

1 **EMPLOYMENT SUPPORT ACT REVISIONS**

2 2015 GENERAL SESSION

3 STATE OF UTAH

4

5 **LONG TITLE**

6 **General Description:**

7 This bill modifies the Utah Workforce Services Code by revising and updating Chapter
8 3, Employment Support Act.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ revises the Employment Support Act by:
- 12 • updating language;
 - 13 • restructuring sections and parts;
 - 14 • amending definitions; and
 - 15 • adding cross-references;
- 16 ▶ amends assessment and counselor assignment provisions of the Family Employment
17 Program; and
- 18 ▶ makes technical changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

- 25 **35A-3-101**, as last amended by Laws of Utah 1998, Chapter 1
- 26 **35A-3-102**, as last amended by Laws of Utah 2007, Chapter 235
- 27 **35A-3-103**, as last amended by Laws of Utah 2012, Chapter 212
- 28 **35A-3-103.5**, as last amended by Laws of Utah 2012, Chapter 305
- 29 **35A-3-104**, as renumbered and amended by Laws of Utah 1997, Chapter 174
- 30 **35A-3-105**, as last amended by Laws of Utah 2008, Chapter 382
- 31 **35A-3-106**, as last amended by Laws of Utah 2011, Chapter 297
- 32 **35A-3-108**, as last amended by Laws of Utah 2011, Chapter 297

- 33 **35A-3-109**, as renumbered and amended by Laws of Utah 1997, Chapter 174
- 34 **35A-3-110**, as renumbered and amended by Laws of Utah 1997, Chapter 174
- 35 **35A-3-111**, as last amended by Laws of Utah 2008, Chapter 382
- 36 **35A-3-112**, as renumbered and amended by Laws of Utah 1997, Chapter 174
- 37 **35A-3-113**, as renumbered and amended by Laws of Utah 1997, Chapter 174
- 38 **35A-3-115**, as last amended by Laws of Utah 2011, Chapter 188
- 39 **35A-3-201**, as last amended by Laws of Utah 2003, Chapter 13
- 40 **35A-3-202**, as last amended by Laws of Utah 2005, Chapter 81
- 41 **35A-3-203**, as last amended by Laws of Utah 2014, Chapter 371
- 42 **35A-3-204**, as renumbered and amended by Laws of Utah 1997, Chapter 375
- 43 **35A-3-205**, as last amended by Laws of Utah 2012, Chapter 212
- 44 **35A-3-206**, as last amended by Laws of Utah 2014, Chapter 371
- 45 **35A-3-207**, as last amended by Laws of Utah 2013, Chapters 167 and 413
- 46 **35A-3-301**, as enacted by Laws of Utah 1997, Chapter 174
- 47 **35A-3-302**, as last amended by Laws of Utah 2013, Chapter 112
- 48 **35A-3-303**, as enacted by Laws of Utah 1997, Chapter 174
- 49 **35A-3-304**, as last amended by Laws of Utah 2012, Chapter 354
- 50 **35A-3-304.5**, as enacted by Laws of Utah 2012, Chapter 354
- 51 **35A-3-306**, as last amended by Laws of Utah 2007, Chapter 51
- 52 **35A-3-307**, as last amended by Laws of Utah 2010, Chapter 296
- 53 **35A-3-308**, as last amended by Laws of Utah 2008, Chapter 3
- 54 **35A-3-309**, as last amended by Laws of Utah 2012, Chapter 212
- 55 **35A-3-310**, as last amended by Laws of Utah 2008, Chapter 382
- 56 **35A-3-310.5**, as last amended by Laws of Utah 2011, Chapter 297
- 57 **35A-3-311**, as last amended by Laws of Utah 2012, Chapter 41
- 58 **35A-3-312**, as last amended by Laws of Utah 2009, Chapter 39
- 59 **35A-3-313**, as last amended by Laws of Utah 2014, Chapter 371
- 60 **35A-3-401**, as last amended by Laws of Utah 2004, Chapter 29
- 61 **35A-3-402**, as renumbered and amended by Laws of Utah 1997, Chapter 174
- 62 **35A-3-502**, as renumbered and amended by Laws of Utah 1997, Chapter 174
- 63 **35A-3-503**, as last amended by Laws of Utah 2011, Chapter 297

64 **35A-3-504**, as last amended by Laws of Utah 1998, Chapter 1
 65 **35A-3-505**, as renumbered and amended by Laws of Utah 1997, Chapter 174
 66 **35A-3-506**, as renumbered and amended by Laws of Utah 1997, Chapter 174
 67 **35A-3-507**, as renumbered and amended by Laws of Utah 1997, Chapter 174
 68 **35A-3-508**, as last amended by Laws of Utah 1999, Chapter 21
 69 **35A-3-510**, as renumbered and amended by Laws of Utah 1997, Chapter 174
 70 **35A-3-601**, as renumbered and amended by Laws of Utah 2003, Chapter 90
 71 **35A-3-603**, as last amended by Laws of Utah 2012, Chapter 41
 72 **35A-3-604**, as last amended by Laws of Utah 2008, Chapter 382
 73 **35A-3-605**, as renumbered and amended by Laws of Utah 2003, Chapter 90
 74 **35A-3-606**, as renumbered and amended by Laws of Utah 2003, Chapter 90
 75 **35A-3-607**, as renumbered and amended by Laws of Utah 2003, Chapter 90
 76 **35A-3-608**, as last amended by Laws of Utah 2012, Chapter 41
 77 **35A-3-609**, as renumbered and amended by Laws of Utah 2003, Chapter 90
 78 **35A-3-610**, as renumbered and amended by Laws of Utah 2003, Chapter 90
 79 **76-8-1201**, as last amended by Laws of Utah 2003, Chapter 90
 80 **76-8-1205**, as last amended by Laws of Utah 2012, Chapter 41

81 RENUMBERS AND AMENDS:

82 **35A-3-701**, (Renumbered from 35A-3-116, as last amended by Laws of Utah 2014,
 83 Chapter 371)
 84 **35A-3-702**, (Renumbered from 35A-3-117, as enacted by Laws of Utah 2014, Chapter
 85 250)

86 REPEALS:

87 **35A-3-602**, as last amended by Laws of Utah 2008, Chapter 382

88

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

90 Section 1. Section **35A-3-101** is amended to read:

91 **35A-3-101. Title.**

92 (1) This chapter [~~shall be~~] is known as the "Employment Support Act."

93 [~~(2) A person eligible for employment assistance under Chapter 3 or 5 shall receive any~~]

94 assistance under the applicable chapter, including stabilization, assessment, training, or
95 placement, through the department in accordance with Chapter 2, Part 2, Service Delivery.]

96 Section 2. Section **35A-3-102** is amended to read:

97 **35A-3-102. Definitions.**

98 [~~Unless otherwise specified, as~~] As used in this chapter:

99 (1) "Adjudicative proceeding" has the same meaning as defined in Section 63G-4-103.

100 (2) "Administrative order" means an order issued by the department that addresses an
101 overpayment of public assistance.

102 [~~(1)~~] (3) "Applicant" means a person who requests assistance under this chapter.

103 (4) "Assignment of support" means the transfer to the department of a recipient's rights
104 to receive some or all of the recipient's child support payments.

105 [~~(2)~~] (5) "Average monthly number of families" means the average number of families
106 who received cash assistance on a monthly basis during the previous federal fiscal year.

107 [~~(3)~~] (6) "Cash assistance" means [a] the monthly dollar amount [~~of cash a client~~] a
108 recipient is eligible to receive under the Family Employment Program under Section
109 35A-3-302.

110 [~~(4)~~] (7) "Child care services" means care of a child by a responsible person who is not
111 the child's parent or legal guardian, for a portion of the day that is less than 24 hours in a
112 qualified setting, as defined by [~~rule, by a responsible person who is not the child's parent or~~
113 ~~legal guardian~~] rules made by the department in accordance with Title 63G, Chapter 3, Utah
114 Administrative Rulemaking Act.

115 (8) (a) "Civic organization" means an organization that provides services to its
116 community.

117 (b) "Civic organization" includes a community service club or organization, a
118 charitable health care or service organization, a fraternal organization, a labor union, a minority
119 or ethnic organization, a commercial or industrial organization, a commerce or business club, a
120 private nonprofit organization, a private nonprofit corporation that provides funding to a
121 community service organization, an organization that advocates or provides for the needs of
122 persons with low incomes, a religious organization, and an organization that fosters strong
123 neighborhoods and communities.

124 (9) "Court order" means a judgment or order of a court of this state, another state, or

125 the federal government that addresses an overpayment of public assistance.

126 ~~[(5)]~~ (10) "Date of enrollment" means the date on which the applicant was approved as
127 eligible for cash assistance.

128 ~~[(6)]~~ (11) "Director" means the director of the division assigned by the department to
129 administer a program.

130 ~~[(7)]~~ (12) "Diversion" or "diversion payment" means a ~~[single payment of cash~~
131 ~~assistance]~~ one-time cash assistance payment under Section 35A-3-303 to a ~~[client]~~ recipient
132 who is eligible for cash assistance, but does not require extended cash assistance under Part 3,
133 Family Employment Program.

134 ~~[(8) "Division" means the Employment Development Division.]~~

135 ~~[(9)]~~ (13) "Education or training" means:

136 (a) basic remedial education;

137 (b) adult education;

138 (c) high school education;

139 (d) education to obtain the equivalent of a high school diploma;

140 (e) education to learn English as a second language;

141 (f) applied technology training;

142 (g) employment skills training; or

143 (h) on-the-job training.

144 ~~[(10)]~~ (14) "Full-time education or training" means training on a full-time basis as
145 defined by the educational institution attended by the parent ~~[client]~~ recipient.

146 ~~[(11)]~~ (15) "General Assistance" means financial assistance provided to a person ~~[who~~
147 ~~is not otherwise eligible for cash assistance under Part 3, Family Employment Program,~~
148 ~~because that person does not live in a family with a related dependent child]~~ under Part 4,
149 General Assistance.

150 (16) "Notice of agency action" means the notice required to commence an adjudicative
151 proceeding as described in Section 63G-4-201.

152 (17) "Obligor" means an individual:

153 (a) who is liable to the state under Section 35A-3-603 and applicable federal statutes
154 and regulations; or

155 (b) against whom an administrative or judicial order determining overpayment has

156 been obtained.

157 (18) (a) "Overpayment" means money, public assistance, or another item of value
158 provided under a state or federally funded benefit program to a person that is not entitled to
159 receive it or is not entitled to receive it at the level provided.

160 (b) "Overpayment" includes money paid to a provider under this title in connection
161 with public assistance or another publicly funded assistance program to the extent that the
162 provider receives payment:

163 (i) for goods or services not provided; or

164 (ii) in excess of the amount to which the provider is entitled.

165 ~~[(12)]~~ (19) "Parent [client] recipient" means a person who enters into an employment
166 plan with the [division] department to qualify for cash assistance under Part 3, Family
167 Employment Program.

168 (20) "Performance goals" means a target level of performance that will be compared to
169 actual performance.

170 (21) "Performance indicators" means actual performance information regarding a
171 program or activity.

172 (22) "Performance monitoring system" means a process to regularly collect and analyze
173 performance information, including performance indicators and performance goals.

174 ~~[(13)]~~ (23) "Plan" or "state plan" means the state plan submitted to the Secretary of the
175 United States Department of Health and Human Services to receive funding from the United
176 States through the Temporary Assistance for Needy Families Block Grant in accordance with
177 42 U.S.C. Sec. 602.

178 (24) "Recipient" means a person who is qualified to receive, is receiving, or has
179 received assistance under this chapter.

180 ~~[(14)]~~ (25) "Single minor parent" means a person under 18 years of age who is not
181 married and has a minor child in the person's care and custody.

182 (26) "Transitional cash assistance" means assistance provided to a recipient to stabilize
183 employment and reduce the future use of cash assistance provided under Part 3, Family
184 Employment Program.

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

186 **35A-3-103. Department responsibilities.**

187 The ~~[division]~~ department shall:

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

190 (2) determine eligibility ~~[in accordance with the requirements of this chapter]~~ for
191 public assistance programs ~~[assigned to it by the Legislature or the governor]~~ in accordance
192 with the requirements of this chapter;

193 (3) cooperate with the federal government in the administration of public assistance
194 programs;

195 (4) administer ~~[the Utah]~~ state employment ~~[service]~~ services in accordance with
196 Section 35A-3-115;

197 (5) provide for the compilation of necessary or desirable information, statistics, and
198 reports;

199 (6) perform other duties and functions required by law;

200 (7) monitor the application of eligibility policy;

201 (8) develop personnel training programs for ~~[more]~~ effective and efficient operation of
202 ~~[all] the programs [under the administration of]~~ administered by the [division] department;

203 (9) provide refugee resettlement services in accordance with Section 35A-3-116;

204 (10) provide child care assistance for children in accordance with Part 2, Office of
205 Child Care; and

206 (11) provide services ~~[and support]~~ that enable ~~[clients]~~ an applicant or recipient to
207 qualify for affordable housing in cooperation with:

208 (a) the Utah Housing Corporation;

209 (b) the Housing and Community Development Division; and

210 (c) local housing authorities.

211 Section 4. Section **35A-3-103.5** is amended to read:

212 **35A-3-103.5. Employment and the provision of services for the disabled.**

213 (1) As used in this section, "recipient" means an individual who:

214 (a) has a disability;

215 (b) suffers from a mental illness; or

216 (c) is undergoing treatment for a substance abuse problem.

217 (2) ~~[When]~~ Subject to funds made available for this purpose and subject to federal and

218 ~~state law, when~~ providing services to a recipient in the programs provided under this chapter,
219 the department shall ~~[, within funds appropriated by the Legislature and in accordance with the~~
220 ~~requirements of federal and state law and memorandums of understanding between the~~
221 ~~department and other state entities that provide services to a recipient,]~~ give priority to
222 providing services that assist an eligible recipient in obtaining and retaining meaningful and
223 gainful employment that enables the recipient to earn sufficient income to:

224 (a) purchase goods and services;

225 (b) establish self-sufficiency; and

226 (c) exercise economic control of the recipient's life.

