

1                                   **EMPLOYMENT SUPPORT ACT REVISIONS**

2   2015 GENERAL SESSION

3   STATE OF UTAH

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5 **LONG TITLE**

6 **General Description:**

7           This bill modifies the Utah Workforce Services Code by revising and updating the  
8           Chapter 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 [~~division~~] department may enter into  
 394 agreements with [~~the railroad retirement board, or any other~~] any agency or department of the  
 395 United States, [~~or of this or any other state, charged with the administration of any law whose~~  
 396 ~~purposes are reasonably related to the purposes of this chapter~~] this state, or another state.

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

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

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

403 **35A-3-201. Definitions.**

404 As used in this part:

405 (1) "Child care" means the child care services [~~referred to~~] defined in [~~Subsection~~]

406 Section 35A-3-102[(4) ~~provided~~] for:

407 (a) children [~~through~~] age 12 or younger; and

408 (b) children with disabilities [~~through~~] age 18 or younger.

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

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

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

413 (3) "Committee" means the Child Care Advisory Committee created in Section

414 35A-3-205.

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

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

417 Section 16. Section **35A-3-202** is amended to read:

418 **35A-3-202. Creation.**

419 (1) There is created within the Department of Workforce Services an Office of Child  
420 Care.

421 (2) The office shall be administered by a director who shall be appointed by the  
422 executive director and who may be removed from that position at the will of the executive  
423 director.

424 Section 17. Section **35A-3-203** is amended to read:

425 **35A-3-203. Functions and duties of office -- Annual report.**

426 The office shall:

427 (1) assess critical child care needs throughout the state on an ongoing basis and focus  
428 its activities on helping to meet the most critical needs;

429 (2) provide child care subsidy services for income-eligible children through age 12 and  
430 for income-eligible children with disabilities through age 18;

431 (3) provide information:

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

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

434 (4) coordinate services for quality child care training and child care resource and

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

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

453 **35A-3-204. Duties of director.**

454 The director shall:

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

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

461 **35A-3-205. Creation of committee.**

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

466 the office's annual budget;

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

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

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

473 (a) one expert in early childhood development;

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

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

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

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

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

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

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

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

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

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

487 (l) one representative of children with disabilities;

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

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

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

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

495 (b) The head of the respective departments shall appoint the members referred to in  
496 Subsections (3)(f) through (i).



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

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

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

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

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

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

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

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

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

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

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

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

519 **35A-3-206. Child Care Fund -- Use of money -- Committee and director duties --**  
520 **Restrictions.**

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

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

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

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

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

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

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

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

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

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

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

548 (8) The committee shall:

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

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

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

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

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

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

558 (g) make recommendations regarding the distribution of money from the fund in

559 accordance with the procedures, conditions, and restrictions placed ~~[upon]~~ on the money by the  
560 donors; and

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

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

564 (a) training of child care providers;

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

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

567 (d) child care provider recruitment;

568 (e) Office of Child Care sponsored activities;

569 (f) matching money for obtaining grants; or

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

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

574 (a) local governments;

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

576 (c) regional or statewide nonprofit organizations; or

577 (d) child care providers.

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

581 (a) programmatic or financial need;

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

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

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

588 (13) ~~[The entities receiving grants, loans, or contracts]~~ Each entity receiving a grant,  
589 loan, or contract shall provide the director of the office with an annual accounting of how the

590 money ~~[they]~~ the entity received from the fund has been spent.

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

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

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

596 **35A-3-207. Community-based prevention programs.**

597 (1) As used in this section:

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

599 (b) "qualified sponsor" means a:

600 (i) political subdivision;

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

602 (iii) regional or statewide nonprofit organization; or

603 (iv) private for profit or nonprofit child care organization with experience and expertise

604 in operating community-based prevention programs described in Subsection (2) and that are

605 licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities.

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

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

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

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

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

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

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

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

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

618 (4) In meeting the matching requirements under Subsection (3), the department may  
619 consider the value of in-kind contributions [such as], including materials, supplies, paid labor,  
620 volunteer labor, and the incremental increase in building maintenance and operation expenses

621 incurred attributable to the prevention program [~~may be considered in meeting this match~~  
622 ~~requirement~~].

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

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

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

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

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

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

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

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

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

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

640 **Part 3. Family Employment Program**

641 **35A-3-301. Purpose -- Legislative findings.**

642 (1) The Legislature finds that:

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

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

650 (2) The Legislature recognizes that even with assistance, some [~~clients~~] recipients may  
651 be unable to attain complete self-sufficiency.

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

653 **35A-3-302. Eligibility requirements.**

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

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

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

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

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

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

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

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

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

671 (a) family size;

672 (b) family income;

673 (c) income disregards;

674 (d) other relevant factors; and

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

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

681 (7) The department shall provide for an appeal of a determination of eligibility in  
682 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

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

686 (i) eligibility requirements for cash assistance; or

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

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

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

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

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

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

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

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

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

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

702 (i) has adequate access to the assistance;

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

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

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

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

712 (10) An individual receiving assistance under this section may not access the assistance  
713 through an electronic benefit transfer, including through an automated teller machine or

714 point-of-sale device, in an establishment in the state that:

715 (a) exclusively or primarily sells intoxicating liquor;

716 (b) allows gambling or gaming; or

717 (c) provides adult-oriented entertainment where performers disrobe or perform

718 unclothed.

719 (11) An establishment [~~in the state~~] described under Subsection (10)(a), (b), or (c) may

720 not allow an individual to access the assistance [~~described in~~] under this section on the

721 establishment's premises through an electronic benefit transfer, including through an automated

722 teller machine or point-of-sale device[~~, if the establishment: (a) exclusively or primarily sells~~

723 intoxicating liquor; (b) allows gambling or gaming; or (c) provides adult-oriented

724 entertainment where performers disrobe or perform unclothed].

725 (12) In accordance with federal requirements[~~;~~] and in accordance with Title 63G,

726 Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to prevent

727 individuals from accessing assistance in a manner prohibited by Subsections (10) and (11),

728 which rules may include enforcement provisions that impose sanctions that temporarily or

729 permanently disqualify an individual from receiving assistance.

730 [~~(13) When exercising rulemaking authority under this part, the department shall~~

731 ~~comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

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

733 **35A-3-303. Diversion.**

734 (1) (a) When an applicant applies for cash assistance under this part, the [~~division~~]

735 department shall assess whether the applicant should be [~~diverted from receiving extended cash~~

736 ~~assistance.] helped by:~~

737 (i) diversion to avoid extended cash assistance; or

738 (ii) normal cash assistance under this part.

739 (b) In completing the assessment[~~, the division shall~~] under this section, the department

740 may consider the following:

741 (i) the applicant's employment history;

742 (ii) the likelihood of the applicant obtaining immediate full-time employment;

743 (iii) the applicant's general prospect for obtaining full-time employment;

744 (iv) the applicant's need for cash assistance to pay for housing or substantial and



745 unforeseen expenses or work-related expenses;

746 (v) housing stability; and

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

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

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

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

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

759 **35A-3-304. Assessment -- Participation requirements and limitations --**  
760 **Employment plan -- Mentors.**

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

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

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

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

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

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

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

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

771 (A) prior work experience;

772 (B) ability to become employable;

773 (C) skills; and

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

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

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

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

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

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

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

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

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

793 (i) job searching requirements;

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

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

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

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

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

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

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

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

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

806 (f) ~~[As to the division, the]~~ The department's responsibilities under the employment

807 plan may include:

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

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

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

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

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

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

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

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

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

822 (B) the number of job applications completed;

823 (C) the interviews attended;

824 (D) the offers of employment extended; and

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

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

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

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

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

837 ~~[(iii) The division shall establish a process to reconcile disputes between a client and~~

838 ~~the division as to whether:]~~

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

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

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

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

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

850 (i) 24 months; or

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

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

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

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

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

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

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

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

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

867 (a) enrolled in and attending school in compliance with Sections 53A-11-101.5 and  
868 53A-11-101.7; or

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

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

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

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

876 (i) develop life skills;

877 (ii) implement an employment plan; or

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

879 (A) the volunteer mentor;

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

881 (C) civic organizations.

