

Representative J. Brent Haymond proposes to substitute the following bill:

AGING SERVICES AMENDMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: J. Brent Haymond

AN ACT RELATING TO HUMAN SERVICES; REQUIRING A MEDICAID APPLICANT OBTAIN A MEDICAID CHOICE CERTIFICATE AS PART OF THE PREADMISSION ASSESSMENT; REQUIRING AN AGING SERVICES PAMPHLET BE GIVEN TO A PERSON WHEN ADMITTED TO A NURSING CARE FACILITY; CREATING AREA AGENCIES ON HIGH RISK ADULTS; PERMITTING THE EXISTING CONTRACT OF AN AREA AGENCY BE EXPANDED TO INCLUDE SERVICES TO HIGH RISK ADULTS; EXPANDING SERVICES TO HIGH RISK ADULTS; MAKING CONFORMING AND TECHNICAL AMENDMENTS; AND PROVIDING AN EFFECTIVE DATE.

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

AMENDS:

51-2-1, as last amended by Chapter 235, Laws of Utah 1989

62A-1-111, as last amended by Chapter 240, Laws of Utah 1996

62A-3-101, as last amended by Chapter 181, Laws of Utah 1990

62A-3-104, as last amended by Chapter 181, Laws of Utah 1990

62A-3-104.1, as enacted by Chapter 181, Laws of Utah 1990

62A-3-104.2, as enacted by Chapter 181, Laws of Utah 1990

62A-3-105, as enacted by Chapter 1, Laws of Utah 1988

62A-3-107, as last amended by Chapter 10, Laws of Utah 1997

62A-3-108, as enacted by Chapter 1, Laws of Utah 1988

62A-3-301, as last amended by Chapter 130, Laws of Utah 1996

63-38-2, as last amended by Chapter 136, Laws of Utah 1997

1 **63A-9-701**, as last amended by Chapter 85, Laws of Utah 1997

2 ENACTS:

3 **26-18-12**, Utah Code Annotated 1953

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

5 Section 1. Section **26-18-12** is enacted to read:

6 **26-18-12. Medicaid Choice Certificate.**

7 (1) As used in this section:

8 (a) "Area agency" is as defined in Section 62A-3-101.

9 (b) "Discharge plan" means an individualized program of postdischarge care for a resident

10 that:

11 (i) states the medical, functional, behavioral, and social levels necessary for the resident
12 to be discharged in a less restrictive setting;

13 (ii) includes the steps needed to move the resident to a less restrictive setting;

14 (iii) establishes the feasibility of the resident achieving the levels necessary for discharge;

15 and

16 (iv) states the anticipated time frame for that achievement.

17 (c) "Division of Aging and Adult Services" means the Division of Aging and Adult
18 Services within the Department of Human Services.

19 (d) "Long-term Care Pamphlet" means a pamphlet prepared by the Division of Aging and
20 Adult Services and the Division of Health Care Financing that provides information about the
21 services available to aged and high risk adults through the divisions and area agencies.

22 (e) "Medicaid Choice Certificate" means a certificate issued by an area agency on a form
23 prepared by the Division of Aging and Adult Services and the Division of Health Care Financing
24 that indicates that a Medicaid applicant has received information regarding the state's Medicaid
25 choice waiver and the full range of services available to the applicant through the division, the area
26 agency, and other agencies.

27 (f) "Preadmission assessment" means the assessment the department requires a nursing
28 care facility to conduct before seeking authorization to admit a medicaid applicant.

29 (g) "Resident" means a Medicaid recipient who resides in a nursing care facility.

30 (2) (a) The Division of Aging and Adult Services shall distribute Long-term Care
31 Pamphlets to each nursing care facility in the state.

1 (b) A nursing care facility shall distribute a Long-term Care Pamphlet to a person, or a
2 person acting on his behalf, inquiring about admission to the facility.

3 (3) (a) The Medicaid Choice Certificate is a required component of the nursing home prior
4 approval process and is subject to the same transmittal requirements.

5 (b) (i) If a Medicaid Choice Certificate has been obtained by or on behalf of a Medicaid
6 applicant, the nursing care facility shall communicate that fact to the department with the other
7 information required as part of the preadmission assessment.

8 (ii) If a Medicaid applicant has not obtained a Medicaid Choice Certificate when
9 admission is sought, the nursing care facility shall:

10 (A) communicate that fact to the Division of Aging and Adult Services and the local area
11 agency before the preadmission assessment may be considered complete; and

12 (B) upon request, permit the local area agency to enter the nursing care facility to inform
13 the Medicaid applicant, or person acting on his behalf, of the Medicaid choice waiver and the full
14 range of services available through the Division of Aging and Adult Services, the area agency, and
15 other agencies.