227 (3) The department shall develop a written plan to implement the policy described in
228 Subsection (2) that includes:

229 (a) assessing the strengths and needs of a recipient;

230 (b) customizing strength-based approaches to obtaining employment;

231 (c) expecting, encouraging, providing, and rewarding employment:

232 (i) integrated employment in the workplace at competitive wages and benefits; and

233 (ii) self-employment;

234 (d) developing partnerships with potential employers;

235 (e) maximizing appropriate employment training opportunities;

236 (f) coordinating services with other government agencies and community resources;

237 (g) to the extent possible, eliminating practices and policies that interfere with the

238 policy described in Subsection (2); and

239 (h) arranging sub-minimum wage work or volunteer work for an eligible recipient
240 when employment at market rates cannot be obtained.

241 (4) The department shall, on an annual basis:

242 (a) set goals to implement the policy described in Subsection (2) and the plan described
243 in Subsection (3);

244 (b) determine whether the goals for the previous year have been met; and

245 (c) modify the plan described in Subsection (3) as needed.

246 Section 5. Section **35A-3-104** is amended to read:

247 **35A-3-104. Contracts for administration and provision of public assistance.**

248 The ~~[division, in consultation with the]~~ department~~[,]~~ may contract with other public or

249 private agencies to assist in the administration and provision of public assistance.

250 Section 6. Section **35A-3-105** is amended to read:

251 **35A-3-105. Determination of eligibility and responsibility -- Information from**
252 **State Tax Commission.**

253 (1) The [~~division~~] department may have access to relevant information contained in the
254 income tax returns of [~~a client, applicant, or~~] an applicant, a recipient, or a person who has a
255 duty to support [~~a client~~] an applicant or recipient, in determining:

256 (a) eligibility for public assistance;

257 (b) payment responsibilities for institutional care; or

258 (c) any other administrative purpose consistent with this chapter.

259 (2) The information requested by the [~~division~~] department shall be:

260 (a) provided by the State Tax Commission on forms furnished by the [~~division~~]
261 department; and

262 (b) treated by the department as a private record under Title 63G, Chapter 2,
263 Government Records Access and Management Act[~~, by the division~~].

264 Section 7. Section **35A-3-106** is amended to read:

265 **35A-3-106. Residency requirements.**

266 [~~To be~~] (1) An applicant is only eligible for public assistance under this chapter[~~, an~~] if
267 the applicant [~~shall be~~] is living in Utah voluntarily with the intention of making [~~this~~] the state
268 the applicant's place of residence[~~, and not~~].

269 (2) An applicant is not eligible for public assistance under this chapter if the applicant
270 is living in Utah for a temporary purpose.

271 Section 8. Section **35A-3-108** is amended to read:

272 **35A-3-108. Assignment of support.**

273 (1) (a) [~~The division shall obtain~~] An applicant shall provide an assignment of support
274 [~~from each applicant or client~~] to the department regardless of whether the payment is court
275 ordered.

276 (b) Upon the receipt of public assistance, any right of the recipient to receive support
277 from another person passes to the [~~state,~~] department, including a right to support on behalf of
278 any family member for whom the recipient is applying for or receiving assistance, even if the
279 [~~client~~] recipient has not executed and delivered an assignment of support to the [~~division~~]

280 department as required by Subsection (1)(a).

281 ~~[(c) The right to support described in Subsection (1)(b) includes a right to support in~~
 282 ~~the applicant's or client's own behalf or in behalf of any family member for whom the applicant~~
 283 ~~or client is applying for or receiving assistance.]~~

284 (2) An assignment of support, or a ~~[passing of rights under Subsection (1)(b)]~~ right to
 285 receive support passed to the department, includes payments ordered, decreed, or adjudged by
 286 ~~[any]~~ a court within this state, [any other] another state, or a territory of the United States and is
 287 not in lieu of, and does not supersede or alter, any other court order, decree, or judgment.

288 (3) When an assignment of support is executed or the right to support passes to the
 289 department under ~~[Subsection (1)(b), the applicant or client]~~ this section, the recipient is
 290 eligible to regular monthly assistance and the support paid to the ~~[division]~~ department is a
 291 refund.

292 (4) All ~~[sums]~~ money refunded under this section shall be deposited into the General
 293 Fund, except any amount which is required to be credited to the federal government~~[-, shall be~~
 294 ~~deposited into the General Fund]~~.

295 (5) ~~[On]~~ Except for support already received by the department, on and after the date a
 296 family stops receiving cash assistance, an assignment of support under ~~[Subsection (1)]~~ this
 297 section does not apply to ~~[any]~~ support that accrued before the family received ~~[such]~~ the
 298 assistance ~~[if the department has not collected the support by the date the family stops~~
 299 ~~receiving cash assistance, if the assignment is executed on or after October 1, 1998]~~.

300 (6) The department shall distribute ~~[arrearages]~~ overdue or unpaid amounts to
 301 ~~[families]~~ a recipient in accordance with the requirements of the Social Security Act, 42 U.S.C.
 302 Sec. 657.

303 (7) ~~[The total amount of]~~ When an assignment of support includes child support, the
 304 department may not collect more child support ~~[assigned to the department and collected]~~
 305 payments under this section ~~[may not exceed]~~ than the total amount of cash assistance
 306 ~~[received by the recipient]~~ provided to the recipient.

307 Section 9. Section **35A-3-109** is amended to read:

308 **35A-3-109. Assistance provided to guardian or other caretaker -- Periodic review.**

309 (1) ~~[When it appears necessary or advisable,]~~ At the discretion of the department, the
 310 department may pay the public assistance ~~[may be paid]~~ to the legal guardian of ~~[an applicant~~

311 ~~or client]~~ a recipient.

312 (2) The ~~[division]~~ department may only provide cash assistance on behalf of an eligible
313 recipient under Part 3, Family Employment Program, ~~[on behalf of an eligible client,]~~ to
314 another individual interested in or concerned with the welfare of the ~~[client only when]~~
315 recipient if:

316 (a) by reason of the ~~[client's]~~ recipient's physical or mental condition, the ~~[client]~~
317 recipient is unable to manage funds;

318 (b) ~~[when]~~ the provision of cash assistance directly to the ~~[client]~~ recipient would be
319 contrary to the ~~[client's]~~ recipient's welfare; or

320 (c) ~~[when]~~ the ~~[division]~~ department is ~~[so directed by]~~ acting according to federal
321 requirements.

322 (3) The ~~[division]~~ department shall:

323 (a) undertake or contract with other state agencies to make special efforts to protect the
324 welfare of ~~[clients]~~ a recipient and improve ~~[their]~~ the recipient's capacity for self-care[-
325 Periodic]; and

326 (b) periodically review ~~[of a client's]~~ a recipient's condition ~~[is required. When~~
327 conditions change,] to determine whether, in the best interest of the recipient:

328 (i) cash assistance that is provided to an individual other than the ~~[client shall]~~ recipient
329 should be discontinued ~~[or, when advisable,];~~ or

330 (ii) a legal guardian ~~[shall]~~ should be appointed~~[-, whichever action best serves the~~
331 interests and welfare of the client].

332 Section 10. Section **35A-3-110** is amended to read:

333 **35A-3-110. Third party obligation -- Interest.**

334 ~~[Whenever the division]~~ (1) If the department expends public assistance on behalf of ~~[a~~
335 client] a recipient for services or supplies, for which another person is obligated to reimburse
336 the ~~[division, that other]~~ department, the department shall notify the person of the obligation to
337 make the reimbursement.

338 (2) Upon receiving notification under Subsection (1), the notified person shall make
339 ~~[such]~~ the reimbursement within 60 days ~~[of notification by the division. If reimbursement is~~
340 not made within that period, and no extension of time is granted by the division, interest shall
341 accrue on the].

342 (3) After the time period established under Subsection (2), the department shall charge
 343 interest on any unpaid balance at the rate of 8% per annum unless an extension is granted by
 344 the department.

345 Section 11. Section **35A-3-111** is amended to read:

346 **35A-3-111. Collection of overpayments.**

347 (1) The department [~~is responsible for the recovery of~~] shall recover overpayments
 348 [~~required~~] as described in Section 35A-3-603.

349 (2) [~~Excess property liens required in the various programs~~] An excess property lien
 350 that is required by a department program, but is not transferred to the federal government [~~shall~~
 351 ~~remain~~], remains a condition of eligibility in public assistance programs.

352 (3) A [~~client can~~] recipient may appeal an initial department determination that there
 353 has been an overpayment under rules made by the department in accordance with Title 63G,
 354 Chapter 3, Utah Administrative Rulemaking Act.

355 Section 12. Section **35A-3-112** is amended to read:

356 **35A-3-112. Assistance not assignable -- Exemption from execution, garnishment,**
 357 **bankruptcy, or insolvency proceedings.**

358 (1) Public assistance provided under this chapter is not assignable[;] at law or in
 359 equity[~~, and none~~].

360 (2) None of the money paid or payable under this chapter is subject to:

361 (a) execution, levy, attachment, garnishment, or other legal process[;]; or [~~to~~]

362 (b) the operation of [~~any~~] bankruptcy or insolvency law.

363 Section 13. Section **35A-3-113** is amended to read:

364 **35A-3-113. Prohibition of charges or fees for representing applicants or**
 365 **recipients.**

366 [~~A~~] Except for criminal proceedings, a person may not [~~make any~~] charge or receive
 367 [~~any~~] a fee for representing an applicant [~~or client in any~~] or recipient in a proceeding under
 368 this chapter, [~~except criminal proceedings,~~] or with respect to [~~any~~] an application, [~~whether~~
 369 ~~the fee or charge is to be paid by the applicant, client, or any other person, if that fee is in~~
 370 ~~excess of an amount~~] in an amount greater than the amount determined by the court or body
 371 before whom an applicant or [~~client~~] recipient has been represented regardless of who pays the
 372 charge or fee.

373 Section 14. Section **35A-3-115** is amended to read:

374 **35A-3-115. Public employment offices -- Agreements with other authorities --**
375 **Federal system accepted -- Appropriation.**

376 (1) (a) The [~~division~~] department shall establish and maintain [~~free~~] public
377 employment offices in a manner and in places as [~~may be~~] necessary for the proper
378 administration of this chapter and for the purposes of performing the functions [~~as are within~~
379 ~~the purview of the Act of Congress entitled "An act to provide for the establishment of a~~
380 ~~national employment system and for co-operation with the states in the promotion of such~~
381 ~~system, and for other purposes," approved June 6, 1933, 48 Stat. 113; U. S. Code, Title 29,~~
382 ~~Section 49 (c) as amended, hereinafter referred to as the "Wagner-Peyser Act."~~] described in
383 the Wagner-Peyser Act, 29 U.S.C. Sec. 49, as amended.

384 (b) The [~~division~~] department shall consult with the directors of economic service areas
385 when determining the location of public employment offices.

386 (c) The [~~division~~] department may locate a public employment office in connection
387 with [~~or as an integrated part of~~] an employment center established under Section 35A-2-203.

388 (2) (a) The provisions of the Wagner-Peyser Act, 29 U.S.C. 49-49c, 49g, 49h, 49k, and
389 557, are accepted by [~~this~~] the state.

390 (b) The department is designated and constitutes the agency of [~~this~~] the state for the
391 purposes of the [~~act~~] Wagner-Peyser Act, 29 U.S.C. Sec. 49, as amended.

392 (3) (a) For the purpose of establishing and maintaining [~~free~~] public employment
393 offices, and promoting the use of [~~their facilities~~] the offices, the [~~division~~] department may
394 enter into agreements with [~~the railroad retirement board, or any other~~] any agency or
395 department of the United States, [~~or of this or any other state, charged with the administration~~
396 ~~of any law whose purposes are reasonably related to the purposes of this chapter~~] this state, or
397 another state.

398 (b) As a part of an agreement entered into under Subsection (3)(a), the [~~division~~]
399 department may accept money, services, or [~~quarters~~] facilities as a contribution to the
400 maintenance of the state system of public employment offices or as reimbursement for services
401 performed.

402 Section 15. Section **35A-3-201** is amended to read:

403 **Part 2. Office of Child Care**

404 **35A-3-201. Definitions.**

405 As used in this part:

406 (1) "Child care" means the child care services [~~referred to~~] defined in [~~Subsection~~]
407 Section 35A-3-102[~~(4) provided~~] for:408 (a) children [~~through~~] age 12 or younger; and409 (b) children with disabilities [~~through~~] age 18 or younger.

410 (2) "Child care provider association" means an association:

411 (a) that has functioned as a child care provider association in the state for at least three
412 years; and

413 (b) is affiliated with a national child care provider association.

414 (3) "Committee" means the Child Care Advisory Committee created in Section
415 35A-3-205.

416 (4) "Director" means the director of the Office of Child Care.

417 (5) "Office" means the Office of Child Care created in Section 35A-3-202.

418 Section 16. Section **35A-3-202** is amended to read:419 **35A-3-202. Creation.**420 (1) There is created within the Department of Workforce Services an Office of Child
421 Care.422 (2) The office shall be administered by a director who shall be appointed by the
423 executive director and who may be removed from that position at the will of the executive
424 director.425 Section 17. Section **35A-3-203** is amended to read:426 **35A-3-203. Functions and duties of office -- Annual report.**

427 The office shall:

428 (1) assess critical child care needs throughout the state on an ongoing basis and focus
429 its activities on helping to meet the most critical needs;430 (2) provide child care subsidy services for income-eligible children through age 12 and
431 for income-eligible children with disabilities through age 18;

432 (3) provide information:

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

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

- 435 (4) coordinate services for quality child care training and child care resource and
436 referral core services;
- 437 (5) apply for, accept, or expend gifts or donations from public or private sources;
- 438 (6) provide administrative support services to the committee;
- 439 (7) work collaboratively with the following for the delivery of quality child care and
440 early childhood programs, and school age programs throughout the state:
- 441 (a) the State Board of Education; and
- 442 (b) the Department of Health;
- 443 (8) research child care programs and public policy ~~[that will]~~ to improve the quality
444 and accessibility ~~[and that will further the purposes of the office and]~~ of child care, early
445 childhood programs, and school age programs in the state;
- 446 (9) provide planning and technical assistance for the development and implementation
447 of programs in communities that lack child care, early childhood programs, and school age
448 programs;
- 449 (10) provide organizational support for the establishment of nonprofit organizations
450 approved by the Child Care Advisory Committee, created in Section 35A-3-205; and
- 451 (11) coordinate with the department to include in the annual written report described in
452 Section 35A-1-109 information regarding the status of child care in Utah.