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

883 **35A-3-304.5. Drug testing requirements.**

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

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

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

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

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

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

899 (5) The result of a drug test given under this section is a private record in accordance

900 with Section 63G-2-302 and disclosure to a third party is prohibited except as provided under  
901 Title 63G, Chapter 2, Government Records Access and Management Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

929 [~~(a)~~] (i) except as provided in Subsection (8)(b)(ii), 90 days after the day on which the  
930 department determines, under this Subsection (8), that the [~~parent client~~] applicant is no longer

931 eligible for cash assistance; or

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

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

937 **35A-3-306. Limits on eligibility -- Transitional cash assistance.**

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

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

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

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

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

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

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

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

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

960 ~~[(B) is only available to a parent client who was previously receiving cash assistance~~  
 961 ~~under the Family Employment Program but who becomes ineligible due to earned or unearned~~

962 income; and]

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

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

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

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

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

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

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

983 (i) by reason of a hardship; or

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

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

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

992 (5) (a) The department may provide transitional cash assistance to a parent recipient:



993 (i) if the department determines the transitional cash assistance is necessary to stabilize  
 994 employment and prevent recidivism of a recipient;

995 (ii) who was previously receiving cash assistance under the Family Employment  
 996 Program but who becomes ineligible due to earned or unearned income; and

997 (iii) for a maximum of three months if the parent recipient is employed an average of  
 998 30 hours per week during the transitional period.

999 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 1000 department shall make rules for the provision of transitional cash assistance under this section.

1001 Section 28. Section **35A-3-307** is amended to read:

1002 **35A-3-307. Cash assistance to a single minor parent.**

1003 (1) The [~~division~~] department may provide cash assistance to a single minor parent in  
 1004 accordance with this section.

1005 (2) A single minor parent who receives cash assistance under this part shall:

1006 (a) except as provided under Subsection (3), reside in a place of residence maintained  
 1007 by a parent, legal guardian, or other adult relative of the single minor parent[~~; except as~~  
 1008 ~~provided in Subsection (3)~~];

1009 (b) participate in education for parenting and life skills;

1010 (c) participate in infant and child wellness programs [~~operated by the Department of~~  
 1011 ~~Health~~] approved by the department; and

1012 (d) for [~~not less than~~] at least 20 hours per week:

1013 (i) [~~attend high school or an alternative to high school;~~] if the single minor parent does  
 1014 not have a high school diploma, attend high school or an alternative to high school;

1015 (ii) participate in education or training; or

1016 (iii) participate in a combination of employment and education or training.

1017 (3) (a) If the [~~division~~] department determines that the requirements of Subsection  
 1018 (2)(a) are not appropriate for a single minor parent, the [~~division~~] department may assist the  
 1019 single minor parent to obtain suitable living arrangements, including an adult-supervised living  
 1020 arrangement.

1021 (b) [~~As a condition of receiving~~] The department may only provide cash assistance[~~;~~] to  
 1022 a single minor parent who is exempt from the requirements of Subsection (2)(a) [shall reside] if  
 1023 the single minor parent resides in a living arrangement that is approved by the [~~division~~]

1024 department.

1025 (c) The approval by the [~~division~~] department of a living arrangement under Subsection  
1026 (3)(b):

1027 (i) is a means of safeguarding the use of state and federal funds; and

1028 (ii) is not a certification or guarantee of the safety, quality, or condition of the living  
1029 arrangements of the single minor parent.

1030 (4) (a) If a single minor parent resides with a parent, the [~~division~~] department shall  
1031 include the income of the parent of the single minor parent in determining the single minor  
1032 parent's eligibility for services [~~and supports~~] under this part.

1033 (b) If a single minor parent receives services [~~and supports~~] under this chapter but does  
1034 not reside with a parent, the [~~division~~] department shall seek an order under Title 78B, Chapter  
1035 12, Utah Child Support Act, requiring the parent of the single minor parent to financially  
1036 support the single minor parent.

1037 (5) The requirements of this section shall be included in a single minor parent's  
1038 employment plan under Section 35A-3-304.

1039 Section 29. Section **35A-3-308** is amended to read:

1040 **35A-3-308. Adoption services -- Printed information -- Supports provided.**

1041 (1) The [~~division~~] department may provide assistance under this section to [~~a client~~] an  
1042 applicant who is pregnant and is not receiving cash assistance [~~no sooner than~~] at the beginning  
1043 of the third trimester of pregnancy.

1044 (2) For a pregnant [~~clients~~] applicant, the [~~division~~] department shall:

1045 (a) refer the [~~client~~] applicant for appropriate prenatal medical care, including maternal  
1046 health services provided under Title 26, Chapter 10, Family Health Services;

1047 (b) inform the [~~client~~] applicant of free counseling about adoption from licensed child  
1048 placement agencies and licensed attorneys; and

1049 (c) offer the [~~client~~] applicant the adoption information packet described in Subsection  
1050 (3).

1051 (3) The department shall publish an adoption information packet that:

1052 (a) is easy to understand;

1053 (b) contains geographically indexed materials on the public and private organizations  
1054 that provide adoption assistance;

1055 (c) lists the names, addresses, and telephone numbers of licensed child placement  
1056 agencies and licensed attorneys who place children for adoption;

1057 (d) explains that private adoption is legal and that the law permits adoptive parents to  
1058 reimburse the costs of prenatal care, childbirth, neonatal care, and other expenses related to  
1059 pregnancy; and

1060 (e) describes the services [~~and supports~~] available to the [~~client~~] applicant under this  
1061 section.

1062 (4) (a) A [~~client~~] recipient remains eligible for assistance under this section, even  
1063 though the [~~client~~] recipient relinquishes a child for adoption, [~~provided that~~] if the adoption is  
1064 in accordance with Sections 78B-6-120 through 78B-6-122.

1065 (b) The assistance provided under this section may include:

1066 (i) reimbursement for expenses associated with care and confinement during pregnancy  
1067 as provided [~~for~~] in Subsection (5); and

1068 (ii) for a maximum of 12 months from the date of relinquishment, coordination of  
1069 services to assist the [~~client~~] recipient in:

1070 (A) receiving appropriate educational and occupational assessment and planning;

1071 (B) enrolling in appropriate education or training programs, including high school  
1072 completion and adult education programs;

1073 (C) enrolling in programs that provide assistance with job readiness, employment  
1074 counseling, finding employment, and work skills;

1075 (D) finding suitable housing;

1076 (E) receiving medical assistance, under Title 26, Chapter 18, Medical Assistance Act,  
1077 if the [~~client~~] recipient is otherwise eligible; and

1078 (F) receiving counseling and other mental health services.

1079 (5) (a) Except as provided in Subsection (5)(b), a [~~client~~] recipient under this section is  
1080 eligible to receive an amount equal to the maximum monthly amount of cash assistance paid  
1081 under this part to one person for up to 12 consecutive months from the date of relinquishment.