16 (4) The services provided by the Division of Aging and Adult Services shall be considered
17 in developing a discharge plan for a resident.

18 (5) (a) Nothing in this section may be construed as requiring a recipient who is receiving
19 care at a nursing care facility on June 30, 1998, to obtain an Medicaid Choice Certificate to remain
20 eligible for Medicaid.

21 (b) Notwithstanding Subsection (5)(a), any person who applies for Medicaid payment for
22 care provided at a nursing care facility after July 1, 1998, is subject to the requirement of
23 Subsection (3).

24 Section 2. Section **51-2-1** is amended to read:

25 **51-2-1. Audits of political subdivisions, interlocal organizations, and other local**
26 **entities required.**

27 (1) (a) Each of the following entities, except as exempted under Section 51-2-8, shall cause
28 an audit to be made of its accounts by a competent certified public accountant:

29 (i) the governing board of each political subdivision;

30 (ii) the governing board of each interlocal organization having the power to tax or to
31 expend public funds;

1 (iii) the governing board of any local mental health authority established under the
2 authority of Title 62A, Chapter 12;

3 (iv) the governing board of any substance abuse authority established under the authority
4 of Title 62A, Chapter 8;

5 (v) the governing board of any area agency [~~on-aging~~] established under the authority of
6 Title 62A, Chapter 3;

7 (vi) the governing board of any nonprofit corporation that receives at least 50% of its funds
8 from federal, state, and local government entities through contracts; and

9 (vii) the governing board of any other entity established by a local governmental unit that
10 receives tax exempt status for bonding or taxing purposes.

11 (b) In municipalities organized under an optional form of municipal government, the
12 council shall cause the audit to be made.

13 (c) The audit shall be made at least annually.

14 (2) The auditors shall review the accounts of all officers of the entity having responsibility
15 for the care, management, collection, or disbursement of moneys belonging to it or appropriated
16 by law or otherwise acquired for its use or benefit.

17 (3) The audits shall:

18 (a) be performed and financial statements presented in accordance with generally accepted
19 auditing standards and accounting principles and procedures adopted by recognized authoritative
20 bodies; and

21 (b) conform to the uniform classification of accounts established or approved by the state
22 auditor or any other classification of accounts established by any federal government agency.

23 (4) If the political subdivision, interlocal organization, or other local entity receives federal
24 funding, the audits shall be performed in accordance with both federal and state auditing
25 requirements.

26 Section 3. Section **62A-1-111** is amended to read:

27 **62A-1-111. Department authority.**

28 The department has authority, in addition to all other authority and responsibility granted
29 to it by law, to:

30 (1) adopt rules, not inconsistent with law, as the department may [~~deem~~] consider
31 necessary or desirable for providing social services to the people of this state;

- 1 (2) establish and manage client trust accounts in the department's institutions and
2 community programs, at the request of the client or his legal guardian or representative, or in
3 accordance with federal law;
- 4 (3) purchase, as authorized or required by law, services that the department is responsible
5 to provide for legally eligible persons;
- 6 (4) conduct adjudicative proceedings for clients and providers in accordance with the
7 procedures of Title 63, Chapter 46b, Administrative Procedures Act;
- 8 (5) establish eligibility standards for its programs, not inconsistent with state or federal law
9 or regulations;
- 10 (6) take necessary steps, including legal action, to recover money or the monetary value
11 of services provided to a recipient who was not eligible;
- 12 (7) set and collect fees for its services;
- 13 (8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or
14 limited by law;
- 15 (9) acquire, manage, and dispose of any real or personal property needed or owned by the
16 department, not inconsistent with state law;
- 17 (10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the
18 proceeds thereof, may be credited to the program designated by the donor, and may be used for
19 the purposes requested by the donor, as long as the request conforms to state and federal policy;
20 all donated funds shall be considered private, nonlapsing funds and may be invested under
21 guidelines established by the state treasurer;
- 22 (11) accept and employ volunteer labor or services; the department is authorized to
23 reimburse volunteers for necessary expenses, when the department considers that reimbursement
24 to be appropriate;
- 25 (12) carry out the responsibility assigned in the Workforce Services Plan by the State
26 Council on Workforce Services;
- 27 (13) carry out the responsibility assigned by Section 9-4-802 with respect to coordination
28 of services for the homeless;
- 29 (14) carry out the responsibility assigned by Section 62A-5a-105 with respect to
30 coordination of services for handicapped students;
- 31 (15) provide training and educational opportunities for its staff;

1 (16) collect child support payments and any other monies due to the department;

2 (17) examine and audit the expenditures of any public funds provided to local substance
3 abuse authorities, local mental health authorities, local area agencies [~~on aging~~] established under
4 Chapter 3, and any agency or organization that contracts with or receives funds from those
5 authorities or agencies. Those local authorities, area agencies, and any person or entity that
6 contracts with or receives funds from those authorities or area agencies, shall provide the
7 department with any information it deems necessary to complete its audit;

8 (18) apply the provisions of Title 78, Chapter 45, Uniform Civil Liability for Support Act,
9 to parents whose child lives out of the home in a department licensed or certified setting; and

10 (19) carry out the responsibilities assigned to it by statute.