453 Section 18. Section **35A-3-204** is amended to read:

454 **35A-3-204. Duties of director.**

455 The director shall:

- 456 (1) enforce rules made by the department regulating the use of services provided by the
457 office;
- 458 (2) supervise office staff and prepare an annual work plan; and
- 459 (3) apply for, accept, and expend ~~[gifts or]~~ donations from public or private sources to
460 assist the office in fulfilling its statutory obligations.

461 Section 19. Section **35A-3-205** is amended to read:

462 **35A-3-205. Creation of committee.**

- 463 (1) There is created a Child Care Advisory Committee.
- 464 (2) The committee shall counsel and advise the office in fulfilling its statutory
465 obligations ~~[to include]~~, including:

466 (a) [~~a review of and recommendations~~] reviewing and providing recommendations on
467 the office's annual budget;

468 (b) providing recommendations on how the office might best respond to child care
469 needs throughout the state; and

470 (c) providing recommendations on the use of [~~new~~] money in the Child Care Fund and
471 other money that comes into the office[~~, including those for the Child Care Fund~~].

472 (3) The committee is composed of the following members, with special attention given
473 to insure diversity and representation from both urban and rural groups:

474 (a) one expert in early childhood development;

475 (b) one child care provider who operates a center;

476 (c) one child care provider who operates a family child care business;

477 (d) one parent who is representative of households receiving a child care subsidy from
478 the office;

479 (e) one representative from the public at-large;

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

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

482 (h) one representative of the Department of Human Services;

483 (i) two representatives from the corporate community, one who is a recent "Family
484 Friendly" award winner and who received the award because of efforts [~~in the~~] related to child
485 care [~~arena~~];

486 (j) two representatives from the small business community;

487 (k) one representative from child care advocacy groups;

488 (l) one representative of children with disabilities;

489 (m) one representative from the state Head Start Association appointed by the
490 association;

491 (n) one representative from each child care provider association; and

492 (o) one representative of a child care resource and referral center appointed by the
493 organization representing child care resource and referral agencies.

494 (4) (a) The executive director shall appoint the members designated in Subsections
495 (3)(a) through (e) and (j) through (n).

496 (b) The head of the respective departments shall appoint the members referred to in

497 Subsections (3)(f) through (i).

498 (c) Each child care provider association shall appoint its respective member referred to
499 in Subsection (3)(o).

500 (5) (a) Except as required by Subsection (5)(b), as terms of current committee members
501 expire, the appointing authority shall appoint each new member or reappointed member to a
502 four-year term.

503 (b) Notwithstanding the requirements of Subsection (5)(a), the appointing authority
504 shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the
505 terms of committee members are staggered so that approximately half of the committee is
506 appointed every two years.

507 (6) When a vacancy occurs in the membership for any reason, including missing three
508 consecutive meetings where the member has not been excused by the chair prior to or during
509 the meeting, the replacement shall be appointed for the unexpired term.

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

511 (8) (a) The executive director shall select a chair from the committee membership.

512 (b) A chair may serve no more than two one-year terms as chair.

513 (9) A member may not receive compensation or benefits for the member's service, but
514 may receive per diem and travel expenses [~~in accordance with~~] as allowed in:

515 (a) Section 63A-3-106;

516 (b) Section 63A-3-107; and

517 (c) rules made by the Division of Finance [~~pursuant~~] according to Sections 63A-3-106
518 and 63A-3-107.

519 Section 20. Section **35A-3-206** is amended to read:

520 **35A-3-206. Child Care Fund -- Use of money -- Committee and director duties --**
521 **Restrictions.**

522 (1) There is created an expendable special revenue fund known as the "Child Care
523 Fund."

524 (2) The director of the office shall administer the fund under the direction of the
525 committee.

526 (3) (a) The office may form nonprofit corporations or foundations controlled by the
527 director of the office and the committee to aid and assist the office in attaining its charitable,

528 research, and educational objectives.

529 (b) The nonprofit corporations or foundations may receive and administer legislative
530 appropriations, government grants, contracts, and private gifts to carry out their public
531 purposes.

532 (c) Money collected by ~~[the]~~ a nonprofit corporation or foundation described in this
533 Subsection (3) may be deposited in the Child Care Fund.

534 (d) A nonprofit foundation controlled by the director of the office and the committee
535 shall submit to the Division of Finance, within 60 days after the close of the foundation's fiscal
536 year, a financial report summarizing the foundation's financial position and results of
537 operations of the most recent fiscal year.

538 (4) (a) ~~[There shall]~~ Money may be deposited into the fund ~~[money]~~ from ~~[numerous]~~ a
539 variety of sources, including~~[-]~~ grants, private foundations, and individual donors.

540 (b) The fund shall be used to accept money designated for child care initiatives
541 ~~[improving]~~ that will improve the quality, affordability, or accessibility of child care.

542 (5) The money in the fund that is not restricted to a specific use under federal law or by
543 donors may not be expended without approval of the committee.

544 (6) The state treasurer shall invest the money in the fund under Title 51, Chapter 7,
545 State Money Management Act, except that all interest or other earnings derived from money in
546 the fund ~~[money]~~ shall be deposited in the fund.

547 (7) The money in the fund may not be used for administrative expenses of the office
548 ~~[normally]~~ provided for by legislative appropriation.

549 (8) The committee shall:

550 (a) advise the director of the office on child care needs in the state and on relevant
551 operational aspects of any grant, loan, or revenue collection program established under this
552 part;

553 (b) recommend specific child care projects to the director of the office;

554 (c) recommend policy and procedures for administering the fund;

555 (d) make recommendations on grants, loans, or contracts from the fund for any of the
556 child care activities authorized under this part;

557 (e) establish the criteria by which loans and grants will be made;

558 (f) determine the order in which approved child care projects will be funded;

559 (g) make recommendations regarding the distribution of money from the fund in
560 accordance with the procedures, conditions, and restrictions placed ~~[upon]~~ on the money by the
561 donors; and

562 (h) have joint responsibility with the office to solicit public and private funding for the
563 fund.

564 (9) Fund money shall be used for ~~[any of]~~ the following activities:

565 (a) training of child care providers;

566 (b) scholarships and grants for child care providers' professional development;

567 (c) child care public awareness and consumer education services;

568 (d) child care provider recruitment;

569 (e) Office of Child Care sponsored activities;

570 (f) matching money for obtaining grants; or

571 (g) other activities that will assist in the improvement of child care quality,
572 affordability, or accessibility.

573 (10) The director of the office, with the consent of the committee and the executive
574 director, may grant, lend, or contract ~~[fund]~~ money from the fund for child care purposes to:

575 (a) local governments;

576 (b) nonprofit community, charitable, or neighborhood-based organizations;

577 (c) regional or statewide nonprofit organizations; or

578 (d) child care providers.

579 (11) Preference may be given, but awards may not be limited to ~~[applicants for fund~~
580 ~~money]~~, entities that apply for money from the fund and that demonstrate ~~[any of]~~ the
581 following:

582 (a) programmatic or financial need;

583 (b) diversity of ~~[clientele]~~ beneficiaries or geographic location; ~~[and]~~ or

584 (c) coordination with or enhancement of existing services.

585 (12) The executive director or the executive director's designee shall monitor on an
586 annual basis the activities of the ~~[recipients of]~~ entities that receive grants, loans, or contracts
587 issued from the fund ~~[on an annual basis]~~ to ensure compliance with the terms and conditions
588 imposed on the ~~[recipient]~~ entities by the fund.

589 (13) ~~[The entities receiving grants, loans, or contracts]~~ Each entity receiving a grant,

590 loan, or contract shall provide the director of the office with an annual accounting of how the
591 money [~~they~~] the entity received from the fund has been spent.

592 (14) (a) The director of the office shall make an annual report to the committee
593 regarding the status of the fund and the programs and services funded by the fund.

594 (b) The report shall be included in the annual written report described in Section
595 35A-1-109.

596 Section 21. Section **35A-3-207** is amended to read:

597 **35A-3-207. Community-based prevention programs.**

598 (1) As used in this section:

599 (a) "political subdivision" means a town, city, county, or school district;

600 (b) "qualified sponsor" means a:

601 (i) political subdivision;

602 (ii) community nonprofit, religious, or charitable organization;

603 (iii) regional or statewide nonprofit organization; or

604 (iv) private for profit or nonprofit child care organization with experience and expertise
605 in operating community-based prevention programs described in Subsection (2) and that are
606 licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities.

607 (2) Within appropriations from the Legislature, the department may provide grants to
608 qualified sponsors for community-based prevention programs that:

609 (a) support parents in their primary care giving role to children;

610 (b) provide positive alternatives to idleness for school-aged children when school is not
611 in session; and

612 (c) support other community-based prevention programs.

613 (3) In awarding [~~grants~~] a grant under this section, the department shall:

614 (a) request proposals for funding from potential qualified sponsors; and

615 [~~(b) comply with the requirements of Subsection (4).]~~

616 [~~(4) In awarding these grants, the department shall]~~

617 (b) ensure that each dollar of funds from political subdivisions or private funds is
618 matched for each dollar received from the department. [~~The~~]

619 (4) In meeting the matching requirements under Subsection (3), the department may
620 consider the value of in-kind contributions [such as], including materials, supplies, paid labor,

621 volunteer labor, and the incremental increase in building maintenance and operation expenses
 622 incurred attributable to the prevention program [~~may be considered in meeting this match~~
 623 ~~requirement~~].

624 (5) In awarding a grant under this section, the department shall consider:

625 (a) the cash portion of the proposed match in relation to the financial resources of the
 626 qualified sponsor; and

627 (b) the extent to which the qualified sponsor has:

628 (i) consulted and collaborated with parents of children who are likely to participate,
 629 local parent-teacher organizations, and other parent organizations;

630 (ii) identified at-risk factors that will be [~~ameliorated~~] addressed through the proposed
 631 prevention program;

632 (iii) identified protective factors and developmental assets that will be supported and
 633 strengthened through the proposed prevention program; and

634 (iv) encouraged the financial support of parents and the organizations [~~specified~~]
 635 described in Subsection (5)(b)(i).

636 (6) [~~At~~] The department shall award at least [50 percent] 50% of the grants [~~awarded~~]
 637 under this section [~~shall be awarded~~] to organizations described in Subsection (1)(b)(iv).

638 (7) [~~No federal funds shall be used~~] The department may not allow the use of federal
 639 funds as matching funds under this act.

640 Section 22. Section **35A-3-301** is amended to read:

641 **Part 3. Family Employment Program**

642 **35A-3-301. Purpose -- Legislative findings.**

643 (1) The Legislature finds that:

644 (a) [~~it is in the public interest to fundamentally alter the state's cash assistance program~~
 645 ~~for needy families with children;~~] (b) employment improves the quality of life for parents,
 646 children, and individuals by increasing family income, developing job skills, and improving
 647 self-esteem; and

648 [~~(c)~~] (b) the purpose of the cash assistance provided under this part is to assist a parent
 649 [~~client~~] recipient to obtain employment that is sufficient to sustain a family, to ensure the
 650 dignity of those receiving assistance, and to strengthen families.

651 (2) The Legislature recognizes that even with assistance, some [~~clients~~] recipients may

652 be unable to attain complete self-sufficiency.

653 Section 23. Section **35A-3-302** is amended to read:

654 **35A-3-302. Eligibility requirements.**

655 (1) [~~The program of~~] There is created the "Family Employment Program" to provide
656 cash assistance [~~provided~~] under this part [~~is known as the Family Employment Program~~].

657 (2) (a) The [~~division~~] department shall submit a state plan to the Secretary of the
658 United States Department of Health and Human Services to obtain [~~federal~~] funding under the
659 federal Temporary Assistance for Needy Families Block Grant.

660 (b) The [~~division~~] department shall make the state plan consistent with this part and
661 federal law.

662 (c) If a discrepancy [~~arises~~] exists between a provision of the state plan and this part,
663 this part supersedes the provision in the state plan.

664 (3) The services [~~and supports~~] provided under this part are for both one-parent and
665 two-parent families.

666 (4) To be eligible for cash assistance under this part, a family shall:

667 (a) have at least one minor dependent child; or

668 (b) have a parent who is in the third trimester of a pregnancy.

669 (5) [~~The~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
670 Act, the department shall make rules for eligibility and the amount of cash assistance a family
671 is eligible to receive under this part based on:

672 (a) family size;

673 (b) family income;

674 (c) income disregards;

675 (d) other relevant factors; and

676 (e) if the applicant has met the eligibility requirements under Subsections (5)(a)
677 through (d), the assessment and other requirements described in Sections 35A-3-304 and
678 35A-3-304.5.

679 (6) [~~The division shall disregard~~] To determine eligibility, the department may not
680 consider money on deposit in an Individual Development Account established under Section
681 35A-3-312 [~~in determining eligibility~~].

682 (7) The department shall provide for an appeal of a determination of eligibility in

683 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

684 (8) (a) The department shall make a report to either the Legislature's Executive
685 Appropriations Committee or the Social Services Appropriations Subcommittee on any
686 proposed rule change made under Subsection (5) that would modify the:

687 (i) eligibility requirements for cash assistance; or

688 (ii) ~~the~~ amount of cash assistance a family ~~would be~~ is eligible to receive.

689 (b) The department shall submit the report under Subsection (8)(a) prior to
690 implementing the proposed rule change ~~and the~~.

