by the board determines that the performance-based results have been met; and  
194           (f) to contract for other services as necessary to implement the Employability to  
195 Careers Program.

196 Section 5. Section **63J-4-704** is enacted to read:

197 **63J-4-704. Results-based contracts -- Board duties.**

198 (1) (a) The board may negotiate and enter into a results-based contract with a fiscal  
199 intermediary to provide payments to the fiscal intermediary upon the successful achievement of  
200 specific outcome measures in accordance with Subsection [63J-4-706\(2\)\(i\)](#) and the other  
201 requirements of this part.

202 (b) The board may not issue a results-based contract that would cause the total  
203 outstanding obligations under this part to exceed \$15,000,000.

204 (2) A results-based contract shall include:

205 (a) a requirement that the repayment to the fiscal intermediary be conditioned on  
206 specific performance outcome measures described in the results-based contract and in  
207 accordance with this part;

208 (b) a requirement for an independent evaluator to determine whether the performance  
209 outcome measures have been achieved; and

210 (c) a provision that payment to the program intermediary is:

211 (i) based upon available money in the restricted account at the time of payment; and

212 (ii) subject to legislative appropriation.

213 (3) The board shall select an independent program evaluator that:

214 (a) is a research organization;

215 (b) has experience conducting research in labor economics;

216 (c) has experience in conducting experimental or quasi-experimental design or other  
217 research methodologies as described in Subsection [63J-4-706\(2\)\(j\)](#) that allow for the strongest  
218 possible causal inferences to determine whether the initiative has met the initiative's proposed  
219 outcomes; and

220 (d) has access to state data required to implement the evaluation design.

221 (4) (a) In accordance with timelines established in a results-based contract, the  
222 independent evaluator shall implement an experimental or quasi-experimental evaluation  
223 design to determine whether the performance outcome measures set in the results-based



224 contract have been met.

225 (b) If the independent evaluator determines under Subsection (4)(a) that the  
226 performance outcome measures have been met, the board shall pay the fiscal intermediary  
227 according to the terms of a results-based contract.

228 (5) (a) The eligible program provider described in Section 63J-4-705 shall ensure that  
229 each participant in a program funded in a results-based contract has given written permission  
230 and signed an acknowledgment that the participant's data may be shared with a fiscal  
231 intermediary, an independent evaluator, and the office for evaluation and reporting purposes.

232 (b) The board shall maintain a record of each written permission and signed  
233 acknowledgment described in Subsection (5)(a).

234 (6) As further described in Section 63J-4-705, for an education, employability training,  
235 and workforce placement program funded under this part, the board shall:

236 (a) select an eligible program provider;

237 (b) consider the recommendations of the programmatic intermediary in selecting an  
238 eligible program provider; and

239 (c) engage the services of the programmatic intermediary to complete a feasibility  
240 analysis in accordance with Section 63J-4-706 to assess the viability of the board entering into  
241 a results-based contract with the selected eligible program provider.

242 (7) The board, with the assistance of the office and other state agencies that provide  
243 services to eligible participants, may cooperate with an eligible program provider to identify  
244 and refer eligible participants for the program.

245 Section 6. Section **63J-4-705** is enacted to read:

246 **63J-4-705. Employability to Careers Program.**

247 (1) There is created the Employability to Careers Program to provide funding for the  
248 implementation of a results-based education, employability training, and workforce placement  
249 program for eligible participants.

250 (2) With the assistance of the programmatic intermediary, the board shall establish  
251 evaluation criteria for selecting an eligible program provider and shall consider

252 recommendations from the programmatic intermediary in evaluating and selecting an eligible  
253 program provider.

254 (3) The board and the programmatic intermediary shall consider the following  
255 requirements and criteria for selecting an eligible program provider:

256 (a) the potential eligible program provider's capacity to effectively implement the  
257 components of an education, employability training, and workforce placement program as  
258 described in Section [63J-4-707](#);

259 (b) the potential eligible program provider's experience in enrolling and serving the  
260 eligible participants the program intends to serve, including participants who are economically  
261 disadvantaged;

262 (c) the potential eligible program provider's ability to access state collaborative partner  
263 networks and community resources;

264 (d) the potential eligible program provider's ability to address labor market needs and  
265 workforce demands;

266 (e) the potential eligible program provider's ability to demonstrate that performance  
267 outcome measures for the education, employability training, and workforce placement program  
268 can be measured through an experimental or quasi-experimental design;

269 (f) the potential eligible program provider's ability to attract private or philanthropic  
270 investors;

271 (g) the potential eligible program provider's strategy to implement the components of  
272 an education, employability skills, and workforce placement program; and

273 (h) the potential eligible program provider's ability to provide the necessary data to a  
274 programmatic intermediary for the feasibility analysis described in Section [63J-4-706](#).

275 (4) To be selected as an eligible program provider under this part, the eligible program  
276 provider shall agree to:

277 (a) allow the evaluator, chosen in accordance with Section [63J-4-704](#), to review data  
278 from the provider to ensure that the components described in Section [63J-4-707](#) are  
279 implemented; and

280 (b) assign a unique identifier to each eligible participant enrolled in an education,  
281 employability training, and workforce placement program with the eligible program provider  
282 and maintain records of the performance outcome measures achieved by each eligible  
283 participant.