11 Section 4. Section **62A-3-101** is amended to read:

12 **62A-3-101. Definitions.**

13 As used in this chapter:

14 (1) "Adult" or "high risk adult" means a person 18 years of age or older who [~~meets the~~
15 ~~eligibility standards for adult services as established by the division.~~] experiences a condition:

16 (a) that places the person at a high risk of being unable to care for himself, as determined
17 by assessment, because of the onset of a physical or cognitive impairment or frailty; and

18 (b) for which the person is not eligible to receive services under Chapter 5, Services to
19 People with Disabilities, or Chapter 12, Mental Health.

20 (2) "Aging" and "aged" means a person 60 years of age or older.

21 (3) "Area agency" means an area agency that provides services to the aged, high risk
22 adults, or both within a planning and service area.

23 [~~(3)~~] (4) "Area agency on aging" means a public or private nonprofit agency or office
24 designated by the division to operate within a planning and service area of the state to develop and
25 implement a broad range of services for [~~aging and adult persons~~] the aged in that area.

26 (5) "Area agency on high risk adults" means a public or private nonprofit agency or office
27 designated by the division to operate within a planning and service area of the state to develop and
28 implement a broad range of services for high risk adults in that area.

29 [(4)] (6) "Board" means the Board of Aging and Adult Services.

30 [(5)] (7) "Director" means the director of the Division of Aging and Adult Services.

31 [(6)] (8) "Division" means the Division of Aging and Adult Services within the

1 department.

2 (9) "Long-term Care Pamphlet" is as defined in Section 26-18-12.

3 (10) "Medicaid Choice Certificate" is as defined in Section 26-18-12.

4 ~~[(7)]~~ (11) "Planning and service area" means a geographical area of the state designated
5 by the division for purposes of planning, development, delivery, and overall administration of
6 services for [aging and adult persons] ~~the aged or high risk adults.~~

7 Section 5. Section **62A-3-104** is amended to read:

8 **62A-3-104. Authority of division.**

9 (1) The division is the sole state agency, as defined by the Older Americans Act of 1965,
10 42 U.S.C. 3001 et seq., to serve as an effective and visible advocate for the aging and adult
11 population of this state, to develop and administer a state plan under the policy direction of the
12 board, and to take primary responsibility for state activities relating to provisions of the Older
13 Americans Act of 1965, as amended.

14 (2) (a) The division has authority to designate planning and service areas for the state, and
15 to designate an area agency on aging within each planning and service area to design and
16 implement a comprehensive and coordinated system of services and programs for the ~~[aging and~~
17 ~~adult populations of the state including, but not limited to, substitute care, nutrition services, access~~
18 ~~services, in-home services, legal services, day care, day treatment services, and protective services]~~
19 aged within appropriations from the Legislature.

20 (b) ~~[That designation]~~ Designation as an area agency on aging may be withdrawn:

21 (i) upon request of the area agency on aging; or

22 (ii) upon noncompliance with the provisions of the Older Americans Act of 1965, 42
23 U.S.C. 3001 et seq., the federal regulations enacted under that act, the provisions of this chapter,
24 or the rules, policies, or procedures established by the division.

25 (3) (a) The division has the authority to designate planning and service areas for the state
26 and to designate an area agency on high risk adults within each planning and service area in
27 accordance with Subsection (3)(b) to design and implement a comprehensive and coordinated
28 system of services and programs for high risk adults.

29 (b) Before October 1, 1998, the division shall designate as the area agency on high risk
30 adults in a planning and service area:

31 (i) the area agency on aging that operates within the same geographic area if that agency

1 has requested, before July 1, 1998, to expand its current contract with the division to include the
2 responsibility of:

3 (A) being the area agency on high risk adults; or

4 (B) operating the area agency on high risk adults through joint cooperation with one or
5 more existing area agencies on aging without reducing geographical coverage in any service area;
6 or

7 (ii) a public or private nonprofit agency or office if the area agency on aging that operates
8 within the same geographic area has not made a request in accordance with Subsection (3)(b).

9 (c) Designation as an area agency on high risk adults may be withdrawn:

10 (i) upon request by the area agency; or

11 (ii) upon noncompliance with state or federal laws, or rules, policies, or procedures
12 established by the division.