691 (c) The report under Subsection (8)(a) shall include:

692 (i) a description of the department's current practice or policy that it is proposing to
693 change;

694 (ii) an explanation of why the department is proposing the change;

695 (iii) the effect of an increase or decrease in cash benefits on families; and

696 (iv) the fiscal impact of the proposed change.

697 ~~(c)~~ (d) The department may use the Notice of Proposed Rule Amendment form filed
698 with the Division of Administrative Rules as its report if the notice contains the information
699 required under Subsection (8)~~(b)~~(c).

700 (9) ~~The~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
701 Act, the department shall make rules to ensure that:

702 (a) a recipient of assistance from the Family Employment Program:

703 (i) has adequate access to the assistance;

704 (ii) has the ability to use and withdraw assistance with minimal fees or surcharges,
705 including the opportunity to obtain assistance with no fees or surcharges;

706 (iii) is provided information regarding fees and surcharges that may apply to assistance
707 accessed through an electronic fund transaction; and

708 (iv) is provided information explaining the restrictions on accessing assistance
709 described in Subsection (10); and

710 (b) information regarding fees and surcharges that may apply when accessing
711 assistance from the Family Employment Program through an electronic fund transaction is
712 available to the public.

713 (10) An individual receiving assistance under this section may not access the assistance

714 through an electronic benefit transfer, including through an automated teller machine or
715 point-of-sale device, in an establishment in the state that:

- 716 (a) exclusively or primarily sells intoxicating liquor;
- 717 (b) allows gambling or gaming; or
- 718 (c) provides adult-oriented entertainment where performers disrobe or perform
719 unclothed.

720 (11) An establishment [~~in the state~~] described under Subsection (10)(a), (b), or (c) may
721 not allow an individual to access the assistance [~~described in~~] under this section on the
722 establishment's premises through an electronic benefit transfer, including through an automated
723 teller machine or point-of-sale device[~~if the establishment: (a) exclusively or primarily sells~~
724 ~~intoxicating liquor; (b) allows gambling or gaming; or (c) provides adult-oriented~~
725 ~~entertainment where performers disrobe or perform unclothed~~].

726 (12) In accordance with federal requirements[~~;~~] and in accordance with Title 63G,
727 Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to prevent
728 individuals from accessing assistance in a manner prohibited by Subsections (10) and (11),
729 which rules may include enforcement provisions that impose sanctions that temporarily or
730 permanently disqualify an individual from receiving assistance.

731 [~~(13) When exercising rulemaking authority under this part, the department shall~~
732 ~~comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

733 Section 24. Section **35A-3-303** is amended to read:

734 **35A-3-303. Diversion.**

735 (1) (a) When an applicant applies for cash assistance under this part, the [division]
736 department shall assess whether the applicant should be [~~diverted from receiving extended cash~~
737 ~~assistance.~~] helped by:

- 738 (i) diversion to avoid extended cash assistance; or
- 739 (ii) normal cash assistance under this part.

740 (b) In completing the assessment[~~, the division shall~~] under this section, the department
741 may consider the following:

- 742 (i) the applicant's employment history;
- 743 (ii) the likelihood of the applicant obtaining immediate full-time employment;
- 744 (iii) the applicant's general prospect for obtaining full-time employment;

745 (iv) the applicant's need for cash assistance to pay for housing or substantial and
746 unforeseen expenses or work-related expenses;

747 (v) housing stability; and

748 (vi) the adequacy of the applicant's child care arrangements, if applicable.

749 [~~(b) A finding by the division with regard to eligibility for diversion shall primarily~~
750 ~~consider whether, but for the diversion assistance received under this section, the applicant~~
751 ~~would receive extended cash assistance.~~]

752 (2) If the [~~division~~] department determines that the applicant [~~is eligible for~~] should be
753 helped by diversion [~~assistance~~] and the applicant agrees with this determination, the [~~division~~]
754 department shall provide a single payment of cash assistance up to three times the maximum
755 monthly amount of cash assistance that the applicant would be otherwise qualified to receive
756 based on household size.

757 (3) [~~When~~] If the department determines that diversion is not appropriate, an applicant
758 may receive cash assistance as [~~otherwise~~] provided in this part.

759 Section 25. Section **35A-3-304** is amended to read:

760 **35A-3-304. Assessment -- Participation requirements and limitations --**
761 **Employment plan -- Mentors.**

762 (1) (a) Within [~~20~~] 30 business days of the date of enrollment, the department shall
763 provide that a parent [~~client shall~~] recipient:

764 (i) [~~be~~] is assigned an employment counselor; and

765 (ii) [~~complete~~] completes an assessment provided by the [~~division~~] department
766 regarding the parent [~~client's~~] recipient's:

767 [~~(A) family circumstances;~~]

768 [~~(B) education;~~]

769 [~~(C) work history;~~]

770 [~~(D) skills;~~]

771 [~~(E) ability to become self-sufficient; and~~]

772 (A) prior work experience;

773 (B) ability to become employable;

774 (C) skills; and

775 [~~(F)~~] (D) likelihood of a substance use disorder involving the misuse of a controlled

776 substance.

777 (b) The assessment provided under Subsection (1)(a)(ii) shall include:

778 (i) a survey to be completed by the parent [client] recipient with the assistance of the
779 [division] department; and

780 (ii) a written questionnaire to be completed by the parent [client] recipient designed to
781 accurately determine the likelihood of the parent [client] recipient having a substance use
782 disorder involving the misuse of a controlled substance.

783 (c) In addition to the other requirements of this part, if the results of the written
784 questionnaire taken by a parent [client] recipient indicate a reasonable likelihood that the parent
785 [client] recipient has a substance use disorder involving the misuse of a controlled substance,
786 the parent [client] recipient may only receive cash assistance provided under this part in
787 accordance with the additional requirements of Section 35A-3-304.5.

788 (2) (a) Within 15 business days of a parent [client] recipient completing an assessment,
789 the [division] department and the parent [client] recipient shall enter into an employment plan.

790 (b) The employment plan shall have a target date for entry into employment.

791 (c) The [division] department shall provide a copy of the employment plan to the
792 parent [client] recipient.

793 (d) ~~[As to]~~ For the parent [client, the] recipient, the employment plan may include:

794 (i) job searching requirements;

795 (ii) if the parent [client] recipient does not have a high school diploma, participation in
796 an educational program to obtain a high school diploma, or its equivalent;

797 (iii) education or training necessary to obtain employment;

798 (iv) a combination of work and education or training; and

799 (v) assisting the Office of Recovery Services in good faith to:

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

801 (B) establish or enforce a child support order.

802 (e) If the parent [client] recipient tests positive for the unlawful use of a controlled
803 substance after taking a drug test under Section 35A-3-304.5, the employment plan shall
804 include an agreement by the parent [client] recipient to:

805 (i) participate in treatment for a substance use disorder; and

806 (ii) meet the other requirements of Section 35A-3-304.5.

807 (f) ~~[As to the division, the]~~ The department's responsibilities under the employment
808 plan may include:

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

811 (ii) assisting the parent ~~[client]~~ recipient to obtain education or training necessary for
812 employment;

813 (iii) assisting the parent ~~[client]~~ recipient to set up and follow a household budget; and

814 (iv) assisting the parent ~~[client]~~ recipient to obtain employment.

815 (g) The ~~[division]~~ department may amend the employment plan to reflect new
816 information or changed circumstances.

817 (h) If immediate employment is an activity ~~[contained]~~ in the employment plan, the
818 parent ~~[client]~~ recipient shall:

819 (i) promptly commence a search for employment for a specified number of hours each
820 week ~~[for employment]~~; and

821 (ii) regularly submit a report to the ~~[division]~~ department on:

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

823 (B) the number of job applications completed;

824 (C) the interviews attended;

825 (D) the offers of employment extended; and

826 (E) other related information required by the ~~[division]~~ department.

827 (i) (i) If full-time education or training to secure employment is an activity ~~[contained]~~
828 in an employment plan, the parent ~~[client]~~ recipient shall promptly undertake a full-time
829 education or training program.

830 (ii) The employment plan may describe courses, education or training goals, and
831 classroom hours.

832 (j) (i) ~~[As a condition of receiving]~~ The department may only provide cash assistance
833 under this part~~[, a parent client shall agree]~~ if the parent recipient agrees in writing to make a
834 good faith effort to comply with the parent recipient's employment plan.

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

838 ~~[(iii) The division shall establish a process to reconcile disputes between a client and~~
 839 ~~the division as to whether:]~~

840 (ii) The department shall establish a process to reconcile disputes between a parent
 841 recipient and the department as to whether:

842 (A) the parent ~~[client]~~ recipient has made a good faith effort to comply with the
 843 employment plan; or

844 (B) the ~~[division]~~ department has complied with the employment plan.

845 (iii) If a parent recipient consistently fails to show good faith in complying with the
 846 employment plan, the department may seek to terminate all or part of the cash assistance
 847 services provided under this part.

848 (3) (a) Except as provided in Subsection (3)(b), a parent ~~[client's]~~ recipient's supported
 849 participation in education or training beyond that required to obtain a high school diploma or
 850 its equivalent is limited to the lesser of:

851 (i) 24 months; or

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

853 (b) A parent ~~[client]~~ recipient may participate in education or training for up to six
 854 months beyond the 24-month limit of Subsection (3)(a)(i) if:

855 (i) the parent ~~[client]~~ recipient is employed for 80 or more hours ~~[a]~~ per month; ~~[and]~~

856 (ii) the extension is for good cause shown; and

857 (iii) the extension is approved by the director or the director's designee.

858 (c) A parent ~~[client]~~ recipient who receives an extension under Subsection (3)(b)
 859 ~~[remains]~~ is subject to Subsection (4).

860 (4) (a) A parent ~~[client]~~ recipient with a high school diploma or equivalent who has
 861 received 24 months of education or training shall participate in full-time work activities as
 862 defined by rules made by the department in accordance with Title 63G, Chapter 3, Utah
 863 Administrative Rulemaking Act.

864 (b) The 24 months ~~[need not]~~ described in Subsection (4)(a) do not have to be
 865 continuous~~[-and the department may define "full-time work activities" by rule].~~

866 (5) ~~[As a condition for receiving]~~ The department may only provide cash assistance on
 867 behalf of a minor child under this part~~[-]~~ if the minor child ~~[shall be]~~ is:

868 (a) enrolled in and attending school in compliance with Sections 53A-11-101.5 and

869 53A-11-101.7; or

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

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

873 (7) (a) The [~~division shall~~] department may recruit and train volunteers to serve as
874 mentors for parent [~~clients~~] recipients.

875 (b) A mentor may advocate on behalf of a parent [~~client~~] recipient and help a parent
876 [~~client~~] recipient:

877 (i) develop life skills;

878 (ii) implement an employment plan; or

879 (iii) obtain services and [~~supports~~] support from:

880 (A) the volunteer mentor;

881 (B) the [~~division~~] department; or

882 (C) civic organizations.

883 Section 26. Section **35A-3-304.5** is amended to read:

884 **35A-3-304.5. Drug testing requirements.**

885 (1) If the results of a questionnaire described in Subsection 35A-3-304(1) indicate a
886 reasonable likelihood that [~~a parent client~~] an applicant may have a substance use disorder
887 involving the misuse of a controlled substance, the [~~division~~] department shall require the
888 [~~parent client~~] applicant to take a drug test at the [~~division's~~] department's expense in order to
889 continue to receive cash assistance under this part.

890 (2) If [~~a parent client~~] an applicant refuses to take a drug test required under Subsection
891 (1), the department shall terminate cash assistance under this part and the [~~parent client~~]
892 applicant may not reapply for cash assistance under this part for:

893 (a) 90 days after a first refusal to take a drug test [~~within one year~~]; or

894 (b) one year after a second refusal to take a drug test within one year.

895 (3) A drug test given under this section shall be administered with due regard to the
896 privacy and dignity of the person being tested.

897 (4) Before taking a drug test under this section, [~~a parent client~~] an applicant may
898 advise the person administering the test regarding any prescription or over-the-counter
899 medication the [~~parent client~~] applicant is taking.

900 (5) The result of a drug test given under this section is a private record in accordance
 901 with Section 63G-2-302 and disclosure to a third party is prohibited except as provided under
 902 Title 63G, Chapter 2, Government Records Access and Management Act.

903 (6) If [~~a parent client~~] an applicant tests negative for the unlawful use of a controlled
 904 substance after taking a drug test under Subsection (1), the [~~parent client remains~~] applicant is
 905 eligible for cash assistance, subject to the other eligibility requirements of this part.

906 (7) If [~~a parent client~~] an applicant tests positive for the unlawful use of a controlled
 907 substance after taking a drug test under Subsection (1), the [~~parent client~~] applicant:

908 (a) shall be given a list of approved substance use disorder treatment providers that are
 909 available in the area in which the individual resides; and

910 (b) may continue to receive benefits if the [~~parent client~~] applicant enters into and
 911 follows the requirements of [~~an~~] the applicant's employment plan, including:

912 (i) receiving treatment, at the [~~division's~~] department's expense, from an approved
 913 substance use disorder treatment provider for at least 60 days;

914 (ii) testing negative for the unlawful use of a controlled substance:

915 (A) in each subsequent drug test required by [~~division~~] department rule during
 916 treatment; and

917 (B) in an additional drug test given at the conclusion of treatment; and

918 (iii) meeting the other requirements of receiving cash assistance under this part.

919 (8) [~~If a parent client~~] (a) The department shall terminate cash assistance under this
 920 part, if an applicant:

921 (i) declines to enter into an employment plan required by Subsection (7)[, or if the
 922 parent client]; or

923 (ii) enters into, but fails to meet, a requirement of an employment plan under
 924 Subsection (7), including if the [parent client] applicant refuses to take a drug test required by
 925 the employment plan or tests positive for the unlawful use of a controlled substance in a drug
 926 test required by the employment plan[; the department shall terminate cash assistance under
 927 this part and the parent client].