284 Section 7. Section **63J-4-706** is enacted to read:

285 **63J-4-706. Feasibility analysis.**

286 (1) The board shall engage a programmatic intermediary to complete, within two  
287 months of selecting an eligible program provider in accordance with Section [63J-4-705](#), a  
288 feasibility analysis that assesses the ability of the potential eligible program provider to provide  
289 a program that will successfully achieve performance outcome measures that are cost effective  
290 and will result in cost savings or increased tax revenue to the state.

291 (2) The feasibility analysis shall include:

292 (a) assessing the size and characteristics of the eligible population in the state that  
293 could benefit from the employment programs and services funded through the Employability to  
294 Careers Program;

295 (b) assessing the eligible program provider's capacity to make effective use of funding  
296 supplied through the Employability to Careers Program and with the likelihood to meet  
297 predefined and measurable outcomes based on the following factors:

298 (i) the economic feasibility of the programs and services provided;

299 (ii) the capacity of the program to serve an increased customer base; and

300 (iii) the degree to which the program and services will help individuals attain  
301 self-sufficiency;

302 (c) developing a viable expansion plan and determining how much the expansion plan  
303 will cost;

304 (d) projecting the impact of the expansion plan on outcomes to the community;

305 (e) projecting the financial value of the improvements that may result from the  
306 Employability to Careers Program investment, including projected public sector savings and  
307 projected returns to investors;

- 308 (f) developing a cost-benefit analysis of the program;
- 309 (g) determining feasible results-based contract terms and financing structures;
- 310 (h) determining the potential pool of investors likely to invest both in and outside the
- 311 state;
- 312 (i) developing performance measures to project and measure financial and social
- 313 outcomes;
- 314 (j) ensuring an experimental or quasi-experimental research design can be used to
- 315 measure the attained performance measures attributable to the intervention;
- 316 (k) estimating how many eligible participants the potential eligible program provider
- 317 plans to serve;
- 318 (l) preparing a financial model, including the proposed payment terms, the
- 319 methodology used to calculate outcome payments, the payment schedule, and performance
- 320 thresholds; and
- 321 (m) reviewing the project budget and timeline.

322 Section 8. Section **63J-4-707** is enacted to read:

323 **63J-4-707. Components of an education, employability training, and workforce**

324 **placement program.**

- 325 (1) In addition to the other requirements of this part, an education, employability
- 326 training, and workforce placement program approved under this part may include the following
- 327 components:
- 328 (a) an employability skills certification program;
- 329 (b) resilience intervention for eligible participants;
- 330 (c) a multitiered system of supports for eligible participants; and
- 331 (d) a learning and employability plan for each eligible participant.
- 332 (2) Subject to legislative appropriations, and in accordance with the contract between
- 333 the board and the fiscal intermediary, a separate payment shall be made by the board from the
- 334 restricted account to the fiscal intermediary in a specific amount for each successful result in
- 335 accordance with the terms and conditions of the results-based contract.

336 Section 9. Section **63J-4-708** is enacted to read:

337 **63J-4-708. Reporting.**

338 (1) On or before October 1, the board shall provide an annual written report to the  
339 Social Services Appropriations Subcommittee and the Economic Development and Workforce  
340 Services Interim Committee.

341 (2) The written report shall include:

342 (a) information regarding the fiscal intermediary, the programmatic intermediary, the  
343 eligible program provider, and the independent evaluator that have been selected;

344 (b) the results of the feasibility analysis conducted in accordance with Section  
345 63J-4-706;

346 (c) information regarding how many eligible participants have been served by the  
347 education, employability training, and workforce placement program;

348 (d) a description of program expenses, including what payments have been made to the  
349 intermediary and the cost to the state for each successful eligible participant outcome; and

350 (e) recommendations to the Legislature on any potential improvements to the  
351 Employability to Careers Program, including whether the program should continue to receive  
352 funding from the state.

353 Section 10. **Appropriation.**

354 The following sums of money are appropriated for the fiscal year beginning July 1,  
355 2017, and ending June 30, 2018. These are additions to amounts previously appropriated for  
356 fiscal year 2018. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures  
357 Act, the Legislature appropriates the following sums of money from the funds or accounts  
358 indicated for the use and support of the government of the state of Utah.

359 ITEM 1

360 To Restricted Fund and Account Transfers -- General Fund Restricted --

361 Employability to Careers Program Restricted Account

362 From General Fund, One-time

\$1,000,000

363 Schedule of Programs:

364                           General Fund Restricted -- Employability to  
365                           Careers Program Restricted Account       \$1,000,000  
366 ITEM 2  
367           To Governor's Office of Management and Budget -- Operations and Policy  
368                           From General Fund Restricted -- Employability to Careers Program  
369                           Restricted Account, One-time   \$1,000,000  
370                           Schedule of Programs:  
371                           Employability to Careers Program   \$1,000,000  
372           The Legislature intends that:  
373           (1) under Subsection [63J-1-601](#)(2), appropriations provided under this section not  
374 lapse; and  
375           (2) the use of any nonlapsing funds be limited to the purposes described in Section  
376 [63J-4-703](#).