13 [(3)] (4) The division has authority to receive and distribute state and federal funds for the
14 division's programs and services to the aging and adult [~~population~~] populations of the state.

15 [(4)] (5) The division has authority to establish, either directly or by contract, programs
16 of advocacy, monitoring, evaluation, technical assistance, and public education to enhance the
17 quality of life for aging and adult citizens of the state.

18 [(5)] (6) In accordance with the rules of the division and Title 63, Chapter 56, Utah
19 Procurement Code, the division may:

20 (a) contract with the governing [~~bodies~~] body of an area [~~agencies on aging~~] agency to
21 provide a comprehensive program of services [~~for aging and adult citizens of the state~~]; and

22 (b) contract with public and private entities for special services.

23 [(6)] (7) The division has authority to provide for collection, compilation, and
24 dissemination of information, statistics, and reports relating to issues facing aging and adult
25 citizens.

26 [(7)] (8) The division has authority to prepare and submit reports regarding the operation
27 and administration of the division to the department, the Legislature, and the governor, as
28 requested.

29 [(8)] (9) The division shall:

30 (a) implement and enforce policies established by the board governing all aspects of the
31 division's programs for aging and adult persons in the state;

1 (b) monitor and evaluate programs provided by or under contract with the division, area
2 agencies [~~on aging~~], and any entity that receives funds from an area agency [~~on aging~~] to ensure
3 compliance with all applicable state and federal statutes, policies, and procedures;

4 (c) examine expenditures of public funds;

5 (d) withhold funds from programs based on contract noncompliance;

6 (e) review and approve plans of area agencies [~~on aging~~] in order to ensure compliance
7 with division policies and to ensure a statewide comprehensive program;

8 (f) promote and establish cooperative relationships with state and federal agencies, social
9 and health agencies, education and research organizations, and other related groups in order to
10 further programs for aging and adult persons, and prevent duplication of services;

11 (g) advocate for the aging and adult [~~population~~] populations; and

12 (h) promote and conduct research on the problems and needs of aging and adult persons,
13 and submit recommendations for changes in policies, programs, and funding to the governor and
14 the Legislature.

15 (10) The division shall prepare a Medicaid Choice Certificate and Long-term Care
16 Pamphlet for distribution in accordance with Section 26-18-12.

17 Section 6. Section **62A-3-104.1** is amended to read:

18 **62A-3-104.1. Powers and duties of area agencies.**

19 (1) [~~Local area agencies on aging~~] An area agency that provides services to the aged, high
20 risk adults, or both shall within [~~their~~] its respective [~~jurisdictions~~] jurisdiction:

21 (a) advocate [~~for aging citizens~~] by monitoring, evaluating, and providing input on all
22 policies, programs, hearings, and levies that affect those persons;

23 (b) design and implement a comprehensive and coordinated system of services [~~for aging~~
24 ~~persons~~] within a designated planning and service area;

25 (c) conduct periodic reviews and evaluations of [~~aging~~] needs and services;

26 (d) prepare and submit to the division plans for funding and service delivery for services
27 [~~to aging persons~~] within [~~their~~] the designated planning and service [~~areas~~] area;

28 (e) establish, either directly or by contract, programs licensed under Chapter 2 of this title;

29 (f) appoint an area director [~~of aging services~~], prescribe his duties, and provide adequate
30 and qualified staff to carry out the area plan described in Subsection (1)(d);

31 (g) establish rules not contrary to policies of the board and rules of the division, regulating

1 local [aging] services and facilities;

2 (h) operate other [aging] services and programs funded by sources other than those
3 administered by the division;

4 (i) establish mechanisms to provide direct citizen input, including an area agency advisory
5 council with a majority of members [~~over the age of 60~~] who are eligible for services from the area
6 agency;

7 (j) establish fee schedules; and

8 (k) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
9 Cooperation Act, and with the requirements and procedures of Title 51, Chapter 2.

10 (2) Before disbursing any public funds, [~~local~~] an area [~~agencies on aging~~] agency shall
11 require that all entities receiving any public funds agree in writing that:

12 (a) the division may examine the [entities] entity's program and financial records; and

13 (b) the auditor of the local area agency [~~on aging~~] may examine and audit the [entities']
14 entity's program and financial records, if requested by the local area agency [~~on aging~~].

15 (3) Local area agencies [~~on aging~~] may receive property, grants, gifts, supplies, materials,
16 including any benefit derived therefrom, and contributions [~~for aging and adult populations~~] for
17 the purpose of providing services pursuant to this part. If those gifts are conditioned upon their
18 use for a specified service or program, they shall be so used.

19 (4) (a) Area agencies [~~on aging~~] shall award all public funds[;] in compliance with the
20 requirements of Title 63, Chapter 56, Utah Procurement Code, or with a county procurement
21 ordinance that requires similar procurement procedures.

