

**PORTABILITY OF FUNDING FOR HEALTH  
AND HUMAN SERVICES**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: Dave Hogue**

AN ACT RELATING TO HEALTH AND HUMAN SERVICES; REQUIRING THE DEPARTMENT OF HUMAN SERVICES AND THE DIVISION OF HEALTH CARE FINANCING TO REPORT ON THE PORTABILITY OF HEALTH AND HUMAN SERVICES FUNDING; REQUIRING THE DIVISION OF SERVICES FOR PEOPLE WITH DISABILITIES AND THE DIVISION OF HEALTH CARE FINANCING TO CONDUCT A STUDY TO IDENTIFY ALTERNATIVES FOR INCREASING THE PORTABILITY OF STATE AND FEDERAL FUNDING TO PERSONS WITH DISABILITIES; AND PROVIDING REPORTING REQUIREMENTS.

This act enacts uncodified material.

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

**Section 1. General Portability Report.**

(1) No later than the h [July] NOVEMBER h 1998 meeting of the Health and Human Services Interim

Committee, the Department of Human Services and the Division of Health Care Financing within the Department of Health shall report to the committee on the portability of state and federal funding to persons wishing to move:

(a) from services provided by the Division of Health Care Financing to services provided by the Department of Human Services; and

(b) from services provided by the Department of Human Services to services provided by the Division of Health Care Financing.

(2) The report shall highlight regulatory, structural, and fiscal impediments to portability.

(3) The Department of Human Services and the Division of Health Care Financing shall provide to the committee prior to the 2000 Annual General Session of the Legislature a more

1 detailed report with recommendations for increasing portability.

2 Section 2. **Portability study for persons with a disability.**

3 (1) As used in this act:

4 (a) "Disability" has the same meaning as provided in Title 62A, Chapter 5, Services to  
5 People With Disabilities.

6 (b) "Persons in intermediate care facilities" means:

7 (i) persons in intermediate care facilities for the mentally retarded; and

8 (ii) persons with a disability in nursing facilities who if they were to receive home and  
9 community-based services would receive services under the Division of Services for People with  
10 Disabilities within the Department of Human Services.

11 (2) Following the 1998 Annual General Session of the Legislature, the Division of  
12 Services for People With Disabilities within the Department of Human Services, and the Division  
13 of Health Care Financing within the Department of Health shall conduct a study to identify  
14 alternatives for increasing the portability of state and federal funding for services to persons with  
15 disabilities. The study shall:

16 (a) be limited to increasing the portability of funds to:

17 (i) persons in intermediate care facilities who wish to receive home and community-based  
18 services; and

19 (ii) persons with a disability receiving home and community-based services under the  
20 Division of Services for People with Disabilities who wish to move to intermediate care facilities  
21 for the mentally retarded or nursing facilities;

22 (b) identify federal barriers to portability of funds, including federal Medicaid laws and  
23 regulations;

24 (c) identify state barriers to portability of funds, including departmental structures and  
25 processes and service provider delivery systems;

26 (d) (i) compare the total cost of providing services to persons in intermediate care facilities  
27 to the total cost of providing services through home and community-based providers; and

28 (ii) control the total cost comparison for severity of disability classifications; and

29 (e) (i) estimate as accurately as possible the number of persons who would be interested  
30 in moving between:

31 (A) intermediate care facilities for the mentally retarded or nursing facilities; and

- 1           (B) home and community-based services; and
- 2           (ii) estimate the total cost to the state and facilities if individuals move to the facilities or  
3 services of their choice; and
- 4           (iii) control the total cost estimate for service type and level of service intensity.
- 5           (3) In the conduct of their study, the divisions shall solicit information and  
6 recommendations from representatives of at least the following:
- 7           (a) intermediate care facilities for the mentally retarded and nursing facilities;  
8           (b) home and community-based services;  
9           (c) persons in intermediate care facilities or receiving home and community-based services  
10 and their families and guardians; and
- 11           (d) persons waiting to receive services through intermediate care facilities for the mentally  
12 retarded, nursing facilities, or home and community-based services and their families and  
13 guardians.
- 14           (4) The divisions shall report on their study to the Health and Human Services Interim  
15 Committee as follows:
- 16           (a) no later than the June 1998 meeting of the committee, the divisions shall provide a  
17 preliminary report to the committee;
- 18           (b) no later than the October 1998 meeting of the committee, the divisions shall provide  
19 a final report of their study, including recommendations for increasing the portability of funds.
- 20 The recommendations to the committee shall include:
- 21           (i) methods for increasing portability within existing state funding levels; and  
22           (ii) methods for maximizing portability in an environment of additional state funding; and  
23           (c) the divisions may recommend how to increase state funding through the reallocation  
24 of existing resources or the identification of new revenue sources.
- 25           (5) The divisions shall provide a copy of their final report to members of the Joint  
26 Appropriations Health and Human Services Subcommittee no later than November 1, 1998.

**Legislative Review Note**  
**as of 2-19-98 5:04 PM**

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

**Office of Legislative Research and General Counsel**