928 (b) An applicant whose cash assistance has been terminated under Subsection (8)(a)
 929 may not reapply for cash assistance under this part for:

930 [(a)] (i) except as provided in Subsection (8)(b)(ii), 90 days after the day on which the

931 department determines, under this Subsection (8), that the ~~[parent client]~~ applicant is no longer
 932 eligible for cash assistance; or

933 ~~[(b)]~~ (ii) one year after the day on which the department determines, under this
 934 Subsection (8), that the ~~[parent client]~~ applicant is no longer eligible for cash assistance, if the
 935 department has previously determined on at least one other occasion in the past year that the
 936 ~~[parent client]~~ applicant is no longer eligible for cash assistance under this Subsection (8).

937 Section 27. Section **35A-3-306** is amended to read:

938 **35A-3-306. Limits on eligibility -- Transitional cash assistance.**

939 (1) ~~[For purposes of]~~ As used in this section, "battered or subjected to extreme cruelty"
 940 has the same meaning as defined in ~~[is defined in Section 103(a)(1) of P.L. 104-193 or 42~~
 941 ~~U.S.C. Sec. 608(a)(7)(C)(iii);]~~ The Personal Responsibility and Work Opportunity
 942 Reconciliation Act of 1996, 42 U.S.C. Sec. 608(a)(7)(C)(iii).

943 (2) Except as provided in Subsection (4), the ~~[division]~~ department may not provide
 944 cash assistance to a family who has received cash assistance for 36 months or more.

945 (3) (a) The ~~[division]~~ department shall count toward the ~~[36-month]~~ time limit
 946 described in Subsection (2) any time after January 1, 1997, during which:

947 (i) the parent ~~[client]~~ recipient received cash assistance in this or another state; and

948 (ii) the parent ~~[client]~~ recipient is disqualified from receiving cash assistance and the
 949 parent ~~[client's]~~ recipient's income and assets are counted in determining eligibility for the
 950 family in this or another state.

951 (b) ~~[(i) The division]~~ The department may not count toward the ~~[36-month]~~ time limit
 952 described in Subsection (2) or the ~~[24-month]~~ time period described in Subsection (4) any time
 953 during which:

954 ~~[(A)]~~ (i) a person 18 years of age or older received cash assistance as a minor child and
 955 not as a parent; or

956 ~~[(B)]~~ (ii) a parent ~~[client]~~ recipient received transitional ~~[support]~~ cash assistance under
 957 Subsection (5).

958 ~~[(ii) Transitional support cash assistance:]~~

959 ~~[(A) may be paid if the department determines the assistance is necessary to stabilize~~
 960 ~~employment and prevent recidivism;]~~

961 ~~[(B) is only available to a parent client who was previously receiving cash assistance~~

962 under the Family Employment Program but who becomes ineligible due to earned or unearned
963 income; and]

964 [~~(C)~~ may be granted for a maximum of three months provided the parent client is
965 employed an average of 30 hours per week during the transitional period.]

966 (4) (a) [~~For up to 24 months, the division~~] The department may provide cash assistance
967 to a family for up to 24 months beyond the [~~36-month~~] time limit described in Subsection (2) if
968 during the previous two months[;] the parent [~~client~~] recipient was employed for [~~no less than~~]
969 at least 20 hours per week.

970 (b) [~~For up to 20% of the average monthly number of families who receive cash~~
971 ~~assistance under this part, the division~~] Notwithstanding the time limit described in Subsection
972 (2), the department may provide cash assistance to a family beyond the [~~36-month~~] time limit
973 in Subsection (2):

974 (i) by reason of a hardship; [~~or~~]

975 (ii) if the family includes an individual who has been battered or subjected to extreme
976 cruelty[;]; or

977 (iii) if a parent volunteers to fully participate in a department-approved employment
978 and training activity as prescribed by rules made by the department in accordance with Title
979 63G, Chapter 3, Utah Administrative Rulemaking Act.

980 (c) [~~For up to 20% of the average monthly number of families who receive cash~~
981 ~~assistance under this part, the division~~] Notwithstanding the time limit established in
982 Subsection (4)(a), the department may provide cash assistance to a family beyond the
983 additional [~~24-month~~] time period in Subsection (4)(a):

984 (i) by reason of a hardship; or

985 (ii) if the family includes an individual who has been battered or subjected to extreme
986 cruelty.

987 (d) The department may only provide the additional cash assistance described in
988 Subsections (4)(b) and (c) for up to 20% of the average monthly number of families who
989 receive cash assistance under this part.

990 [~~(d)~~] (e) Except as provided in Subsections (4)(b) and (c), the [~~division~~] department
991 may not provide cash assistance to a family who has received 60 months of cash assistance
992 after October 1, 1996.

- 993 (5) (a) The department may provide transitional cash assistance to a parent recipient:
 994 (i) if the department determines the transitional cash assistance is necessary to stabilize
 995 employment and prevent recidivism of a recipient;
 996 (ii) who was previously receiving cash assistance under the Family Employment
 997 Program but who becomes ineligible due to earned or unearned income; and
 998 (iii) for a maximum of three months if the parent recipient is employed an average of
 999 30 hours per week during the transitional period.
- 1000 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 1001 department shall make rules for the provision of transitional cash assistance under this section.
- 1002 Section 28. Section **35A-3-307** is amended to read:
- 1003 **35A-3-307. Cash assistance to a single minor parent.**
- 1004 (1) The [~~division~~] department may provide cash assistance to a single minor parent in
 1005 accordance with this section.
- 1006 (2) A single minor parent who receives cash assistance under this part shall:
- 1007 (a) except as provided under Subsection (3), reside in a place of residence maintained
 1008 by a parent, legal guardian, or other adult relative of the single minor parent[~~, except as~~
 1009 ~~provided in Subsection (3)];~~
- 1010 (b) participate in education for parenting and life skills;
- 1011 (c) participate in infant and child wellness programs [~~operated by the Department of~~
 1012 ~~Health~~] approved by the department; and
- 1013 (d) for [~~not less than~~] at least 20 hours per week:
- 1014 (i) [~~attend high school or an alternative to high school;~~] if the single minor parent does
 1015 not have a high school diploma, attend high school or an alternative to high school;
- 1016 (ii) participate in education or training; or
- 1017 (iii) participate in a combination of employment and education or training.
- 1018 (3) (a) If the [~~division~~] department determines that the requirements of Subsection
 1019 (2)(a) are not appropriate for a single minor parent, the [~~division~~] department may assist the
 1020 single minor parent to obtain suitable living arrangements, including an adult-supervised living
 1021 arrangement.
- 1022 (b) [~~As a condition of receiving~~] The department may only provide cash assistance[~~;~~] to
 1023 a single minor parent who is exempt from the requirements of Subsection (2)(a) [~~shall reside~~] if

1024 the single minor parent resides in a living arrangement that is approved by the [division]
1025 department.

1026 (c) The approval by the [division] department of a living arrangement under Subsection
1027 (3)(b):

1028 (i) is a means of safeguarding the use of state and federal funds; and

1029 (ii) is not a certification or guarantee of the safety, quality, or condition of the living
1030 arrangements of the single minor parent.

1031 (4) (a) If a single minor parent resides with a parent, the [division] department shall
1032 include the income of the parent of the single minor parent in determining the single minor
1033 parent's eligibility for services [~~and supports~~] under this part.

1034 (b) If a single minor parent receives services [~~and supports~~] under this chapter but does
1035 not reside with a parent, the [division] department shall seek an order under Title 78B, Chapter
1036 12, Utah Child Support Act, requiring the parent of the single minor parent to financially
1037 support the single minor parent.

1038 (5) The requirements of this section shall be included in a single minor parent's
1039 employment plan under Section 35A-3-304.

1040 Section 29. Section **35A-3-308** is amended to read:

1041 **35A-3-308. Adoption services -- Printed information -- Supports provided.**

1042 (1) The [division] department may provide assistance under this section to [~~a client~~] an
1043 applicant who is pregnant and is not receiving cash assistance [~~no sooner than~~] at the beginning
1044 of the third trimester of pregnancy.

1045 (2) For a pregnant [~~clients~~] applicant, the [division] department shall:

1046 (a) refer the [~~client~~] applicant for appropriate prenatal medical care, including maternal
1047 health services provided under Title 26, Chapter 10, Family Health Services;

1048 (b) inform the [~~client~~] applicant of free counseling about adoption from licensed child
1049 placement agencies and licensed attorneys; and

1050 (c) offer the [~~client~~] applicant the adoption information packet described in Subsection
1051 (3).

1052 (3) The department shall publish an adoption information packet that:

1053 (a) is easy to understand;

1054 (b) contains geographically indexed materials on the public and private organizations

1055 that provide adoption assistance;

1056 (c) lists the names, addresses, and telephone numbers of licensed child placement
1057 agencies and licensed attorneys who place children for adoption;

1058 (d) explains that private adoption is legal and that the law permits adoptive parents to
1059 reimburse the costs of prenatal care, childbirth, neonatal care, and other expenses related to
1060 pregnancy; and

1061 (e) describes the services [~~and supports~~] available to the [~~client~~] applicant under this
1062 section.

1063 (4) (a) A [~~client~~] recipient remains eligible for assistance under this section, even
1064 though the [~~client~~] recipient relinquishes a child for adoption, [~~provided that~~] if the adoption is
1065 in accordance with Sections 78B-6-120 through 78B-6-122.

1066 (b) The assistance provided under this section may include:

1067 (i) reimbursement for expenses associated with care and confinement during pregnancy
1068 as provided [~~for~~] in Subsection (5); and

1069 (ii) for a maximum of 12 months from the date of relinquishment, coordination of
1070 services to assist the [~~client~~] recipient in:

1071 (A) receiving appropriate educational and occupational assessment and planning;

1072 (B) enrolling in appropriate education or training programs, including high school
1073 completion and adult education programs;

1074 (C) enrolling in programs that provide assistance with job readiness, employment
1075 counseling, finding employment, and work skills;

1076 (D) finding suitable housing;

1077 (E) receiving medical assistance, under Title 26, Chapter 18, Medical Assistance Act,
1078 if the [~~client~~] recipient is otherwise eligible; and

1079 (F) receiving counseling and other mental health services.

1080 (5) (a) Except as provided in Subsection (5)(b), a [~~client~~] recipient under this section is
1081 eligible to receive an amount equal to the maximum monthly amount of cash assistance paid
1082 under this part to one person for up to 12 consecutive months from the date of relinquishment.

1083 (b) If a [~~client~~] recipient is otherwise eligible to receive cash assistance under this part,
1084 the [~~client~~] recipient is eligible to receive an amount equal to the increase in cash assistance the
1085 [~~client~~] recipient would have received but for the relinquishment for up to 12 consecutive

1086 months from the date of relinquishment.

1087 (6) (a) To ~~[be]~~ remain eligible for assistance under this section, a ~~[client]~~ recipient
1088 shall:

1089 (i) with the cooperation of the ~~[division]~~ department, develop and implement an
1090 employment plan ~~[containing]~~ that includes goals for achieving self-sufficiency and
1091 ~~[describing]~~ that describes the action the ~~[client]~~ recipient will take concerning education and
1092 training ~~[that will result in]~~ to achieve full-time employment;

1093 (ii) if the ~~[client]~~ recipient does not have a high school diploma, enroll in high school
1094 or an alternative to high school and demonstrate progress toward graduation; and

1095 (iii) make a good faith effort to meet the goals of the employment plan as ~~[provided]~~
1096 described in Section 35A-3-304.

1097 (b) Cash assistance provided to a ~~[client]~~ recipient before the ~~[client]~~ recipient
1098 relinquishes a child for adoption is part of the state plan.

1099 (c) Assistance provided under Subsection (5):

1100 (i) shall be provided for with state funds; and

1101 (ii) may not be ~~[totted]~~ counted when determining subsequent eligibility for cash
1102 assistance under this chapter.

1103 (d) The time limit provisions of Section 35A-3-306 apply to cash assistance provided
1104 under the state plan.

1105 (e) The ~~[division]~~ department shall monitor a ~~[client's]~~ recipient's compliance with this
1106 section.

1107 (f) Except for Subsection (6)(b), Subsections (2) through (6) are excluded from the
1108 state plan.

1109 Section 30. Section **35A-3-309** is amended to read:

1110 **35A-3-309. Information regarding home ownership.**

1111 (1) The ~~[division]~~ department shall provide information and service coordination to
1112 assist ~~[a client to obtain]~~ an applicant in obtaining affordable housing.

1113 (2) The information and services may include:

1114 (a) information from the Utah Housing Corporation and the Housing and Community
1115 Development Division regarding special housing programs, including programs for first-time
1116 home buyers and ~~[persons]~~ individuals with low and moderate incomes and the eligibility

1117 requirements for those programs;

1118 (b) referrals to programs operated by volunteers from the real estate industry that assist
1119 ~~[clients]~~ applicants in obtaining affordable housing, including information on home ownership,
1120 down payments, closing costs, and credit requirements; and

1121 (c) referrals to housing programs operated by municipalities, counties, local housing
1122 authorities, and nonprofit housing organizations that assist individuals ~~[to obtain]~~ in obtaining
1123 affordable housing, including first-time home ownership.

1124 Section 31. Section **35A-3-310** is amended to read:

1125 **35A-3-310. Child care services -- Rules.**

1126 (1) ~~[A parent client]~~ An applicant may receive assistance for child care under this part
1127 for a minor child in the care and custody of the parent ~~[client]~~ recipient, unless the other parent
1128 in a two-parent family:

1129 (a) is capable of caring for the family's child;

1130 (b) is not employed; and

1131 (c) has not entered into an employment plan with the ~~[division]~~ department.

1132 (2) The ~~[division]~~ department shall encourage a parent ~~[client]~~ recipient to obtain child
1133 care at no cost from a parent, sibling, relative, or other suitable provider.

1134 (3) ~~[Within appropriations from the Legislature and in]~~ In accordance with Title 63G,
1135 Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing
1136 eligibility for child care services for a minor child in the care and custody of a parent who does
1137 not receive cash assistance under this part.