22 (b) If all initial bids on [~~the~~] a project are rejected, the area agency [~~on aging~~] shall publish
23 a new invitation to bid. If no satisfactory bid is received by the area agency [~~on aging~~] when the
24 bids received from the second invitation are opened, the area agency [~~on aging~~] may execute a
25 contract without requiring competitive bidding.

26 (c) [~~The~~] An area agency [~~on aging~~] need not comply with the procurement provisions of
27 this section when it disburses public funds to other governmental entities. For purposes of this
28 Subsection (4)(c), "governmental entity" means any political subdivision or institution of higher
29 education of the state.

30 (d) Contracts awarded by an area agency [~~on aging~~] shall be for a fixed amount and limited
31 period. Contracts may be modified due to changes in available funding for the same contract

1 purpose without competition.

2 (5) Local area agencies shall comply with all applicable state and federal statutes, policies,
3 audit requirements, and any directives resulting from those audits.

4 Section 7. Section **62A-3-104.2** is amended to read:

5 **62A-3-104.2. Contracts for services.**

6 When an area agency [~~on aging~~] has established a plan to provide services authorized by
7 this chapter, and those services meet standards fixed by rules of the board, the area agency [~~on~~
8 ~~aging~~] may enter into a contract with the division for services to be furnished by that area agency
9 [~~on aging~~] for an agreed compensation to be paid by the division.

10 Section 8. Section **62A-3-105** is amended to read:

11 **62A-3-105. Matching requirements for state and federal Older American funds.**

12 (1) State and federal Older American Act related funds provided by the division, through
13 a formula and by contract, to local area agencies on aging to provide programs and services under
14 this chapter[;] shall be matched by funds from those area agencies in an amount at least equal to:

15 (a) 10% of [~~those state and federal funds received. The term "fund" does not~~] service
16 dollars; and

17 (b) 25% of administrative dollars.

18 (2) An area agency on aging may include services, property, or other in-kind contributions
19 to meet the administrative dollars match but may only use cash to meet the service dollars match.

20 Section 9. Section **62A-3-107** is amended to read:

21 **62A-3-107. Board -- Policymaking authority.**

22 (1) The board is the program policymaking body for the division and for programs funded
23 with state and federal money under Sections 62A-3-104.1 and 62A-3-104.2. In establishing policy
24 and reviewing existing policy, the board shall seek input from local area agencies [~~on aging~~],
25 consumers, providers, advocates, division staff, and other interested parties as determined by the
26 board.

27 (2) The board shall establish, by rule, procedures for developing its policies which ensure
28 that local area agencies [~~on aging~~] are given opportunity to comment and provide input on any new
29 policy of the board[;] and on any proposed changes in the board's existing policy. The board shall
30 also provide a mechanism for review of its existing policy[;] and for consideration of policy
31 changes that are proposed by those local area agencies.

1 Section 10. Section **62A-3-108** is amended to read:

2 **62A-3-108. Allocation of funds to local area agencies -- Formulas.**

3 (1) The board shall establish by rule [~~a formula~~] formulas for allocating funds to local area
4 agencies [~~on aging~~] through contracts, to provide programs and services [~~for the aging and aged~~.
5 ~~This formula shall provide for allocation of funds~~] in accordance with this part based on need.
6 Determination of need shall be based on the number of eligible persons located in the local area
7 which the division is authorized to serve, unless federal regulations require otherwise or the board
8 establishes, by valid and accepted data, that other defined factors are relevant and reliable
9 indicators of need. [~~The formula~~] Formulas established by the board shall include a differential
10 to compensate for additional costs of providing services in rural areas.

11 (2) [~~The formula~~] Formulas established under Subsection (1) shall be in effect on or before
12 July 1, [~~1990~~] 1998, and [~~applies~~] apply to all state and federal funds appropriated by the
13 Legislature to the division for local area agencies [~~on aging~~], but does not apply to:

- 14 (a) funds that local area agencies [~~on aging~~] receive from sources other than the division;
- 15 (b) funds that local area agencies [~~on aging~~] receive from the division to operate a specific
16 program within its jurisdiction which is available to all residents of the state;
- 17 (c) funds that a local area agency [~~on aging~~] receives from the division to meet a need that
18 exists only within that local area; and
- 19 (d) funds that a local area agency [~~on aging~~] receives from the division for research
20 projects.