1082 (b) If a [~~client~~] recipient is otherwise eligible to receive cash assistance under this part,  
1083 the [~~client~~] recipient is eligible to receive an amount equal to the increase in cash assistance the  
1084 [~~client~~] recipient would have received but for the relinquishment for up to 12 consecutive  
1085 months from the date of relinquishment.

1086 (6) (a) To ~~[be]~~ remain eligible for assistance under this section, a ~~[client]~~ recipient  
1087 shall:

1088 (i) with the cooperation of the ~~[division]~~ department, develop and implement an  
1089 employment plan ~~[containing]~~ that includes goals for achieving self-sufficiency and  
1090 ~~[describing]~~ that describes the action the ~~[client]~~ recipient will take concerning education and  
1091 training ~~[that will result in]~~ to achieve full-time employment;

1092 (ii) if the ~~[client]~~ recipient does not have a high school diploma, enroll in high school  
1093 or an alternative to high school and demonstrate progress toward graduation; and

1094 (iii) make a good faith effort to meet the goals of the employment plan as ~~[provided]~~  
1095 described in Section 35A-3-304.

1096 (b) Cash assistance provided to a ~~[client]~~ recipient before the ~~[client]~~ recipient  
1097 relinquishes a child for adoption is part of the state plan.

1098 (c) Assistance provided under Subsection (5):

1099 (i) shall be provided for with state funds; and

1100 (ii) may not be ~~[totled]~~ counted when determining subsequent eligibility for cash  
1101 assistance under this chapter.

1102 (d) The time limit provisions of Section 35A-3-306 apply to cash assistance provided  
1103 under the state plan.

1104 (e) The ~~[division]~~ department shall monitor a ~~[client's]~~ recipient's compliance with this  
1105 section.

1106 (f) Except for Subsection (6)(b), Subsections (2) through (6) are excluded from the  
1107 state plan.

1108 Section 30. Section **35A-3-309** is amended to read:

1109 **35A-3-309. Information regarding home ownership.**

1110 (1) The ~~[division]~~ department shall provide information and service coordination to  
1111 assist ~~[a client to obtain]~~ an applicant in obtaining affordable housing.

1112 (2) The information and services may include:

1113 (a) information from the Utah Housing Corporation and the Housing and Community  
1114 Development Division regarding special housing programs, including programs for first-time  
1115 home buyers and ~~[persons]~~ individuals with low and moderate incomes and the eligibility  
1116 requirements for those programs;

1117 (b) referrals to programs operated by volunteers from the real estate industry that assist  
1118 [~~clients~~] applicants in obtaining affordable housing, including information on home ownership,  
1119 down payments, closing costs, and credit requirements; and

1120 (c) referrals to housing programs operated by municipalities, counties, local housing  
1121 authorities, and nonprofit housing organizations that assist individuals [~~to obtain~~] in obtaining  
1122 affordable housing, including first-time home ownership.

1123 Section 31. Section **35A-3-310** is amended to read:

1124 **35A-3-310. Child care services -- Rules.**

1125 (1) [~~A parent client~~] An applicant may receive assistance for child care under this part  
1126 for a minor child in the care and custody of the parent [~~client~~] recipient, unless the other parent  
1127 in a two-parent family:

1128 (a) is capable of caring for the family's child;

1129 (b) is not employed; and

1130 (c) has not entered into an employment plan with the [~~division~~] department.

1131 (2) The [~~division~~] department shall encourage a parent [~~client~~] recipient to obtain child  
1132 care at no cost from a parent, sibling, relative, or other suitable provider.

1133 (3) [~~Within appropriations from the Legislature and in~~] In accordance with Title 63G,  
1134 Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing  
1135 eligibility for child care services for a minor child in the care and custody of a parent who does  
1136 not receive cash assistance under this part.

1137 Section 32. Section **35A-3-310.5** is amended to read:

1138 **35A-3-310.5. Child care providers -- Criminal background checks -- Payment of**  
1139 **costs -- Prohibitions -- Department rules.**

1140 (1) This section applies to a child care provider who:

1141 (a) (i) is selected by [~~an applicant for, or~~] a recipient of[;] a child care assistance  
1142 payment; or

1143 (ii) is a recipient of a child care assistance payment;

1144 (b) is not required to undergo a criminal background check with the Department of  
1145 Health, Bureau of Child Care Licensing;

1146 (c) is not a license exempt child care center or program; and

1147 (d) is an eligible child care provider [~~under~~] in accordance with department rules made

1148 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1149 (2) (a) ~~[Each]~~ A child care provider identified under Subsection (1) shall submit to the  
1150 department the name and other identifying information, ~~[which shall include]~~ including a set of  
1151 fingerprints, of:

1152 (i) existing, new, and proposed ~~[providers of]~~ individuals who provide or may provide  
1153 child care; and

1154 (ii) individuals who are at least 18 years of age and reside in the premises where the  
1155 child care is provided.

1156 (b) The department may waive the fingerprint requirement under Subsection (2)(a) for  
1157 an individual who has:

1158 (i) resided in Utah for five years prior to the required submission; or

1159 (ii) (A) previously submitted a set of fingerprints under this section for a national  
1160 criminal history record check; and

1161 (B) resided in Utah continuously since submitting the fingerprints.

1162 (c) The ~~[Utah Division of]~~ Criminal Investigation and Technical Services Division  
1163 created within the Department of Public Safety under Section 53-10-103 shall:

1164 (i) process and conduct background checks on all individuals as requested by the  
1165 department~~[, including submitting the];~~ and

1166 (ii) submit required fingerprints to the U.S. Federal Bureau of Investigation for a  
1167 national criminal history background check of the individual.

1168 (d) If the department waives the fingerprint requirement under Subsection (2)(b), the  
1169 ~~[Utah Division of]~~ Criminal Investigation and Technical Services Division may allow the  
1170 department or its representative access to the ~~[division's]~~ Criminal Investigation and Technical  
1171 Services Division's ~~[data base]~~ database to determine whether the individual has been  
1172 convicted of a crime.

1173 (e) The child care provider shall pay the cost of the history background check provided  
1174 under Subsection (2)(c).

1175 (3) (a) ~~[Each]~~ A child care provider identified under Subsection (1) shall submit to the  
1176 department the name and other identifying information of an individual, age 12 through 17,  
1177 who resides in the premises where the child care is provided.

1178 ~~[(b) The identifying information referred to in Subsection (3)(a) does not include~~

1179 fingerprints.]

1180           ~~[(c)]~~ (b) The department or its representative shall access juvenile court records to  
1181 determine whether an individual described in Subsection (2) or (3)(a) has been adjudicated in  
1182 juvenile court of committing an act which, if committed by an adult, would be a felony or  
1183 misdemeanor if:

1184           (i) the individual described in Subsection (2) is under the age of 28; or

1185           (ii) the individual described in Subsection (2):

1186           (A) is ~~[over the]~~ age ~~[of]~~ 28 or older; and

1187           (B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in  
1188 abeyance or diversion agreement for a felony or misdemeanor.

1189           (4) Except as provided in Subsection (5), a child care provider under this section may  
1190 not permit an individual ~~[who has been convicted of, has pleaded no contest to, or is currently~~  
1191 ~~subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, or if~~  
1192 ~~Subsection (3)(b) applies, an individual who has been adjudicated in juvenile court of~~  
1193 ~~committing an act which if committed by an adult would be a felony or misdemeanor]~~  
1194 described under Subsection (3)(b) to:

1195           (a) provide subsidized child care; or

1196           (b) reside at the premises where subsidized child care is provided.