1138 Section 32. Section **35A-3-310.5** is amended to read:

1139 **35A-3-310.5. Child care providers -- Criminal background checks -- Payment of**
1140 **costs -- Prohibitions -- Department rules.**

1141 (1) This section applies to a child care provider who:

1142 (a) (i) is selected by ~~[an applicant for, or]~~ a recipient of[;] a child care assistance
1143 payment; or

1144 (ii) is a recipient of a child care assistance payment;

1145 (b) is not required to undergo a criminal background check with the Department of
1146 Health, Bureau of Child Care Licensing;

1147 (c) is not a license exempt child care center or program; and

1148 (d) is an eligible child care provider ~~[under]~~ in accordance with department rules made
1149 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1150 (2) (a) ~~[Each]~~ A child care provider identified under Subsection (1) shall submit to the
1151 department the name and other identifying information, ~~[which shall include]~~ including a set of
1152 fingerprints, of:

1153 (i) existing, new, and proposed ~~[providers of]~~ individuals who provide or may provide
1154 child care; and

1155 (ii) individuals who are at least 18 years of age and reside in the premises where the
1156 child care is provided.

1157 (b) The department may waive the fingerprint requirement under Subsection (2)(a) for
1158 an individual who has:

1159 (i) resided in Utah for five years prior to the required submission; or

1160 (ii) (A) previously submitted a set of fingerprints under this section for a national
1161 criminal history record check; and

1162 (B) resided in Utah continuously since submitting the fingerprints.

1163 (c) The ~~[Utah Division of]~~ Criminal Investigation and Technical Services Division
1164 created within the Department of Public Safety under Section 53-10-103 shall:

1165 (i) process and conduct background checks on all individuals as requested by the
1166 department~~[-including submitting the];~~ and

1167 (ii) submit required fingerprints to the U.S. Federal Bureau of Investigation for a
1168 national criminal history background check of the individual.

1169 (d) If the department waives the fingerprint requirement under Subsection (2)(b), the
1170 ~~[Utah Division of]~~ Criminal Investigation and Technical Services Division may allow the
1171 department or its representative access to the ~~[division's]~~ Criminal Investigation and Technical
1172 Services Division's [data base] database to determine whether the individual has been
1173 convicted of a crime.

1174 (e) The child care provider shall pay the cost of the history background check provided
1175 under Subsection (2)(c).

1176 (3) (a) ~~[Each]~~ A child care provider identified under Subsection (1) shall submit to the
1177 department the name and other identifying information of an individual, age 12 through 17,
1178 who resides in the premises where the child care is provided.

1179 ~~[(b) The identifying information referred to in Subsection (3)(a) does not include~~
1180 ~~fingerprints.]~~

1181 ~~[(c)]~~ (b) The department or its representative shall access juvenile court records to
1182 determine whether an individual described in Subsection (2) or (3)(a) has been adjudicated in
1183 juvenile court of committing an act which, if committed by an adult, would be a felony or
1184 misdemeanor if:

1185 (i) the individual described in Subsection (2) is under the age of 28; or

1186 (ii) the individual described in Subsection (2):

1187 (A) is ~~[over the]~~ age ~~[of]~~ 28 or older; and

1188 (B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in
1189 abeyance or diversion agreement for a felony or misdemeanor.

1190 (4) Except as provided in Subsection (5), a child care provider under this section may
1191 not permit an individual ~~[who has been convicted of, has pleaded no contest to, or is currently~~
1192 ~~subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, or if~~
1193 ~~Subsection (3)(b) applies, an individual who has been adjudicated in juvenile court of~~
1194 ~~committing an act which if committed by an adult would be a felony or misdemeanor]~~
1195 described under Subsection (3)(b) to:

1196 (a) provide subsidized child care; or

1197 (b) reside at the premises where subsidized child care is provided.

1198 (5) (a) The department may make ~~[a rule]~~ rules in accordance with Title 63G, Chapter
1199 3, Utah Administrative Rulemaking Act, to exempt the following from the restrictions of
1200 Subsection (4):

1201 (i) a specific misdemeanor;

1202 (ii) a specific act adjudicated in juvenile court, which if committed by an adult would
1203 be a misdemeanor; and

1204 (iii) background checks of individuals other than the provider who are residing at the
1205 premises where subsidized child care is provided if that child care is provided in the child's
1206 home.

1207 (b) In accordance with criteria established by ~~[rule]~~ department rules made in
1208 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the executive
1209 director or the director's designee may consider and exempt individual cases, not otherwise

1210 exempt under Subsection (5)(a), from the restrictions of Subsection (4).

1211 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1212 department shall [~~establish by rule~~] make rules to determine:

1213 (a) whether a child care subsidy payment should be made prior to the completion of a
1214 background check, particularly in the case of a delay in making or completing the background
1215 check; and

1216 (b) if, and how often, a child care provider shall resubmit the information required
1217 under Subsections (2) and (3).

1218 Section 33. Section **35A-3-311** is amended to read:

1219 **35A-3-311. Cash assistance to noncitizen legal residents and drug dependent**
1220 **persons.**

1221 (1) [~~The division~~] If barred from using federal funds under federal law, the department
1222 may provide cash assistance to a legal resident who is not a citizen of the United States using
1223 funds appropriated from the [~~general fund if barred under federal law from using federal funds~~]
1224 General Fund.

1225 (2) (a) The State exercises the opt out provision in Section 115 of the Personal
1226 Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193.

1227 (b) Consistent with Subsection (2)(a), the [~~division~~] department may provide cash
1228 assistance and SNAP benefits to a person who has been convicted of a felony involving a
1229 controlled substance, as defined in Section 58-37-2.

1230 (c) As a condition for receiving cash assistance under this part, a drug dependant
1231 person, as defined in Section 58-37-2, shall:

1232 (i) receive available treatment for the dependency; and

1233 (ii) make progress toward overcoming the dependency.

1234 (d) The department may only refer [~~a client~~] a recipient who is a drug dependent person
1235 to a treatment provider [~~that~~] for treating drug dependency if the provider has achieved an
1236 objective level of success, as defined by department [~~rule, in treating drug dependency~~] rules
1237 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1238 Section 34. Section **35A-3-312** is amended to read:

1239 **35A-3-312. Individual development accounts.**

1240 (1) As used in this section:

1241 (a) "Individual development account" means a trust account funded through periodic
1242 contributions by a ~~[client]~~ recipient and matched by or through a not-for-profit organization
1243 organized under Section 501(c)(3), Internal Revenue Code.

1244 (b) "Qualified acquisition costs" means the costs of acquiring, constructing, or
1245 reconstructing a residence, including settlement and closing costs.

1246 (c) "Qualified businesses capitalization expenses" means expenditures for capital,
1247 plant, equipment, working capital, and inventory.

1248 (2) An individual development account may be established by or on behalf of a ~~[client]~~
1249 recipient to enable ~~[a client]~~ the recipient to accumulate funds for the following purposes:

1250 (a) postsecondary educational expenses ~~[after leaving cash assistance]~~, including
1251 tuition, fees, books, supplies, and transportation costs, if:

1252 (i) the recipient has terminated cash assistance under this chapter; and

1253 (ii) the expenses are paid from the individual development account directly to an
1254 educational institution that the ~~[parent client]~~ recipient is attending as part of an employment
1255 plan;

1256 (b) qualified acquisition costs associated with a first-time home purchase if paid from
1257 the individual development account directly to a person to whom the amount is due;

1258 (c) amounts paid from an individual development account directly to a business
1259 capitalization account that is established in a federally insured financial institution and used
1260 solely for qualified business capitalization expenses; or

1261 (d) the purchase of assistive technologies, vehicle modifications, or home
1262 improvements ~~[that will]~~ to allow a ~~[client]~~ recipient with a disability to participate in
1263 work-related activities.

1264 (3) A ~~[client]~~ recipient may only deposit earned income and funds received from a
1265 not-for-profit organization into an individual development account.

1266 Section 35. Section **35A-3-313** is amended to read:

1267 **35A-3-313. Performance goals.**

1268 ~~[(1) As used in this section:]~~

1269 ~~[(a) "Performance goals" means a target level of performance or an expected level of~~
1270 ~~performance against which actual performance is compared.]~~

1271 ~~[(b) "Performance indicators" means actual performance information regarding a~~

1272 ~~program or activity.]~~

1273 ~~[(c) "Performance monitoring system" means a process to regularly collect and analyze~~
1274 ~~performance information including performance indicators and performance goals.]~~

1275 ~~[(2)(a)]~~ (1) The department shall establish a performance monitoring system for cash
1276 assistance provided under this part.

1277 ~~[(b)]~~ (2) The department shall establish the performance indicators and performance
1278 goals that will be used in the performance monitoring system for cash assistance under this
1279 part.

1280 ~~[(c)(i)]~~ (3)(a) The department shall include in the annual written report described in
1281 Section 35A-1-109, a description of the difference between actual performance and
1282 performance goals for the second, third, and fourth quarters of the prior fiscal year and the first
1283 quarter of the current fiscal year.

1284 ~~[(ii)(A)]~~ (b)(i) The legislative fiscal analyst or the analyst's designee shall convey the
1285 information described in Subsection ~~[(2)(c)(i)]~~ (3)(a) to the appropriation subcommittee that
1286 has oversight responsibilities for the Department of Workforce Services during the general
1287 session of the Legislature that follows the submission of the report.

1288 ~~[(B)]~~ (ii) The subcommittee may consider the information in its deliberations regarding
1289 the budget for services ~~[and supports]~~ under this chapter.

1290 Section 36. Section **35A-3-401** is amended to read:

1291 **Part 4. General Assistance**

1292 **35A-3-401. General Assistance.**

1293 (1)(a) The department may provide General Assistance ~~[may be provided]~~ to
1294 individuals who are:

1295 (i) not receiving cash assistance under Part 3, Family Employment Program, or
1296 Supplemental Security Income[-]; and ~~[who are]~~

1297 (ii) unemployable according to standards established by the department.

1298 (b)(i) General Assistance ~~[may be provided by]~~ described in Subsection (1)(a) may
1299 include payment in cash or in kind.

1300 (ii) The ~~[office]~~ department may provide General Assistance up to an amount ~~[less]~~
1301 that is no more than the existing payment level for an otherwise similarly situated ~~[client of]~~
1302 recipient receiving cash assistance under Part 3, Family Employment Program.

1303 (c) The ~~[office]~~ department shall establish asset limitations for a General Assistance
1304 ~~[clients]~~ applicant.

1305 (d) (i) General Assistance may be granted to meet special nonrecurrent needs of an
1306 applicant for the federal Supplemental Security Income ~~[program]~~ for the Aged, Blind, and
1307 Disabled program provided under 20 C.F.R. Sec. 416, if the applicant agrees to reimburse the
1308 ~~[division]~~ department for assistance advanced while awaiting the determination of eligibility by
1309 the Social Security Administration.

1310 (ii) General Assistance payments may not be made to a ~~[current client of]~~ recipient
1311 currently receiving:

1312 (A) cash assistance; or

1313 (B) Supplemental Security Income for the Aged, Blind, and Disabled.

1314 (e) (i) General Assistance may be used for the reasonable cost of burial for a ~~[client,]~~
1315 recipient if heirs or relatives are not financially able to assume this expense.

1316 (ii) Notwithstanding Subsection (1)(e)(i), if the body of a person is unclaimed~~[-]~~
1317 Section 53B-17-301 applies.

1318 (iii) The department shall fix the cost of a reasonable burial and conditions under
1319 which burial expenditures may be made.

1320 (2) The ~~[division]~~ department may cooperate with any governmental unit or agency, or
1321 any private nonprofit agency, in establishing work projects to provide employment for
1322 employable persons.

1323 Section 37. Section **35A-3-402** is amended to read:

1324 **35A-3-402. Calculation of General Assistance grants.**

1325 ~~[Grants]~~ The department shall provide grants for General Assistance ~~[made pursuant to]~~
1326 under Section 35A-3-401~~[-, to the extent that those payments are made]~~ on an ongoing basis for
1327 ~~[persons]~~ individuals who are unemployable~~[-, shall be]~~:

1328 (1) within amounts appropriated by the Legislature; and

1329 (2) calculated in a manner ~~[analogous to that]~~ substantially similar to cash assistance as
1330 provided in Section 35A-3-302.

1331 Section 38. Section **35A-3-502** is amended to read:

1332 **35A-3-502. Definitions of social capital.**

1333 (1) As used in this part~~[-]~~, "social capital" means the value provided to the state by a

1334 civic organization, including values, cooperation, strength to families and neighborhoods, and
 1335 ensuring livable communities and nurturing environments.

1336 ~~[(1) "Civic organization" includes community service clubs and organizations,~~
 1337 ~~charitable health care and service organizations, fraternal organizations, labor unions, minority~~
 1338 ~~and ethnic organizations, commercial and industrial organizations, commerce and business~~
 1339 ~~clubs, private nonprofit organizations, private nonprofit corporations that provide funding to~~
 1340 ~~community service organizations, organizations that advocate or provide for the needs of~~
 1341 ~~persons with low incomes, religious organizations, and organizations that foster strong~~
 1342 ~~neighborhoods and communities.]~~

1343 ~~[(2) "Diversion payment" means a lump sum cash payment provided to a client in lieu~~
 1344 ~~of regular monthly cash assistance.]~~

1345 ~~[(3) "Performance monitoring system" means a process to regularly collect and analyze~~
 1346 ~~performance information, including performance indicators and performance goals.]~~

1347 ~~[(a) "Performance goals" means a target level of performance or an expected level of~~
 1348 ~~performance against which actual performance is measured.]~~

1349 ~~[(b) "Performance indicators" means actual performance information regarding a~~
 1350 ~~program or activity.]~~

1351 (2) Social capital links society together by:

1352 (a) creating opportunities for service and giving;

1353 (b) facilitating trust and cooperation; and

1354 (c) enhancing investments in physical and human capital.