21 Section 11. Section **62A-3-301** is amended to read:

22 **62A-3-301. Definitions.**

23 As used in this part:

24 (1) "Abuse" means:

- 25 (a) attempting to cause, or intentionally or knowingly causing physical harm or
26 intentionally placing another in fear of imminent physical harm;
- 27 (b) physical injury caused by criminally negligent acts or omissions;
- 28 (c) unlawful detention or unreasonable confinement;
- 29 (d) gross lewdness; or
- 30 (e) deprivation of life sustaining treatment, except:
31 (i) as provided in Title 75, Chapter 2, Part 11, Personal Choice and Living Will Act; or

1 (ii) when informed consent, as defined in Section 76-5-111, has been obtained.

2 (2) "Adult" means a person who is 18 years of age or older.

3 [~~2~~] (3) "Bodily injury" means physical pain, illness, or any impairment of physical
4 condition.

5 [~~3~~] (4) "Caretaker" means any person, corporation, or public institution that has assumed
6 by relationship, contract, or court order the responsibility to provide food, shelter, clothing,
7 medical, and other necessities to a disabled or elder adult.

8 [~~4~~] (5) "Counsel" means an attorney licensed to practice in this state.

9 [~~5~~] (6) "Disabled adult" means a person 18 years of age or older who is impaired because
10 of mental illness, mental deficiency, physical illness or disability, or other cause, to the extent that
11 he lacks sufficient understanding or capacity to make or communicate informed decisions
12 concerning his person, or is unable to care for his own personal safety or provide necessities such
13 as food, shelter, clothing, or medical care, without which physical injury or illness may occur. A
14 person who is, in good faith, under treatment solely of a spiritual means, through prayer, in
15 accordance with the tenets and practices of a recognized church or religious denomination, and by
16 an accredited practitioner thereof shall not be considered a disabled or elder adult for that reason
17 alone.

18 [~~6~~] (7) "Elder abuse" means abuse, neglect, or exploitation of an elder adult.

19 [~~7~~] (8) "Elder adult" means a person 65 years of age or older.

20 [~~8~~] (9) "Emergency" means that a disabled or elder adult is at risk of death or immediate
21 and serious harm to himself or others.

22 [~~9~~] (10) "Emotional or psychological abuse" means deliberate conduct that is directed
23 at a disabled or elder adult through verbal or nonverbal means, and that causes the disabled or elder
24 adult to suffer emotional distress or to fear bodily injury, harm, or restraint.

25 [~~10~~] (11) "Exploitation" means exploitation of a disabled or elder adult as that offense
26 is described in Subsection 76-5-111(4).

27 [~~11~~] (12) "Informed consent" means the same as that term is defined in Section 76-5-111.

28 [~~12~~] (13) "Neglect" means:

29 (a) the failure of a caretaker to provide habilitation, care, nutrition, clothing, shelter,
30 supervision, or medical care;

31 (b) a pattern of conduct by a caretaker, without the disabled or elder adult's informed

1 consent, resulting in deprivation of food, water, medication, medical services, shelter, cooling,
2 heating, or other services necessary to maintain minimum physical or mental health; or

3 (c) the failure or inability of a disabled adult to provide those services for himself.

4 [(13)] (14) "Protected person" means a disabled or elder adult for whom the court has
5 ordered protective services including disabled or elder adults for whom emergency protective
6 services are established under the provisions of this part.

7 [(14)] (15) "Protective services" means services provided by the offices of Adult Protective
8 Services within the division, including investigation of allegations of abuse, emotional or
9 psychological abuse, neglect, or exploitation, and other services provided either by voluntary
10 agreement or as authorized by court order to assist disabled or elder adults in need of protection,
11 for the purpose of discontinuing and preventing further abuse, neglect, or exploitation. Those
12 services may include the services of guardian and conservator provided in accordance with Title
13 75, Utah Uniform Probate Code, when no other agency or individual can appropriately provide the
14 service. The services provided by the offices of Adult Protective Services shall be consistent, if
15 at all possible, with the accustomed lifestyle of the disabled or elder adult.

16 Section 12. Section **63-38-2** is amended to read:

17 **63-38-2. Governor to submit budget to Legislature -- Contents -- Preparation --**
18 **Appropriations based on current tax laws and not to exceed estimated revenues.**

19 (1) (a) The governor shall, within three days after the convening of the Legislature in the
20 annual general session, submit a budget for the ensuing fiscal year by delivering it to the presiding
21 officer of each house of the Legislature together with a schedule for all of the proposed
22 appropriations of the budget, clearly itemized and classified.

23 (b) The budget message shall include a projection of estimated revenues and expenditures
24 for the next fiscal year.

25 (2) At least 34 days before the submission of any budget, the governor shall deliver a
26 confidential draft copy of his proposed budget recommendations to the Office of the Legislative
27 Fiscal Analyst.

28 (3) (a) The budget shall contain a complete plan of proposed expenditures and estimated
29 revenues for the next fiscal year based upon the current fiscal year state tax laws and rates.