1197           (5) (a) The department may make ~~[a rule]~~ rules in accordance with Title 63G, Chapter  
1198 3, Utah Administrative Rulemaking Act, to exempt the following from the restrictions of  
1199 Subsection (4):

1200           (i) a specific misdemeanor;

1201           (ii) a specific act adjudicated in juvenile court, which if committed by an adult would  
1202 be a misdemeanor; and

1203           (iii) background checks of individuals other than the provider who are residing at the  
1204 premises where subsidized child care is provided if that child care is provided in the child's  
1205 home.

1206           (b) In accordance with criteria established by ~~[rule]~~ department rules made in  
1207 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the executive  
1208 director or the director's designee may consider and exempt individual cases, not otherwise  
1209 exempt under Subsection (5)(a), from the restrictions of Subsection (4).

1210 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1211 department shall [~~establish by rule~~] make rules to determine:

1212 (a) whether a child care subsidy payment should be made prior to the completion of a  
1213 background check, particularly in the case of a delay in making or completing the background  
1214 check; and

1215 (b) if, and how often, a child care provider shall resubmit the information required  
1216 under Subsections (2) and (3).

1217 Section 33. Section **35A-3-311** is amended to read:

1218 **35A-3-311. Cash assistance to noncitizen legal residents and drug dependent**  
1219 **persons.**

1220 (1) [~~The division~~] If barred from using federal funds under federal law, the department  
1221 may provide cash assistance to a legal resident who is not a citizen of the United States using  
1222 funds appropriated from the [~~general fund if barred under federal law from using federal funds~~]  
1223 General Fund.

1224 (2) (a) The State exercises the opt out provision in Section 115 of the Personal  
1225 Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193.

1226 (b) Consistent with Subsection (2)(a), the [~~division~~] department may provide cash  
1227 assistance and SNAP benefits to a person who has been convicted of a felony involving a  
1228 controlled substance, as defined in Section 58-37-2.

1229 (c) As a condition for receiving cash assistance under this part, a drug dependant  
1230 person, as defined in Section 58-37-2, shall:

1231 (i) receive available treatment for the dependency; and

1232 (ii) make progress toward overcoming the dependency.

1233 (d) The department may only refer [~~a client~~] a recipient who is a drug dependent person  
1234 to a treatment provider [~~that~~] for treating drug dependency if the provider has achieved an  
1235 objective level of success, as defined by department [~~rule, in treating drug dependency~~] rules  
1236 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1237 Section 34. Section **35A-3-312** is amended to read:

1238 **35A-3-312. Individual development accounts.**

1239 (1) As used in this section:

1240 (a) "Individual development account" means a trust account funded through periodic



1241 contributions by a [client] recipient and matched by or through a not-for-profit organization  
1242 organized under Section 501(c)(3), Internal Revenue Code.

1243 (b) "Qualified acquisition costs" means the costs of acquiring, constructing, or  
1244 reconstructing a residence, including settlement and closing costs.

1245 (c) "Qualified businesses capitalization expenses" means expenditures for capital,  
1246 plant, equipment, working capital, and inventory.

1247 (2) An individual development account may be established by or on behalf of a [client]  
1248 recipient to enable ~~[a client]~~ the recipient to accumulate funds for the following purposes:

1249 (a) postsecondary educational expenses ~~[after leaving cash assistance]~~, including  
1250 tuition, fees, books, supplies, and transportation costs, if:

1251 (i) the recipient has terminated cash assistance under this chapter; and

1252 (ii) the expenses are paid from the individual development account directly to an  
1253 educational institution that the ~~[parent client]~~ recipient is attending as part of an employment  
1254 plan;

1255 (b) qualified acquisition costs associated with a first-time home purchase if paid from  
1256 the individual development account directly to a person to whom the amount is due;

1257 (c) amounts paid from an individual development account directly to a business  
1258 capitalization account that is established in a federally insured financial institution and used  
1259 solely for qualified business capitalization expenses; or

1260 (d) the purchase of assistive technologies, vehicle modifications, or home  
1261 improvements ~~[that will]~~ to allow a [client] recipient with a disability to participate in  
1262 work-related activities.

1263 (3) A [client] recipient may only deposit earned income and funds received from a  
1264 not-for-profit organization into an individual development account.

1265 Section 35. Section **35A-3-313** is amended to read:

1266 **35A-3-313. Performance goals.**

1267 ~~[(1) As used in this section:]~~

1268 ~~[(a) "Performance goals" means a target level of performance or an expected level of~~  
1269 ~~performance against which actual performance is compared.]~~

1270 ~~[(b) "Performance indicators" means actual performance information regarding a~~  
1271 ~~program or activity.]~~

1272 ~~[(c) "Performance monitoring system" means a process to regularly collect and analyze~~  
 1273 ~~performance information including performance indicators and performance goals.]~~

1274 ~~[(2)(a)]~~ (1) The department shall establish a performance monitoring system for cash  
 1275 assistance provided under this part.

1276 ~~[(b)]~~ (2) The department shall establish the performance indicators and performance  
 1277 goals that will be used in the performance monitoring system for cash assistance under this  
 1278 part.

1279 ~~[(c)(i)]~~ (3) (a) The department shall include in the annual written report described in  
 1280 Section 35A-1-109, a description of the difference between actual performance and  
 1281 performance goals for the second, third, and fourth quarters of the prior fiscal year and the first  
 1282 quarter of the current fiscal year.

1283 ~~[(ii)(A)]~~ (b) (i) The legislative fiscal analyst or the analyst's designee shall convey the  
 1284 information described in Subsection ~~[(2)(c)(i)]~~ (3)(a) to the appropriation subcommittee that  
 1285 has oversight responsibilities for the Department of Workforce Services during the general  
 1286 session of the Legislature that follows the submission of the report.

1287 ~~[(B)]~~ (ii) The subcommittee may consider the information in its deliberations regarding  
 1288 the budget for services ~~[and supports]~~ under this chapter.

1289 Section 36. Section **35A-3-401** is amended to read:

1290 **Part 4. General Assistance**

1291 **35A-3-401. General Assistance.**

1292 (1) (a) The department may provide General Assistance ~~[may be provided]~~ to  
 1293 individuals who are:

1294 (i) not receiving cash assistance under Part 3, Family Employment Program, or  
 1295 Supplemental Security Income~~;~~; and ~~[who are]~~

1296 (ii) unemployable according to standards established by the department.

1297 (b) (i) General Assistance ~~[may be provided by]~~ described in Subsection (1)(a) may  
 1298 include payment in cash or in kind.

1299 (ii) The ~~[office]~~ department may provide General Assistance up to an amount ~~[less]~~  
 1300 that is no more than the existing payment level for an otherwise similarly situated ~~[client of]~~  
 1301 recipient receiving cash assistance under Part 3, Family Employment Program.

1302 (c) The ~~[office]~~ department shall establish asset limitations for a General Assistance

1303 [~~clients~~] applicant.

1304 (d) (i) General Assistance may be granted to meet special nonrecurrent needs of an  
 1305 applicant for the federal Supplemental Security Income [~~program~~] for the Aged, Blind, and  
 1306 Disabled program provided under 20 C.F.R. Sec. 416, if the applicant agrees to reimburse the  
 1307 [~~division~~] department for assistance advanced while awaiting the determination of eligibility by  
 1308 the Social Security Administration.