1355 Section 39. Section **35A-3-503** is amended to read:

1356 **35A-3-503. Purpose -- Limitations.**

1357 ~~[(1) The Legislature finds that public policy should promote and encourage a strong~~
 1358 ~~civic sector. Civic organizations have an important role that cannot be adequately addressed~~
 1359 ~~through either private or public sector action. Important public values such as the condition of~~
 1360 ~~our neighborhoods, the character of our children, and the renewal of our cities directly depend~~
 1361 ~~on the strength of families, neighborhoods, and grassroots community organizations, as well as~~
 1362 ~~the vitality of private and religious institutions that care for those in need. Civic organizations~~
 1363 ~~transmit values between generations, encourage cooperation between citizens, and ensure that~~
 1364 ~~our communities are livable and nurturing environments. The value provided to the state by~~

1365 ~~civic organizations is called social capital.]~~

1366 ~~[(2) The purpose of this part is to promote the availability of social capital.]~~

1367 (1) Using social capital, ~~[clients of and applicants]~~ an applicant for services under this
1368 chapter may receive a wide array of services ~~[and supports]~~ that cannot be provided by state
1369 government alone. ~~[Social capital links all parts of our society together by creating~~
1370 ~~opportunities for service and giving. It facilitates trust and cooperation and enhances~~
1371 ~~investments in physical and human capital.]~~

1372 ~~[(3) In enacting this part, the]~~ (2) The Legislature recognizes:

1373 (a) the constitutional limits of state government to sustain civic institutions that
1374 provide social capital~~[- While state government has always depended on these institutions, it];~~

1375 (b) that the state does not create ~~[them]~~ nor can it replace ~~[them. This part recognizes]~~
1376 civic institutions; and

1377 (c) that state government ~~[shall]~~ should respect, recognize, and, wherever possible,
1378 constitutionally encourage strong civic institutions that sustain a sense of community ~~[and~~
1379 ~~humanize our lives].~~

1380 Section 40. Section **35A-3-504** is amended to read:

1381 **35A-3-504. Relationship of civic and state services.**

1382 (1) (a) Services and supports provided by a civic organization under this part are in
1383 addition to, and not in lieu of, any service ~~[or support]~~ provided by the ~~[division to a client]~~
1384 department to a recipient.

1385 (b) Receipt of services from a civic organization may not diminish a ~~[person's]~~
1386 recipient's eligibility for services ~~[or supports]~~ from the ~~[division]~~ department.

1387 (2) ~~[A person]~~ An applicant or recipient is under no obligation to receive services from
1388 a civic organization.

1389 (3) A civic organization is under no obligation to provide services to a person, except
1390 as provided in a contract between the organization and the ~~[division pursuant to]~~ department
1391 under Section 35A-3-507.

1392 Section 41. Section **35A-3-505** is amended to read:

1393 **35A-3-505. Application -- Referral to civic organizations.**

1394 (1) The ~~[division]~~ department:

1395 (a) shall~~[- in compliance with Section 35A-3-504,]~~ assess whether an applicant ~~[would~~

1396 ~~be~~ is receptive to and would benefit ~~[by services from]~~ from a service provided by a civic
1397 organization~~[- If so, the division]; and~~

1398 (b) may inform the applicant of the availability of ~~[those services and supports]~~
1399 services provided by civic organizations.

1400 (2) (a) If an applicant chooses to receive ~~[those]~~ services ~~[and supports]~~ from a civic
1401 organization, the ~~[division]~~ department shall facilitate the applicant's referral to one or more
1402 appropriate civic organizations.

1403 (b) If an applicant chooses not to receive the services ~~[and supports]~~ of a civic
1404 organization or requests services ~~[and supports]~~ available under this chapter in addition to the
1405 services ~~[and supports]~~ of a civic organization, the ~~[division]~~ department shall process the
1406 application as provided under this chapter.

1407 Section 42. Section **35A-3-506** is amended to read:

1408 **35A-3-506. Diversion payment -- Referral to civic organizations.**

1409 ~~[When a client]~~ If a recipient receives a diversion payment under Section 35A-3-303,
1410 the ~~[division]~~ department:

1411 (1) shall assess whether the ~~[client would benefit from]~~ recipient is receptive to and
1412 would benefit from services ~~[and supports]~~ from a civic organization~~[- If so, the division]; and~~

1413 (2) may inform the ~~[client]~~ recipient of the services ~~[and supports]~~ that civic
1414 organizations provide.

1415 Section 43. Section **35A-3-507** is amended to read:

1416 **35A-3-507. Request for proposals from civic organizations -- Contract**
1417 **requirements.**

1418 (1) (a) ~~[Before October 1, 1997, the director shall]~~ The director or the director's
1419 designee may issue a request for proposals~~[- Interested]~~ to civic organizations ~~[may submit~~
1420 proposals] for the purpose of contracting with the ~~[division]~~ department for the provision of
1421 social capital.

1422 (b) ~~[In cooperation with the coalition described in Section 35A-3-510;]~~ In accordance
1423 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall establish
1424 by rule:

1425 (i) specifications for proposals;

1426 (ii) deadlines for submissions;

1427 (iii) contents of proposals;

1428 (iv) the criteria upon which proposals will be accepted; and

1429 (v) the amount of available funding.

1430 (2) Within appropriations from the Legislature, the director may enter into~~[one or more~~

1431 ~~contracts with civic organizations]~~ a contract with a civic organization, which shall [at least]

1432 include:

1433 (a) the funding, if any, to be provided to the civic organization by the ~~[division]~~

1434 department;

1435 (b) the geographical boundary within which the civic organization is to provide

1436 services ~~[and supports]~~ to individuals referred by the ~~[division]~~ department;

1437 (c) a description of the services ~~[and supports]~~ to be provided by the civic organization

1438 to ~~[clients]~~ an applicant or recipient;

1439 (d) the performance monitoring system to be used by the civic organization to evaluate

1440 the ~~[effects]~~ effectiveness of the services ~~[and supports]~~ that it provides; and

1441 (e) other provisions [as] that the ~~[division]~~ department and civic organization consider

1442 appropriate.

1443 (3) (a) A contract between the ~~[division]~~ department and a civic organization under this

1444 section is for a defined period of time and a fixed funding amount.

1445 (b) If a contract provides public funds, the civic organization ~~[will be]~~ is required to

1446 comply with all applicable state and federal law with respect to those funds, ~~[which may~~

1447 ~~include]~~ including any audit, recordkeeping, and financial accounting requirements.

1448 (4) The services ~~[and supports]~~ provided by civic organizations under this section do

1449 not include eligibility determinations, cash assistance, ~~[food coupons]~~ SNAP benefits, or

1450 quality assurance related to these functions.

1451 Section 44. Section **35A-3-508** is amended to read:

1452 **35A-3-508. Inventory of civic organizations.**

1453 (1) ~~[To enable the division to refer a client or applicant to an appropriate civic~~

1454 ~~organization under this part, the division]~~ The department, in cooperation with the coalition

1455 described in Section 35A-3-510, shall complete a statewide inventory of interested civic

1456 organizations~~[. For those organizations that wish to participate, the],~~ which inventory shall

1457 include for each participating civic organization:

1458 (a) a description of the services [~~and supports~~] provided;

1459 (b) the geographical locations served;

1460 (c) methods of accessing services; and

1461 (d) eligibility requirements for services.

1462 (2) The inventory shall be [~~stored~~] maintained, updated annually, and made available in
1463 a usable form as a resource directory for [~~all~~] employment counselors in the department.

1464 Section 45. Section **35A-3-510** is amended to read:

1465 **35A-3-510. Coalition of civic and other organizations.**

1466 (1) The director shall convene a coalition of civic organizations, representatives of the
1467 [~~division~~] department, representatives of state and local agencies, advocacy organizations,
1468 public officials, community leaders, members of the Legislature, and other persons and
1469 organizations as [~~he determines~~] determined by the executive director.

1470 (2) The coalition shall offer advice to the director on issues relevant to this part.

1471 Section 46. Section **35A-3-601** is amended to read:

1472 **Part 6. Administrative Determination of Overpayments Act**

1473 **35A-3-601. Title.**

1474 This part [~~shall be~~] is known as the "Administrative Determination of Overpayments
1475 Act."

1476 Section 47. Section **35A-3-603** is amended to read:

1477 **35A-3-603. Civil liability for overpayment.**

1478 [~~(1) As used in this section, "intentionally, knowingly, and recklessly" mean the same~~
1479 ~~as those terms are defined in Section 76-2-103.~~]

1480 [~~(2) Each~~] (1) A provider, [~~client~~] recipient, or other person who receives an
1481 overpayment shall, regardless of fault, return the overpayment or repay its value to the
1482 department immediately:

1483 (a) upon receiving written notice of the overpayment from the department; or

1484 (b) upon discovering the overpayment, if that occurs [~~prior to~~] before receiving notice.

1485 [~~(3)~~] (2) (a) Except as provided under Subsection (3)(b), interest on the unreturned
1486 balance of the overpayment shall accrue at the rate of 1% a month.

1487 (b) If the overpayment was not the fault of the person receiving it, that person is not
1488 liable for interest on the unreturned balance.

1489 (c) In accordance with federal law and rules made by the department in accordance
 1490 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an overpayment may be
 1491 recovered through deductions from cash assistance, General Assistance, SNAP benefits, other
 1492 cash-related assistance provided to a ~~[client]~~ recipient under this chapter, or ~~[any]~~ other means
 1493 provided by federal law.

1494 ~~[(4) Each]~~ (3) A person who knowingly assists a ~~[client]~~ recipient, provider, or other
 1495 person in obtaining an overpayment is jointly and severally liable for the overpayment.

1496 ~~[(5)]~~ (4) (a) In proving civil liability for overpayment under this section, or Section
 1497 35A-3-605, when fault is alleged, the department shall prove by clear and convincing evidence
 1498 that the overpayment was obtained intentionally, knowingly, recklessly as "intentionally,
 1499 knowingly, and recklessly" are defined in Section 76-2-103, by false statement,
 1500 misrepresentation, impersonation, or other fraudulent means, ~~[such as by]~~ including
 1501 committing any of the acts or omissions described in Sections 76-8-1203 ~~[through]~~, 76-8-1204,
 1502 or 76-8-1205.

1503 (b) If fault is established under Subsection ~~[(5)]~~ (4)(a), Section 35A-3-605, or Title 76,
 1504 Chapter 8, Part 12, Public Assistance Fraud, ~~[any]~~ a person who obtained or helped another
 1505 obtain an overpayment ~~[shall be]~~ is subject to:

1506 (i) a civil penalty of 10% of the amount of the overpayment; and

1507 (ii) disqualification from receiving cash assistance from the Family Employment
 1508 Program created in Section 35A-3-302 and the General Assistance program under Section
 1509 35A-3-401, if the overpayment was obtained from either of those programs, for ~~[12 months for~~
 1510 ~~the first offense, 24 months for the second offense, and permanently for the third offense, or as~~
 1511 ~~otherwise provided by federal law; or]~~ the period described in Subsection (4)(c); or

1512 (iii) disqualification from ~~[the]~~ SNAP, if ~~[that is the program from which]~~ the
 1513 overpayment was received from SNAP, for the period described in Subsection (4)(c).

1514 (c) Unless otherwise provided by federal law, the period of a disqualification under
 1515 Subsection (4)(b)(ii) and (iii) is for:

1516 (i) 12 months for ~~[the]~~ a first offense~~[-];~~

1517 (ii) 24 months for ~~[the]~~ a second offense~~[-];~~ and

1518 (iii) permanently for ~~[the]~~ a third offense~~[-, or as otherwise provided by federal law].~~

1519 ~~[(6) If]~~ (5) (a) Except as provided under Subsection (5)(b), if an action is filed, the

1520 department may recover, in addition to the principal sum plus interest, reasonable [~~attorneys'~~
1521 attorney fees and costs [~~unless~~].

1522 (b) If the repayment obligation arose from an administrative error by the department,
1523 the department may not recover attorney fees and costs.

1524 [~~(7)~~] (6) If a court finds that funds or benefits were secured, in whole or part, by fraud
1525 by the person from whom repayment is sought, the court shall assess an additional sum as
1526 considered appropriate as punitive damages up to the amount of repayment being sought.

1527 [~~(8) Criminal actions~~] (7) A criminal action for public assistance fraud [~~are~~] is
1528 governed by Title 76, Chapter 8, Part 12, Public Assistance Fraud.

1529 [~~(9)~~] (8) Jurisdiction over benefits is continuous.

1530 [~~(10)~~] (9) This chapter does not preclude the Department of Health from carrying out
1531 its responsibilities under Title 26, Chapter 19, Medical Benefits Recovery Act, and Chapter 20,
1532 Utah False Claims Act.

1533 Section 48. Section **35A-3-604** is amended to read:

1534 **35A-3-604. Obligor presumed to have notice of department's rights -- Authority**
1535 **to administer oaths, issue subpoenas, and compel witnesses and production of documents**
1536 **-- Recovery of attorney fees, costs, and interest -- Rulemaking authority -- Administrative**
1537 **procedures.**

1538 (1) An obligor is presumed to have received notice of the rights of the department
1539 under this part upon engaging in this state in any of the acts described in Subsections
1540 35A-3-603[~~(4)~~](3) and [~~(5)~~] (4) or Section 76-8-1203, 76-8-1204, or 76-8-1205.

1541 (2) For the purposes of this part, the department may administer oaths and certify
1542 official acts, issue subpoenas, and compel witnesses and the production of business records,
1543 documents, and evidence.

1544 (3) (a) Except when an overpayment results from administrative error, the department
1545 may recover from the obligor:

1546 (i) reasonable attorneys' fees;

1547 (ii) costs incurred in pursuing administrative remedies under this part; and

1548 (iii) interest at the rate of 1% a month accruing from the date an administrative or
1549 judicial order is issued determining the amount due under this part.

1550 (b) The department may recover interest, [~~attorneys'~~] attorney fees, and costs, if notice

1551 of the assessment has been included in a notice of agency action issued in [~~conformity~~
 1552 compliance with Title 63G, Chapter 4, Administrative Procedures Act.

1553 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 1554 department may make, amend, and enforce rules to carry out the provisions of this part.