30 (b) The budget may be accompanied by a separate document showing proposed
31 expenditures and estimated revenues based on changes in state tax laws or rates.

1 (4) The budget shall be accompanied by a statement showing:

2 (a) the revenues and expenditures for the last fiscal year;

3 (b) the current assets, liabilities, and reserves, surplus or deficit, and the debts and funds
4 of the state;

5 (c) an estimate of the state's financial condition as of the beginning and the end of the
6 period covered by the budget;

7 (d) a complete analysis of lease with an option to purchase arrangements entered into by
8 state agencies;

9 (e) the recommendations for each state agency for new full-time employees for the next
10 fiscal year; which recommendation should be provided also to the State Building Board under
11 Subsection 63A-5-103(2);

12 (f) any explanation the governor may desire to make as to the important features of the
13 budget and any suggestion as to methods for the reduction of expenditures or increase of the state's
14 revenue; and

15 (g) the information detailing certain regulatory fee increases required by Section
16 63-38-3.2.

17 (5) The budget shall include an itemized estimate of the appropriations for:

18 (a) the Legislative Department as certified to the governor by the president of the Senate
19 and the speaker of the House;

20 (b) the Executive Department;

21 (c) the Judicial Department as certified to the governor by the state court administrator;

22 (d) payment and discharge of the principal and interest of the indebtedness of the state of
23 Utah;

24 (e) the salaries payable by the state under the Utah Constitution or under law for the lease
25 agreements planned for the next fiscal year;

26 (f) other purposes that are set forth in the Utah Constitution or under law; and

27 (g) all other appropriations.

28 (6) Deficits or anticipated deficits shall be included in the budget.

29 (7) (a) (i) For the purpose of preparing and reporting the budget, the governor shall require
30 from the proper state officials, including public and higher education officials, all heads of
31 executive and administrative departments and state institutions, bureaus, boards, commissions, and

1 agencies expending or supervising the expenditure of the state moneys, and all institutions
2 applying for state moneys and appropriations, itemized estimates of revenues and expenditures.
3 The entities required by this subsection to submit itemized estimates of revenues and expenditures
4 to the governor, shall also report to the Utah Information Technology Commission created in Title
5 [63C] 63D, Chapter [2] 1, before October 30 of each year. The report to the Information
6 Technology Commission shall include the proposed information technology expenditures and
7 objectives, the proposed appropriation requests and other sources of revenue necessary to fund the
8 proposed expenditures and an analysis of:

9 (A) the entity's need for appropriations for information technology;

10 (B) how the entity's development of information technology coordinates with other state
11 or local government entities;

12 (C) any performance measures used by the entity for implementing information
13 technology goals; and

14 (D) any efforts to develop public/private partnerships to accomplish information
15 technology goals.

16 (ii) (A) The governor may also require other information under these guidelines and at
17 times as the governor may direct.

18 (B) These guidelines may include a requirement for program productivity and performance
19 measures, where appropriate, with emphasis on outcome indicators.

20 (b) The estimate for the Legislative Department as certified by the presiding officers of
21 both houses shall be included in the budget without revision by the governor. Before preparing
22 the estimates for the Legislative Department, the Legislature shall report to the Information
23 Technology Commission the proposed information technology expenditures and objectives, the
24 proposed appropriation requests and other sources of revenue necessary to fund the proposed
25 expenditures, including an analysis of:

26 (i) the Legislature's implementation of information technology goals;

27 (ii) any coordination of information technology with other departments of state and local
28 government;

29 (iii) any efforts to develop public/private partnerships to accomplish information
30 technology goals; and

31 (iv) any performance measures used by the entity for implementing information

1 technology goals.

2 (c) The estimate for the Judicial Department, as certified by the state court administrator,
3 shall also be included in the budget without revision, but the governor may make separate
4 recommendations on it. Before preparing the estimates for the Judicial Department, the state court
5 administrator shall report to the Information Technology Commission the proposed information
6 technology expenditures and objectives, the proposed appropriation requests and other sources of
7 revenue necessary to fund the proposed expenditures, including an analysis of:

8 (i) the Judicial Department's information technology goals;

9 (ii) coordination of information technology statewide between all courts;

10 (iii) any efforts to develop public/private partnerships to accomplish information
11 technology goals; and

12 (iv) any performance measures used by the entity for implementing information
13 technology goals.

14 (d) Before preparing the estimates for the State Office of Education, the state
15 superintendent shall report to the Information Technology Commission the proposed information
16 technology expenditures and objectives, the proposed appropriation requests and other sources of
17 revenue necessary to fund the proposed expenditures, including an analysis of:

18 (i) the Office of Education's information technology goals;

19 (ii) coordination of information technology statewide between all public schools;

20 (iii) any efforts to develop public/private partnerships to accomplish information
21 technology goals; and

22 (iv) any performance measures used by the Office of Education for implementing
23 information technology goals.