1309 (ii) General Assistance payments may not be made to a [~~current client of~~] recipient  
 1310 currently receiving:

1311 (A) cash assistance; or

1312 (B) Supplemental Security Income for the Aged, Blind, and Disabled.

1313 (e) (i) General Assistance may be used for the reasonable cost of burial for a [~~client,~~]  
 1314 recipient if heirs or relatives are not financially able to assume this expense.

1315 (ii) Notwithstanding Subsection (1)(e)(i), if the body of a person is unclaimed[;]  
 1316 Section 53B-17-301 applies.

1317 (iii) The department shall fix the cost of a reasonable burial and conditions under  
 1318 which burial expenditures may be made.

1319 (2) The [~~division~~] department may cooperate with any governmental unit or agency, or  
 1320 any private nonprofit agency, in establishing work projects to provide employment for  
 1321 employable persons.

1322 Section 37. Section **35A-3-402** is amended to read:

1323 **35A-3-402. Calculation of General Assistance grants.**

1324 [~~Grants~~] The department shall provide grants for General Assistance [~~made pursuant to~~]  
 1325 under Section 35A-3-401[; ~~to the extent that those payments are made~~] on an ongoing basis for  
 1326 [~~persons~~] individuals who are unemployable[; ~~shall be~~]:

1327 (1) within amounts appropriated by the Legislature; and

1328 (2) calculated in a manner [~~analogous to that~~] substantially similar to cash assistance as  
 1329 provided in Section 35A-3-302.

1330 Section 38. Section **35A-3-502** is amended to read:

1331 **35A-3-502. Definitions of social capital.**

1332 (1) As used in this part[;], "Social capital" means the value provided to the state by a  
 1333 civic organization, including values, cooperation, strength to families and neighborhoods, and

1334 ensuring livable communities and nurturing environments.

1335 ~~[(1) "Civic organization" includes community service clubs and organizations,~~  
1336 ~~charitable health care and service organizations, fraternal organizations, labor unions, minority~~  
1337 ~~and ethnic organizations, commercial and industrial organizations, commerce and business~~  
1338 ~~clubs, private nonprofit organizations, private nonprofit corporations that provide funding to~~  
1339 ~~community service organizations, organizations that advocate or provide for the needs of~~  
1340 ~~persons with low incomes, religious organizations, and organizations that foster strong~~  
1341 ~~neighborhoods and communities.]~~

1342 ~~[(2) "Diversion payment" means a lump sum cash payment provided to a client in lieu~~  
1343 ~~of regular monthly cash assistance.]~~

1344 ~~[(3) "Performance monitoring system" means a process to regularly collect and analyze~~  
1345 ~~performance information, including performance indicators and performance goals.]~~

1346 ~~[(a) "Performance goals" means a target level of performance or an expected level of~~  
1347 ~~performance against which actual performance is measured.]~~

1348 ~~[(b) "Performance indicators" means actual performance information regarding a~~  
1349 ~~program or activity.]~~

1350 (2) Social capital links society together by:

1351 (a) creating opportunities for service and giving;

1352 (b) facilitating trust and cooperation; and

1353 (c) enhancing investments in physical and human capital.

1354 Section 39. Section **35A-3-503** is amended to read:

1355 **35A-3-503. Purpose -- Limitations.**

1356 ~~[(1) The Legislature finds that public policy should promote and encourage a strong~~  
1357 ~~civic sector. Civic organizations have an important role that cannot be adequately addressed~~  
1358 ~~through either private or public sector action. Important public values such as the condition of~~  
1359 ~~our neighborhoods, the character of our children, and the renewal of our cities directly depend~~  
1360 ~~on the strength of families, neighborhoods, and grassroots community organizations, as well as~~  
1361 ~~the vitality of private and religious institutions that care for those in need. Civic organizations~~  
1362 ~~transmit values between generations, encourage cooperation between citizens, and ensure that~~  
1363 ~~our communities are livable and nurturing environments. The value provided to the state by~~  
1364 ~~civic organizations is called social capital.]~~

1365 ~~[(2) The purpose of this part is to promote the availability of social capital.]~~

1366 (1) Using social capital, ~~[clients of and applicants]~~ an applicant for services under this  
 1367 chapter may receive a wide array of services ~~[and supports]~~ that cannot be provided by state  
 1368 government alone. ~~[Social capital links all parts of our society together by creating~~  
 1369 ~~opportunities for service and giving. It facilitates trust and cooperation and enhances~~  
 1370 ~~investments in physical and human capital.]~~

1371 ~~[(3) In enacting this part, the]~~ (2) The Legislature recognizes:

1372 (a) the constitutional limits of state government to sustain civic institutions that  
 1373 provide social capital~~[- While state government has always depended on these institutions, it];~~

1374 (b) that the state does not create [them] nor can it replace [them. This part recognizes]  
 1375 civic institutions; and

1376 (3) that state government ~~[shall]~~ should respect, recognize, and, wherever possible,  
 1377 constitutionally encourage strong civic institutions that sustain a sense of community ~~[and~~  
 1378 ~~humanize our lives].~~

1379 Section 40. Section **35A-3-504** is amended to read:

1380 **35A-3-504. Relationship of civic and state services.**

1381 (1) (a) Services and supports provided by a civic organization under this part are in  
 1382 addition to, and not in lieu of, any service ~~[or support]~~ provided by the ~~[division to a client]~~  
 1383 department to a recipient.

1384 (b) Receipt of services from a civic organization may not diminish a ~~[person's]~~  
 1385 recipient's eligibility for services ~~[or supports]~~ from the ~~[division]~~ department.

1386 (2) ~~[A person]~~ An applicant or recipient is under no obligation to receive services from  
 1387 a civic organization.

1388 (3) A civic organization is under no obligation to provide services to a person, except  
 1389 as provided in a contract between the organization and the ~~[division pursuant to]~~ department  
 1390 under Section 35A-3-507.

1391 Section 41. Section **35A-3-505** is amended to read:

1392 **35A-3-505. Application -- Referral to civic organizations.**

1393 (1) The ~~[division]~~ department:

1394 (a) shall~~[- in compliance with Section 35A-3-504,]~~ assess whether an applicant ~~[would~~  
 1395 ~~be]~~ is receptive to and would benefit ~~[by services from]~~ from a service provided by a civic

1396 organization~~[. If so, the division]; and~~

1397 (b) may inform the applicant of the availability of ~~[those services and supports]~~

1398 services provided by civic organizations.

1399 (2) (a) If an applicant chooses to receive ~~[those]~~ services ~~[and supports]~~ from a civic  
1400 organization, the ~~[division]~~ department shall facilitate the applicant's referral to one or more  
1401 appropriate civic organizations.

1402 (b) If an applicant chooses not to receive the services ~~[and supports]~~ of a civic  
1403 organization or requests services ~~[and supports]~~ available under this chapter in addition to the  
1404 services ~~[and supports]~~ of a civic organization, the ~~[division]~~ department shall process the  
1405 application as provided under this chapter.

1406 Section 42. Section **35A-3-506** is amended to read:

1407 **35A-3-506. Diversion payment -- Referral to civic organizations.**

1408 ~~[When a client]~~ If a recipient receives a diversion payment under Section 35A-3-303,  
1409 the ~~[division]~~ department:

1410 (1) shall assess whether the ~~[client would benefit from]~~ recipient is receptive to and  
1411 would benefit from services ~~[and supports]~~ from a civic organization~~[. If so, the division]; and~~

1412 (2) may inform the ~~[client]~~ recipient of the services ~~[and supports]~~ that civic  
1413 organizations provide.