1555 (5) Service of all notices and orders under this part shall comply with:

1556 (a) Title 63G, Chapter 4, Administrative Procedures Act[~~, the~~];

1557 (b) Utah Rules of Civil Procedure[~~;~~]; or

1558 (c) rules made by the department under this part in accordance with Title 63G, Chapter
 1559 3, Utah Administrative Rulemaking Act, that meet standards required by due process.

1560 Section 49. Section **35A-3-605** is amended to read:

1561 **35A-3-605. Issuance or modification of administrative order -- Voluntary**
 1562 **acknowledgment of overpayment -- Court orders supersede administrative orders --**
 1563 **Notification requirement.**

1564 [~~(1) As used in Subsection (2)(a)(i), "intentional program violation" means obtaining~~
 1565 ~~an "overpayment" as defined in Section 35A-3-602.~~]

1566 [~~(2)~~] (1) (a) Through an adjudicative proceeding, the department may issue or modify
 1567 an administrative order that:

1568 (i) determines whether an overpayment was made, the amount of the overpayment, and
 1569 whether benefits were obtained by an intentional program violation;

1570 (ii) reduces the overpayment [~~to~~] determined by an administrative judgment; or

1571 (iii) renews an administrative judgment.

1572 (b) The department shall commence an adjudicative proceeding to renew a judgment
 1573 by serving notice of agency action on the obligor before the judgment is barred by the
 1574 applicable statute of limitations.

1575 [~~(3)~~] (2) The department may accept voluntary acknowledgment of an overpayment
 1576 obligation and enter into stipulated agreements to issue orders and judgments.

1577 [~~(4)~~] (3) (a) A provision of an administrative order is enforceable against an obligor,
 1578 unless it is in direct conflict with or is superseded by a provision of a court order.

1579 (b) To the extent of any conflict, the court order governs.

1580 [~~(5)~~] (4) After being properly served with a notice of agency action under this part, an
 1581 obligor shall notify the department of any subsequent change of address or employment.

1582 Section 50. Section **35A-3-606** is amended to read:

1583 **35A-3-606. Docketing abstract of final administrative order -- Real property and**
 1584 **personal property liens -- Effect of order -- Execution.**

1585 (1) (a) An abstract of a final administrative order may be docketed in the district court
 1586 of any county in the state.

1587 (b) The time of receipt of the abstract shall be noted by the clerk on the abstract and
 1588 entered in the docket.

1589 (2) (a) From the time the abstract is docketed in the judgment docket of a district court,
 1590 any administrative judgment included in the order abstracted constitutes a lien upon the real
 1591 property of the obligor situated in that county.

1592 (b) Unless satisfied, the lien is for a period of eight years from the date the order is
 1593 entered [~~unless previously satisfied~~].

1594 (3) The final administrative order fixing the liability of the obligor shall have the same
 1595 effect as any other money judgment entered in a district court.

1596 (4) [~~Attachment~~] (a) Except as provided under Subsection (4)(b), an attachment,
 1597 garnishment, or execution on a judgment included in or accruing under an administrative order
 1598 filed and docketed under this section shall be in the same manner and with the same effect as
 1599 an attachment, garnishment, or execution on a judgment of a district court[~~, except that a~~].

1600 (b) A writ of garnishment on earnings shall continue to operate and require the
 1601 garnishee to withhold the nonexempt portion of the earnings at each succeeding earnings
 1602 disbursement interval until released in writing by the department or by court order.

1603 (5) The lien and enforcement remedies provided by this section are in addition to any
 1604 other lien or remedy provided by law.

1605 Section 51. Section **35A-3-607** is amended to read:

1606 **35A-3-607. Property subject to execution or lien -- Restriction on transfer or**
 1607 **conveyance -- Release of excess amount above liability to obligor.**

1608 (1) [~~After~~] (a) Unless released under Subsection (1)(b), after receiving notice that an
 1609 abstract has been docketed and a lien established under this part, a person in possession of
 1610 [~~any~~] property [~~which~~] that may be subject to execution or lien may not pay over, release, sell,
 1611 transfer, encumber, or convey that property to [~~any~~] a person other than the department[~~;~~
 1612 ~~unless~~].

1613 (b) The restrictions under Subsection (1)(a) do not apply if the person in possession
1614 first receives a release or waiver from the department, or a court order releasing the lien or
1615 stating that the liability does not exist or has been satisfied.

1616 (2) If a person has in his possession earnings, deposits, accounts, or balances owed to
1617 the obligor in excess of \$100 over the amount of the liability claimed by the department, ~~[that]~~
1618 the person may, without liability under this part, release the excess to the obligor.

1619 Section 52. Section **35A-3-608** is amended to read:

1620 **35A-3-608. Schedule of payments to be paid upon liability -- Establishment --**
1621 **Cancellation.**

1622 (1) ~~[At any time, the]~~ The department may at any time:

1623 (a) consistent with the income, earning capacity, and resources of the obligor, set or
1624 reset the level and schedule of payments to be paid upon the liability; and

1625 (b) ~~[at any time,]~~ cancel the schedule of payments and demand immediate payment in
1626 full.

1627 (2) The department may recover an overpayment through deductions from cash
1628 assistance or SNAP benefits under Section 35A-3-603.

1629 Section 53. Section **35A-3-609** is amended to read:

1630 **35A-3-609. Statute of limitation -- Enforcement of lien or order.**

1631 ~~[No]~~ The department may not take action for the enforcement of an order or lien issued
1632 under this part ~~[may be maintained]~~ unless ~~[it]~~ the action is commenced within eight years
1633 ~~[after]~~ of the date of the order.

1634 Section 54. Section **35A-3-610** is amended to read:

1635 **35A-3-610. Legal representation at hearings.**

1636 (1) A party may be represented by legal counsel at ~~[any]~~ a hearing held under this part.

1637 (2) At the request of the department ~~[it is the duty of]~~, the attorney general or the
1638 county attorney ~~[to]~~ shall represent the department in ~~[any]~~ a proceeding commenced under this
1639 part.

1640 Section 55. Section **35A-3-701**, which is renumbered from Section 35A-3-116 is
1641 renumbered and amended to read:

1642 **Part 7. Refugee Services**

1643 ~~[35A-3-116].~~ 35A-3-701. **Refugee services fund -- Use of money --**
1644 **Committee and director duties -- Restrictions.**

1645 (1) There is created an expendable special revenue fund, known as the "Refugee
1646 Services Fund."

1647 (2) The director shall administer the fund with input from the department and any
1648 advisory committee involved with the provision of refugee services within the department.

1649 (3) (a) Money shall be deposited into the fund from legislative appropriations, federal
1650 grants, private foundations, and individual donors.

1651 (b) The director shall encourage a refugee who receives services funded under
1652 Subsection (8) to be a donor to the fund when the refugee's financial situation improves
1653 sufficiently to make a donation.

1654 (4) Except for money restricted to a specific use under federal law or by a donor, the
1655 director may not spend money from the fund without the input described in Subsection (2).

1656 (5) The state treasurer shall invest the money in the fund under Title 51, Chapter 7,
1657 State Money Management Act, and all interest or other earnings derived from the fund money
1658 shall be deposited in the fund.

1659 (6) Money in the fund may not be used by the director for administrative expenses.

1660 (7) If the department establishes a refugee services advisory committee referenced in
1661 Subsection (2), the committee may:

1662 (a) advise the director on refugee services needs in the state and on relevant operational
1663 aspects of any grant or revenue collection program established under this part;

1664 (b) recommend specific refugee projects to the director;

1665 (c) recommend policies and procedures for administering the fund;

1666 (d) make recommendations on grants made from the fund for refugee services activities
1667 authorized under this section;

1668 (e) advise the director on the criteria by which grants from the fund shall be made;

1669 (f) recommend the order approved projects should be funded;

1670 (g) make recommendations regarding the distribution of money from the fund in
1671 accordance with federal or donor restrictions; and

1672 (h) have joint responsibility to solicit public and private funding for the fund.

1673 (8) The director may use fund money to:

- 1674 (a) train an existing refugee organization to develop its capacity to operate
1675 professionally and effectively and to become an independent, viable organization; or
1676 (b) provide grants to refugee organizations and other entities identified in Subsection
1677 (9) to assist them:
- 1678 (i) with case management;
 - 1679 (ii) in meeting emergency housing needs for refugees;
 - 1680 (iii) in providing English language services;
 - 1681 (iv) in providing interpretive services;
 - 1682 (v) in finding and maintaining employment for refugees;
 - 1683 (vi) in collaborating with the state's public education system to improve the
1684 involvement of refugee parents in assimilating their children into public schools;
 - 1685 (vii) in meeting the health and mental health needs of refugees;
 - 1686 (viii) in providing or arranging for child care services; or
 - 1687 (ix) in administering refugee services.
- 1688 (9) The director, with the input described in Subsection (2), may grant fund money for
1689 refugee services outlined in Subsection (8) through a request for proposal process to:
- 1690 (a) local governments;
 - 1691 (b) nonprofit community, charitable, or neighborhood-based organizations or private
1692 for-profit organizations involved with providing or arranging for the provision of refugee
1693 services; or
 - 1694 (c) regional or statewide nonprofit organizations.
- 1695 (10) (a) The director shall enter into a written agreement with each ~~[successful]~~ entity
1696 that successfully applies for a grant [applicant].
- 1697 (b) The agreement shall include specific terms for each grant consistent with the
1698 provisions of this section, including the structure, amount, and nature of the grant.
- 1699 (11) The director shall monitor the activities of the recipients of grants issued from the
1700 fund on an annual basis to ensure compliance with the terms and conditions imposed on the
1701 recipient by the fund.
- 1702 (12) The director shall require an entity that receives a grant under this section to
1703 provide periodic accounting of how the money was used.
- 1704 (13) As part of the annual written report described in Section 35A-1-109, the director

1705 shall report the status of the fund, including programs and services funded by the fund.

1706 Section 56. Section **35A-3-702**, which is renumbered from Section 35A-3-117 is

1707 renumbered and amended to read:

1708 ~~[35A-3-117]~~. **35A-3-702. Continuation of refugee services.**

1709 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1710 department may make rules to provide for the administration and coordination of services to
1711 refugees beyond the time period refugee assistance is provided or funded by the federal
1712 government, including the provision of:

1713 (a) services to address emergency needs;

1714 (b) English language training; and

1715 (c) services for victims of domestic violence.

1716 (2) The director shall administer and coordinate services under this section:

1717 (a) with input from the department and any office or advisory committee involved with
1718 the provision of refugee services within the department; and

1719 (b) in accordance with any state and federal requirements related to the provision of
1720 services to refugees.

1721 Section 57. Section **76-8-1201** is amended to read:

1722 **76-8-1201. Definitions.**

1723 As used in this part:

1724 (1) "Client" means a person who receives or has received public assistance.

1725 (2) "Overpayment" [~~means the same as that term is~~] has the same meaning as defined
1726 in Section [~~35A-3-602~~] 35A-3-102.

1727 (3) "Provider" [~~means the same as that term is~~] has the same meaning as defined in
1728 Section 62A-11-103.

1729 (4) "Public assistance" [~~means the same as that term is~~] has the same meaning as
1730 defined in Section 35A-1-102.

1731 Section 58. Section **76-8-1205** is amended to read:

1732 **76-8-1205. Public assistance fraud defined.**

1733 Each of the following persons, who intentionally, knowingly, or recklessly commits any
1734 of the following acts, is guilty of public assistance fraud:

1735 (1) [~~any~~] a person who uses, transfers, acquires, traffics in, falsifies, or possesses [~~any~~]

1736 SNAP benefits as defined in Section 35A-1-102, a SNAP identification card, a certificate of
1737 eligibility for medical services, a Medicaid identification card, a fund transfer instrument, a
1738 payment instrument, or a public assistance warrant in a manner not allowed by law;

1739 (2) [~~any~~] a person who fraudulently misappropriates [~~any~~] funds exchanged for SNAP
1740 benefits as defined in Section 35A-1-102, or [~~any~~] an identification card, certificate of
1741 eligibility for medical services, Medicaid identification card, or other public assistance with
1742 which [~~he~~] the person has been entrusted or that has come into [~~his~~] the person's possession in
1743 connection with [~~his~~] the person's duties in administering [~~any~~] a state or federally funded
1744 public assistance program;

1745 (3) [~~any~~] a person who receives an unauthorized payment as a result of acts described
1746 in this section;

1747 (4) [~~any~~] a provider who receives payment or [~~any~~] a client who receives benefits after
1748 failing to comply with any applicable requirement in Sections 76-8-1203 and 76-8-1204;

1749 (5) [~~any~~] a provider who files a claim for payment under [~~any~~] a state or federally
1750 funded public assistance program for goods or services not provided to or for a client of that
1751 program;

1752 (6) [~~any~~] a provider who files or falsifies a claim, report, or document required by state
1753 or federal law, rule, or provider agreement for goods or services not authorized under the state
1754 or federally funded public assistance program for which the goods or services were provided;

1755 (7) [~~any~~] a provider who fails to credit the state for payments received from other
1756 sources;

1757 (8) [~~any~~] a provider who bills a client or a client's family for goods or services not
1758 provided, or bills in an amount greater than allowed by law or rule;

1759 (9) [~~any~~] a client who, while receiving public assistance, acquires income or resources
1760 in excess of the amount [~~he~~] the client previously reported to the state agency administering the
1761 public assistance, and fails to notify the state agency to which the client previously reported
1762 within 10 days after acquiring the excess income or resources;

1763 (10) [~~any~~] a person who fails to act as required under Section 76-8-1203 or 76-8-1204
1764 with intent to obtain or help another obtain an "overpayment" as defined in Section
1765 [~~35A-3-602~~] 35A-3-102; and

1766 (11) [~~any~~] a person who obtains an overpayment by violation of Section 76-8-1203 or

1767 76-8-1204.

1768 Section 59. **Repealer.**

1769 This bill repeals:

1770 Section **35A-3-602, Definitions.**

Legislative Review Note
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Office of Legislative Research and General Counsel