24 (e) Before preparing the estimates for the state system of Higher Education, the
25 commissioner shall report to the Information Technology Commission the proposed information
26 technology expenditures and objectives, the proposed appropriation requests and other sources of
27 revenue necessary to fund the proposed expenditures, including an analysis of:

28 (i) Higher Education's information technology goals;

29 (ii) coordination of information technology statewide within the state system of higher
30 education;

31 (iii) any efforts to develop public/private partnerships to accomplish information

1 technology goals; and

2 (iv) any performance measures used by the state system of higher education for
3 implementing information technology goals.

4 (f) The governor may require the attendance at budget meetings of representatives of
5 public and higher education, state departments and institutions, and other institutions or individuals
6 applying for state appropriations.

7 (g) The governor may revise all estimates, except those relating to the Legislative
8 Department, the Judicial Department, and those providing for the payment of principal and interest
9 to the state debt and for the salaries and expenditures specified by the Utah Constitution or under
10 the laws of the state.

11 (8) The total appropriations requested for expenditures authorized by the budget may not
12 exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal
13 year.

14 (9) If any item of the budget as enacted is held invalid upon any ground, the invalidity
15 does not affect the budget itself or any other item in it.

16 (10) (a) In submitting the budget for the Departments of Health and Human Services, the
17 governor shall consider a separate recommendation in his budget for funds to be contracted to:

18 (i) local mental health authorities under Section 17A-3-606;

19 (ii) local substance abuse authorities under Section 62A-8-110.5;

20 (iii) area agencies [~~on aging~~] under Section 62A-3-104.2;

21 (iv) programs administered directly by and for operation of the Divisions of Mental
22 Health, Substance Abuse, and Aging and Adult Services; and

23 (v) local health departments under Title 26A, Chapter 1, Local Health Departments.

24 (b) In his budget recommendations under Subsections (10)(a)(i), (ii), and (iii), the governor
25 shall consider an amount sufficient to grant local health departments, local mental health
26 authorities, local substance abuse authorities, and area agencies [~~on aging~~] the same percentage
27 increase for wages and benefits that he includes in his budget for persons employed by the state.

28 (c) If the governor does not include in his budget an amount sufficient to grant the increase
29 described in Subsection (10)(b), he shall include a message to the Legislature regarding his reason
30 for not including that amount.

31 (11) (a) In submitting the budget for the Division of Services for People with Disabilities

1 within the Department of Human Services, the governor shall consider an amount sufficient to
2 grant employees of private nonprofit corporations that contract with that division, the same
3 percentage increase for cost-of-living that he includes in his budget for persons employed by the
4 state.

5 (b) If the governor does not include in his budget an amount sufficient to grant the increase
6 described in Subsection (11)(a), he shall include a message to the Legislature regarding his reason
7 for not including that amount.

8 (12) The governor shall include the projected revenues and expenditures for collecting the
9 uniform fee and other motor vehicle fees under Section 59-2-406 in the 1996-97 fiscal year budget.

10 (13) (a) The Families, Agencies, and Communities Together Council may propose to the
11 governor under Subsection 63-75-4(3)(e) a budget recommendation for collaborative service
12 delivery systems operated under Section 63-75-6.5.

13 (b) The Legislature may, through a specific program schedule, designate funds
14 appropriated for collaborative service delivery systems operated under Section 63-75-6.5.

15 (14) The governor shall include in his budget the state's portion of the budget for the Utah
16 Communications Agency Network established in Title 63C, Chapter 7, Utah Communications
17 Agency Network Act.

18 Section 13. Section **63A-9-701** is amended to read:

19 **63A-9-701. Subscription to motor pool by certain local government entities.**

20 (1) The following local government entities may subscribe to the central motor pool
21 service provided by the division subject to the conditions established in Subsection (2):

22 (a) local health departments as defined in Title 26A, Chapter 1, Part 1, Local Health
23 Department Act;

24 (b) local substance abuse authorities as defined in Section 17A-3-701;

25 (c) local area agencies [on aging], as authorized by Section 62A-3-104, or [its] their
26 subcontractors who are local governmental or public entities; and

27 (d) local mental health authorities as defined in Section 17A-3-602.

28 (2) The local government entities outlined in Subsection (1) may subscribe to the central
29 motor pool service provided by the division only if:

30 (a) the director of the local government entity determines it will result in substantial cost
31 savings or increased efficiency to the local government entity; and

1 (b) the central motor pool has sufficient vehicles available.

2 Section 14. **Effective date.**

3 This act takes effect on July 1, 1998.