1414 Section 43. Section **35A-3-507** is amended to read:

1415 **35A-3-507. Request for proposals from civic organizations -- Contract**  
1416 **requirements.**

1417 (1) (a) ~~[Before October 1, 1997, the director shall]~~ The director or the director's  
1418 designee may issue a request for proposals~~[. Interested]~~ to civic organizations ~~[may submit~~  
1419 ~~proposals]~~ for the purpose of contracting with the ~~[division]~~ department for the provision of  
1420 social capital.

1421 (b) ~~[In cooperation with the coalition described in Section 35A-3-510;]~~ In accordance  
1422 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall establish  
1423 by rule:

1424 (i) specifications for proposals;

1425 (ii) deadlines for submissions;

1426 (iii) contents of proposals;

1427 (iv) the criteria upon which proposals will be accepted; and

1428 (v) the amount of available funding.

1429 (2) Within appropriations from the Legislature, the director may enter into ~~one or more~~

1430 ~~contracts with civic organizations]~~ a contract with a civic organization, which shall ~~at least~~

1431 include:

1432 (a) the funding, if any, to be provided to the civic organization by the ~~division]~~  
1433 department;

1434 (b) the geographical boundary within which the civic organization is to provide  
1435 services ~~and supports]~~ to individuals referred by the ~~division]~~ department;

1436 (c) a description of the services ~~and supports]~~ to be provided by the civic organization  
1437 to ~~clients]~~ an applicant or recipient;

1438 (d) the performance monitoring system to be used by the civic organization to evaluate  
1439 the ~~effects]~~ effectiveness of the services ~~and supports]~~ that it provides; and

1440 (e) other provisions ~~as]~~ that the ~~division]~~ department and civic organization consider  
1441 appropriate.

1442 (3) (a) A contract between the ~~division]~~ department and a civic organization under this  
1443 section is for a defined period of time and a fixed funding amount.

1444 (b) If a contract provides public funds, the civic organization ~~will be]~~ is required to  
1445 comply with all applicable state and federal law with respect to those funds, ~~which may~~  
1446 ~~include]~~ including any audit, recordkeeping, and financial accounting requirements.

1447 (4) The services ~~and supports]~~ provided by civic organizations under this section do  
1448 not include eligibility determinations, cash assistance, ~~food coupons]~~ SNAP benefits, or  
1449 quality assurance related to these functions.

1450 Section 44. Section **35A-3-508** is amended to read:

1451 **35A-3-508. Inventory of civic organizations.**

1452 (1) ~~[To enable the division to refer a client or applicant to an appropriate civic~~  
1453 ~~organization under this part, the division]~~ The department, in cooperation with the coalition  
1454 described in Section 35A-3-510, shall complete a statewide inventory of interested civic  
1455 organizations ~~[. For those organizations that wish to participate, the]~~, which inventory shall  
1456 include for each participating civic organization:

1457 (a) a description of the services ~~and supports]~~ provided;

- 1458 (b) the geographical locations served;  
 1459 (c) methods of accessing services; and  
 1460 (d) eligibility requirements for services.

1461 (2) The inventory shall be [~~stored~~] maintained, updated annually, and made available in  
 1462 a usable form as a resource directory for [~~all~~] employment counselors in the department.

1463 Section 45. Section **35A-3-510** is amended to read:

1464 **35A-3-510. Coalition of civic and other organizations.**

1465 (1) The director shall convene a coalition of civic organizations, representatives of the  
 1466 [~~division~~] department, representatives of state and local agencies, advocacy organizations,  
 1467 public officials, community leaders, members of the Legislature, and other persons and  
 1468 organizations as [~~he determines~~] determined by the executive director.

1469 (2) The coalition shall offer advice to the director on issues relevant to this part.

1470 Section 46. Section **35A-3-601** is amended to read:

1471 **Part 6. Administrative Determination of Overpayments Act**

1472 **35A-3-601. Title.**

1473 This part [~~shall be~~] is known as the "Administrative Determination of Overpayments  
 1474 Act."

1475 Section 47. Section **35A-3-603** is amended to read:

1476 **35A-3-603. Civil liability for overpayment.**

1477 [~~(1) As used in this section, "intentionally, knowingly, and recklessly" mean the same~~  
 1478 ~~as those terms are defined in Section 76-2-103.~~]

1479 [~~(2) Each~~] (1) A provider, [~~client~~] recipient, or other person who receives an  
 1480 overpayment shall, regardless of fault, return the overpayment or repay its value to the  
 1481 department immediately:

- 1482 (a) upon receiving written notice of the overpayment from the department; or  
 1483 (b) upon discovering the overpayment, if that occurs [~~prior to~~] before receiving notice.

1484 [~~(3)~~] (2) (a) Except as provided under Subsection (3)(b), interest on the unreturned  
 1485 balance of the overpayment shall accrue at the rate of 1% a month.

1486 (b) If the overpayment was not the fault of the person receiving it, that person is not  
 1487 liable for interest on the unreturned balance.

1488 (c) In accordance with federal law and rules made by the department in accordance



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

1493 ~~[(4) Each]~~ (3) A person who knowingly assists a [client] recipient, provider, or other  
 1494 person in obtaining an overpayment is jointly and severally liable for the overpayment.

1495 ~~[(5)]~~ (4) (a) In proving civil liability for overpayment under this section, or Section  
 1496 35A-3-605, when fault is alleged, the department shall prove by clear and convincing evidence  
 1497 that the overpayment was obtained intentionally, knowingly, recklessly as "intentionally,  
 1498 knowingly, and recklessly" are defined in Section 76-2-103, by false statement,  
 1499 misrepresentation, impersonation, or other fraudulent means, [such as by] including  
 1500 committing any of the acts or omissions described in Sections 76-8-1203 [through], 76-8-1204,  
 1501 or 76-8-1205.

1502 (b) If fault is established under Subsection ~~[(5)]~~ (4)(a), Section 35A-3-605, or Title 76,  
 1503 Chapter 8, Part 12, Public Assistance Fraud, ~~[any]~~ a person who obtained or helped another  
 1504 obtain an overpayment [shall be] is subject to:

1505 (i) a civil penalty of 10% of the amount of the overpayment; and

1506 (ii) disqualification from receiving cash assistance from the Family Employment  
 1507 Program created in Section 35A-3-302 and the General Assistance program under Section  
 1508 35A-3-401, if the overpayment was obtained from either of those programs, for ~~[12 months for~~  
 1509 ~~the first offense, 24 months for the second offense, and permanently for the third offense, or as~~  
 1510 ~~otherwise provided by federal law; or]~~ the period described in Subsection (4)(c); or

1511 (iii) disqualification from ~~[the]~~ SNAP, if ~~[that is the program from which]~~ the  
 1512 overpayment was received from SNAP, for the period described in Subsection (4)(c).

1513 (c) Unless otherwise provided by federal law, the period of a disqualification under  
 1514 Subsection (4)(b)(ii) and (iii) is for:

1515 (i) 12 months for ~~[the]~~ a first offense;

1516 (ii) 24 months for ~~[the]~~ a second offense; and

1517 (iii) permanently for ~~[the]~~ a third offense, ~~[or as otherwise provided by federal law].~~

1518 ~~[(6) If]~~ (5) (a) Except as provided under Subsection (5)(b), if an action is filed, the  
 1519 department may recover, in addition to the principal sum plus interest, reasonable [attorneys'

1520 attorney fees and costs [~~unless~~].

1521 (b) If the repayment obligation arose from an administrative error by the department,  
1522 the department may not recover attorney fees and costs.

1523 [~~(7)~~] (6) If a court finds that funds or benefits were secured, in whole or part, by fraud  
1524 by the person from whom repayment is sought, the court shall assess an additional sum as  
1525 considered appropriate as punitive damages up to the amount of repayment being sought.

1526 [~~(8) Criminal actions~~] (7) A criminal action for public assistance fraud [~~are~~] is  
1527 governed by Title 76, Chapter 8, Part 12, Public Assistance Fraud.

1528 [~~(9)~~] (8) Jurisdiction over benefits is continuous.

1529 [~~(10)~~] (9) This chapter does not preclude the Department of Health from carrying out  
1530 its responsibilities under Title 26, Chapter 19, Medical Benefits Recovery Act, and Chapter 20,  
1531 Utah False Claims Act.

1532 Section 48. Section **35A-3-604** is amended to read:

1533 **35A-3-604. Obligor presumed to have notice of department's rights -- Authority**  
1534 **to administer oaths, issue subpoenas, and compel witnesses and production of documents**  
1535 **-- Recovery of attorney fees, costs, and interest -- Rulemaking authority -- Administrative**  
1536 **procedures.**

1537 (1) An obligor is presumed to have received notice of the rights of the department  
1538 under this part upon engaging in this state in any of the acts described in Subsections  
1539 35A-3-603[~~(4)~~](3) and [~~(5)~~] (4) or Section 76-8-1203, 76-8-1204, or 76-8-1205.

1540 (2) For the purposes of this part, the department may administer oaths and certify  
1541 official acts, issue subpoenas, and compel witnesses and the production of business records,  
1542 documents, and evidence.

1543 (3) (a) Except when an overpayment results from administrative error, the department  
1544 may recover from the obligor:

1545 (i) reasonable attorneys' fees;

1546 (ii) costs incurred in pursuing administrative remedies under this part; and

1547 (iii) interest at the rate of 1% a month accruing from the date an administrative or  
1548 judicial order is issued determining the amount due under this part.

1549 (b) The department may recover interest, [~~attorneys'~~] attorney fees, and costs, if notice  
1550 of the assessment has been included in a notice of agency action issued in [~~conformity~~]

1551 compliance with Title 63G, Chapter 4, Administrative Procedures Act.

1552 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1553 department may make, amend, and enforce rules to carry out the provisions of this part.

1554 (5) Service of all notices and orders under this part shall comply with:

1555 (a) Title 63G, Chapter 4, Administrative Procedures Act~~[, the]~~;

1556 (b) Utah Rules of Civil Procedure~~[,]~~; or

1557 (c) rules made by the department under this part in accordance with Title 63G, Chapter  
1558 3, Utah Administrative Rulemaking Act, that meet standards required by due process.

1559 Section 49. Section **35A-3-605** is amended to read:

1560 **35A-3-605. Issuance or modification of administrative order -- Voluntary**  
1561 **acknowledgment of overpayment -- Court orders supersede administrative orders --**  
1562 **Notification requirement.**

1563 ~~[(1) As used in Subsection (2)(a)(i), "intentional program violation" means obtaining~~  
1564 ~~an "overpayment" as defined in Section 35A-3-602.]~~

1565 ~~[(2)]~~ (1) (a) Through an adjudicative proceeding, the department may issue or modify  
1566 an administrative order that:

1567 (i) determines whether an overpayment was made, the amount of the overpayment, and  
1568 whether benefits were obtained by an intentional program violation;

1569 (ii) reduces the overpayment ~~[to]~~ determined by an administrative judgment; or

1570 (iii) renews an administrative judgment.

1571 (b) The department shall commence an adjudicative proceeding to renew a judgment  
1572 by serving notice of agency action on the obligor before the judgment is barred by the  
1573 applicable statute of limitations.

1574 ~~[(3)]~~ (2) The department may accept voluntary acknowledgment of an overpayment  
1575 obligation and enter into stipulated agreements to issue orders and judgments.

1576 ~~[(4)]~~ (3) (a) A provision of an administrative order is enforceable against an obligor,  
1577 unless it is in direct conflict with or is superseded by a provision of a court order.

1578 (b) To the extent of any conflict, the court order governs.

1579 ~~[(5)]~~ (4) After being properly served with a notice of agency action under this part, an  
1580 obligor shall notify the department of any subsequent change of address or employment.

1581 Section 50. Section **35A-3-606** is amended to read:

1582           **35A-3-606. Docketing abstract of final administrative order -- Real property and**  
 1583 **personal property liens -- Effect of order -- Execution.**

1584           (1) (a) An abstract of a final administrative order may be docketed in the district court  
 1585 of any county in the state.

1586           (b) The time of receipt of the abstract shall be noted by the clerk on the abstract and  
 1587 entered in the docket.

1588           (2) (a) From the time the abstract is docketed in the judgment docket of a district court,  
 1589 any administrative judgment included in the order abstracted constitutes a lien upon the real  
 1590 property of the obligor situated in that county.

1591           (b) Unless satisfied, the lien is for a period of eight years from the date the order is  
 1592 entered [~~unless previously satisfied~~].

1593           (3) The final administrative order fixing the liability of the obligor shall have the same  
 1594 effect as any other money judgment entered in a district court.

1595           (4) [~~Attachment~~] (a) Except as provided under Subsection (4)(b), an attachment,  
 1596 garnishment, or execution on a judgment included in or accruing under an administrative order  
 1597 filed and docketed under this section shall be in the same manner and with the same effect as  
 1598 an attachment, garnishment, or execution on a judgment of a district court[~~, except that a~~].

1599           (b) A writ of garnishment on earnings shall continue to operate and require the  
 1600 garnishee to withhold the nonexempt portion of the earnings at each succeeding earnings  
 1601 disbursement interval until released in writing by the department or by court order.

1602           (5) The lien and enforcement remedies provided by this section are in addition to any  
 1603 other lien or remedy provided by law.

1604           Section 51. Section **35A-3-607** is amended to read:

1605           **35A-3-607. Property subject to execution or lien -- Restriction on transfer or**  
 1606 **conveyance -- Release of excess amount above liability to obligor.**

1607           (1) [~~After~~] (a) Unless released under Subsection (1)(b), after receiving notice that an  
 1608 abstract has been docketed and a lien established under this part, a person in possession of  
 1609 [any] property [~~which~~] that may be subject to execution or lien may not pay over, release, sell,  
 1610 transfer, encumber, or convey that property to [any] a person other than the department[  
 1611 ~~unless~~].

1612           (b) The restrictions under Subsection (1)(a) do not apply if the person in possession

1613 first receives a release or waiver from the department, or a court order releasing the lien or  
1614 stating that the liability does not exist or has been satisfied.

1615 (2) If a person has in his possession earnings, deposits, accounts, or balances owed to  
1616 the obligor in excess of \$100 over the amount of the liability claimed by the department, [~~that~~  
1617 the person may, without liability under this part, release the excess to the obligor.

1618 Section 52. Section **35A-3-608** is amended to read:

1619 **35A-3-608. Schedule of payments to be paid upon liability -- Establishment --**  
1620 **Cancellation.**

1621 (1) [~~At any time, the~~] The department may at any time:

1622 (a) consistent with the income, earning capacity, and resources of the obligor, set or  
1623 reset the level and schedule of payments to be paid upon the liability; and

1624 (b) [~~at any time,~~] cancel the schedule of payments and demand immediate payment in  
1625 full.

1626 (2) The department may recover an overpayment through deductions from cash  
1627 assistance or SNAP benefits under Section 35A-3-603.

1628 Section 53. Section **35A-3-609** is amended to read:

1629 **35A-3-609. Statute of limitation -- Enforcement of lien or order.**

1630 [~~No~~] The department may not take action for the enforcement of an order or lien issued  
1631 under this part [~~may be maintained~~] unless [~~it~~] the action is commenced within eight years  
1632 [~~after~~] of the date of the order.

1633 Section 54. Section **35A-3-610** is amended to read:

1634 **35A-3-610. Legal representation at hearings.**

1635 (1) A party may be represented by legal counsel at [~~any~~] a hearing held under this part.

1636 (2) At the request of the department [~~it is the duty of~~], the attorney general or the  
1637 county attorney [~~to~~] shall represent the department in [~~any~~] a proceeding commenced under this  
1638 part.

1639 Section 55. Section **35A-3-701**, which is renumbered from Section 35A-3-116 is  
1640 renumbered and amended to read:

1641 **Part 7. Refugee Services**

1642 [~~35A-3-116~~]. **35A-3-701. Refugee services fund -- Use of money --**

1643 **Committee and director duties -- Restrictions.**

1644 (1) There is created an expendable special revenue fund, known as the "Refugee  
1645 Services Fund."

1646 (2) The director shall administer the fund with input from the department and any  
1647 advisory committee involved with the provision of refugee services within the department.

1648 (3) (a) Money shall be deposited into the fund from legislative appropriations, federal  
1649 grants, private foundations, and individual donors.

1650 (b) The director shall encourage a refugee who receives services funded under  
1651 Subsection (8) to be a donor to the fund when the refugee's financial situation improves  
1652 sufficiently to make a donation.

1653 (4) Except for money restricted to a specific use under federal law or by a donor, the  
1654 director may not spend money from the fund without the input described in Subsection (2).

1655 (5) The state treasurer shall invest the money in the fund under Title 51, Chapter 7,  
1656 State Money Management Act, and all interest or other earnings derived from the fund money  
1657 shall be deposited in the fund.

1658 (6) Money in the fund may not be used by the director for administrative expenses.

1659 (7) If the department establishes a refugee services advisory committee referenced in  
1660 Subsection (2), the committee may:

1661 (a) advise the director on refugee services needs in the state and on relevant operational  
1662 aspects of any grant or revenue collection program established under this part;

1663 (b) recommend specific refugee projects to the director;

1664 (c) recommend policies and procedures for administering the fund;

1665 (d) make recommendations on grants made from the fund for refugee services activities  
1666 authorized under this section;

1667 (e) advise the director on the criteria by which grants from the fund shall be made;

1668 (f) recommend the order approved projects should be funded;

1669 (g) make recommendations regarding the distribution of money from the fund in  
1670 accordance with federal or donor restrictions; and

1671 (h) have joint responsibility to solicit public and private funding for the fund.

1672 (8) The director may use fund money to:

1673 (a) train an existing refugee organization to develop its capacity to operate

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

1705 Section 56. Section **35A-3-702**, which is renumbered from Section 35A-3-117 is  
 1706 renumbered and amended to read:

1707 ~~[35A-3-117]~~. **35A-3-702. Continuation of refugee services.**

1708 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 1709 department may make rules to provide for the administration and coordination of services to  
 1710 refugees beyond the time period refugee assistance is provided or funded by the federal  
 1711 government, including the provision of:

- 1712 (a) services to address emergency needs;
- 1713 (b) English language training; and
- 1714 (c) services for victims of domestic violence.

1715 (2) The director shall administer and coordinate services under this section:

- 1716 (a) with input from the department and any office or advisory committee involved with  
 1717 the provision of refugee services within the department; and
- 1718 (b) in accordance with any state and federal requirements related to the provision of  
 1719 services to refugees.

1720 Section 57. Section **76-8-1201** is amended to read:

1721 **76-8-1201. Definitions.**

1722 As used in this part:

- 1723 (1) "Client" means a person who receives or has received public assistance.
- 1724 (2) "Overpayment" [~~means the same as that term is~~] has the same meaning as defined  
 1725 in Section [~~35A-3-602~~] 35A-3-102.
- 1726 (3) "Provider" [~~means the same as that term is~~] has the same meaning as defined in  
 1727 Section 62A-11-103.
- 1728 (4) "Public assistance" [~~means the same as that term is~~] has the same meaning as  
 1729 defined in Section 35A-1-102.

1730 Section 58. Section **76-8-1205** is amended to read:

1731 **76-8-1205. Public assistance fraud defined.**

1732 Each of the following persons, who intentionally, knowingly, or recklessly commits any  
 1733 of the following acts, is guilty of public assistance fraud:

- 1734 (1) [~~any~~] a person who uses, transfers, acquires, traffics in, falsifies, or possesses [~~any~~]  
 1735 SNAP benefits as defined in Section 35A-1-102, a SNAP identification card, a certificate of



1736 eligibility for medical services, a Medicaid identification card, a fund transfer instrument, a  
1737 payment instrument, or a public assistance warrant in a manner not allowed by law;

1738 (2) ~~[any]~~ a person who fraudulently misappropriates ~~[any]~~ funds exchanged for SNAP  
1739 benefits as defined in Section 35A-1-102, or ~~[any]~~ an identification card, certificate of  
1740 eligibility for medical services, Medicaid identification card, or other public assistance with  
1741 which ~~[he]~~ the person has been entrusted or that has come into ~~[his]~~ the person's possession in  
1742 connection with ~~[his]~~ the person's duties in administering ~~[any]~~ a state or federally funded  
1743 public assistance program;

1744 (3) ~~[any]~~ a person who receives an unauthorized payment as a result of acts described  
1745 in this section;

1746 (4) ~~[any]~~ a provider who receives payment or ~~[any]~~ a client who receives benefits after  
1747 failing to comply with any applicable requirement in Sections 76-8-1203 and 76-8-1204;

1748 (5) ~~[any]~~ a provider who files a claim for payment under ~~[any]~~ a state or federally  
1749 funded public assistance program for goods or services not provided to or for a client of that  
1750 program;

1751 (6) ~~[any]~~ a provider who files or falsifies a claim, report, or document required by state  
1752 or federal law, rule, or provider agreement for goods or services not authorized under the state  
1753 or federally funded public assistance program for which the goods or services were provided;

1754 (7) ~~[any]~~ a provider who fails to credit the state for payments received from other  
1755 sources;

1756 (8) ~~[any]~~ a provider who bills a client or a client's family for goods or services not  
1757 provided, or bills in an amount greater than allowed by law or rule;

1758 (9) ~~[any]~~ a client who, while receiving public assistance, acquires income or resources  
1759 in excess of the amount ~~[he]~~ the client previously reported to the state agency administering the  
1760 public assistance, and fails to notify the state agency to which the client previously reported  
1761 within 10 days after acquiring the excess income or resources;

1762 (10) ~~[any]~~ a person who fails to act as required under Section 76-8-1203 or 76-8-1204  
1763 with intent to obtain or help another obtain an "overpayment" as defined in Section  
1764 ~~[35A-3-602]~~ 35A-3-102; and

1765 (11) ~~[any]~~ a person who obtains an overpayment by violation of Section 76-8-1203 or  
1766 76-8-1204.

- 1767 Section 59. **Repealer.**
- 1768 This bill repeals:
- 1769 Section **35A-3-602, Definitions.**