

1 **CHILD CARE AMENDMENTS**

2 2002 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Richard M. Siddoway**

5 **This act modifies provisions related to child care in Utah. The act modifies definitions**  
6 **related to providing child care services. It expands and clarifies the functions and duties of**  
7 **the Office of Child Care and requires an annual report by the office on the status of child**  
8 **care in the state. The act expands the membership of the Child Care Advisory Committee**  
9 **and provides specific responsibilities for the committee. The act clarifies the roles and**  
10 **relationships of individuals and entities who have statutory responsibilities related to the**  
11 **Child Care Expendable Trust Fund.**

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

13 AMENDS:

14 **35A-3-102**, as last amended by Chapter 9, Laws of Utah 2001

15 **35A-3-201**, as renumbered and amended by Chapter 375, Laws of Utah 1997

16 **35A-3-203**, as last amended by Chapter 143, Laws of Utah 2001

17 **35A-3-205**, as last amended by Chapter 1, Laws of Utah 1998

18 **35A-3-206**, as renumbered and amended by Chapter 375, Laws of Utah 1997

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

20 Section 1. Section **35A-3-102** is amended to read:

21 **35A-3-102. Definitions.**

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

23 (1) "Applicant" means a person who requests assistance under this chapter.

24 (2) "Average monthly number of families" means the average number of families who  
25 received cash assistance on a monthly basis during the previous federal fiscal year, starting from  
26 October 1, 1998 to September 30, 1999, and continuing each year thereafter.

27 (3) "Cash assistance" means a monthly dollar amount of cash a client is eligible to receive



28 under Section 35A-3-302.

29 (4) "Child care services" means care of a child for a portion of the day that is less than 24  
30 hours in a qualified setting, as defined by rule, by a responsible person who is not the child's parent  
31 or legal guardian.

32 (5) "Date of enrollment" means the date on which the applicant was approved as eligible  
33 for cash assistance.

34 (6) "Director" means the director of the division.

35 (7) "Diversion" means a single payment of cash assistance under Section 35A-3-303 to a  
36 client who is eligible for but does not require extended cash assistance under Part 3, Family  
37 Employment Program.

38 (8) "Division" means the Division of Employment Development.

39 (9) "Education or training" means:

40 (a) basic remedial education;

41 (b) adult education;

42 (c) high school education;

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

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

45 (f) applied technology training;

46 (g) employment skills training; or

47 (h) on-the-job training.

48 (10) "Full-time education or training" means training on a full-time basis as defined by the  
49 educational institution attended by the parent client.

50 (11) "General assistance" means financial assistance provided to a person who is not  
51 otherwise eligible for cash assistance under Part 3, Family Employment Program, because that  
52 person does not live in a family with a related dependent child.

53 (12) "Parent client" means a person who enters into an employment plan with the division  
54 to qualify for cash assistance under Part 3, Family Employment Program.

55 (13) (a) "Passenger vehicle" means a self-propelled, two-axle vehicle intended primarily  
56 for operation on highways and used by an applicant or client to meet basic transportation needs  
57 and has a fair market value below 40% of the applicable amount of the federal luxury passenger  
58 automobile tax established in 26 U.S.C. Sec. 4001 and adjusted annually for inflation.

59 (b) "Passenger vehicle" does not include:

60 (i) a commercial vehicle, as defined in Section 41-1a-102;

61 (ii) an off-highway vehicle, as defined in Section 41-1a-102; or

62 (iii) a motor home, as defined in Section 13-14-102.

63 (14) "Plan" or "state plan" means the state plan submitted to the Secretary of the United  
64 States Department of Health and Human Services to receive funding from the United States  
65 through the Temporary Assistance for Needy Families Block Grant.

66 (15) "Single minor parent" means a person under 18 years of age who is not married and  
67 has a minor child in his care and custody.

68 Section 2. Section **35A-3-201** is amended to read:

69 **35A-3-201. Definitions.**

70 As used in this part:

71 (1) "Child care" means the services referred to in Subsection 35A-3-102(4) provided for:

72 (a) children through age 12; and

73 (b) children with disabilities through age 18.

74 ~~[(+)]~~ (2) "Committee" means the Child Care Advisory Committee created in Section  
75 35A-3-205.

76 ~~[(2)]~~ (3) "Director" means the director of the Office of Child Care.

77 ~~[(3)]~~ (4) "Office" means the Office of Child Care created in Section 35A-3-202.

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

79 **35A-3-203. Functions and duties of office -- Annual report.**

80 The office shall:

81 (1) assess child care needs throughout the state on an ongoing basis and focus its activities  
82 on helping to meet those needs, with highest identified needs being addressed first;

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

85 (3) use its resources to encourage the development and enhancement of child care  
86 throughout the state;

87 ~~[(+)]~~ (4) provide information:

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

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

- 90           ~~[(2)]~~ (5) coordinate services for quality child care training and child care resource and  
 91 referral core services;
- 92           ~~[(3)]~~ (6) apply for, accept, or expend gifts or donations from public or private sources;
- 93           ~~[(4)]~~ (7) provide administrative support services to the committee;
- 94           ~~[(5)]~~ (8) work collaboratively with the following for the delivery of quality child care and  
 95 early childhood programs, and school age programs ~~[in]~~ throughout the state:
- 96           (a) the State Board of Education;
- 97           (b) the Department of Community and Economic Development; and
- 98           (c) the Department of Health;
- 99           ~~[(6)]~~ (9) research child care programs and public policy that will improve quality and  
 100 accessibility and that will further the purposes of the office and child care, early childhood  
 101 programs, and school age programs; ~~[and]~~
- 102           ~~[(7)]~~ (10) provide planning and technical assistance for the development and  
 103 implementation of programs in communities that lack child care, early childhood programs, and  
 104 school age programs; ~~[and]~~
- 105           ~~[(8)]~~ (11) provide organizational support for the establishment of nonprofit organizations  
 106 approved by the Child Care Advisory Committee, created in Section 35A-3-205[-]; and
- 107           (12) provide a written report on the status of child care in Utah to the Legislature by  
 108 November 1 of each year through the Workforce Services and Community and Economic  
 109 Development Interim Committee.
- 110           Section 4. Section **35A-3-205** is amended to read:
- 111           **35A-3-205. Creation of committee.**
- 112           (1) There is created a Child Care Advisory Committee.
- 113           (2) The committee shall counsel and advise the office in fulfilling its statutory  
 114 obligations[-] to include:
- 115           (a) a review of and recommendations on the office's annual budget;
- 116           (b) recommendations on how the office might best respond to child care needs throughout  
 117 the state; and
- 118           (c) recommendations on the use of new monies that come into the office, including those  
 119 for the Child Care Expendable Trust Fund.
- 120           (3) The committee shall be composed of ~~[13]~~ the following members ~~[as follows]~~ with

121 special attention being given to insure diversity and representation from both urban and rural  
122 groups:

123 (a) one expert in early childhood development [~~appointed by the executive director in~~  
124 ~~accordance with Subsection (4)~~];

125 (b) one child care provider who operates a center [~~appointed by the executive director in~~  
126 ~~accordance with Subsection (4)~~];

127 (c) one child care provider who operates a family child care business [~~appointed by the~~  
128 ~~executive director in accordance with Subsection (4)~~];

129 (d) one parent [~~of preschool or elementary school-aged children appointed by the executive~~  
130 ~~director in accordance with Subsection (4)~~] who currently receives a child care subsidy from the  
131 office and is representative of single-parent households with children through age 12;

132 (e) one representative of two-parent households with children through age 12 using child  
133 care;

134 [~~(e)~~] (f) one representative from the public at-large [~~appointed by the director in~~  
135 ~~accordance with Subsection (4)~~];

136 [(f)] (g) one representative of the State Office of Education;

137 [(g)] (h) one representative of the Department of Health;

138 (i) one representative of the Department of Human Services;

139 (j) one representative of the Department of Community and Economic Development;

140 [(h)] (k) two representatives from the corporate community [~~appointed by the executive~~  
141 ~~director in accordance with Subsection (4)~~], one of which shall be a recent "Family Friendly"  
142 award winner who received the award because of efforts in the child care arena;

143 [(i)] (l) two representatives from the small business community [~~appointed by the~~  
144 ~~executive director in accordance with Subsection (4)~~];

145 [(j)] (m) one representative from child care advocacy groups [~~appointed by the executive~~  
146 ~~director in accordance with Subsection (4); and~~];

147 [(k)] one representative from the Division of Employment Development appointed by the  
148 ~~executive director.~~]

149 (n) one representative of children with disabilities;

150 (o) one representative from the state Head Start Association appointed by the association;

151 (p) one representative from each child care provider association; and

152 (q) one representative of a child care resource and referral center appointed by the  
153 organization representing child care resource and referral agencies.

154 [~~4~~ Of those members appointed by the executive director under Subsection (3), with the  
155 exception of the representative from the Division of Employment Development, no]

156 (4) (a) The executive director shall appoint the members designated in Subsections (3)(a)  
157 through (f) and (k) through (n).

158 (b) (i) The members appointed under Subsection (3)(q) shall be appointed by their  
159 respective child care provider association.

160 (ii) As used in Subsections (3) and (4), "child care provider association" means an  
161 association:

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

164 (B) is affiliated with a national child care provider association.

165 (c) No more than ~~five~~ seven of the members appointed by the executive director may be  
166 from the same political party.

167 (5) (a) Except as required by Subsection (5)(b), as terms of current committee members  
168 expire, the executive director shall appoint each new member or reappointed member to a  
169 four-year term.

170 (b) Notwithstanding the requirements of Subsection (5)(a), the executive director shall,  
171 at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
172 committee members are staggered so that approximately half of the committee is appointed every  
173 two years.

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

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

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

179 (b) The chair's term of office expires on April 1 of each year [~~and a~~].

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

181 (9) (a) [~~†~~] Members who are not government employees may not receive compensation  
182 or benefits for their services, but may receive per diem and expenses incurred in the performance

183 of the member's official duties at the rates established by the Division of Finance under Sections  
184 63A-3-106 and 63A-3-107.

185 ~~[(ii) Members may decline to receive per diem and expenses for their service.]~~

186 (b) ~~[(i)]~~ State government officer and employee members who do not receive salary, per  
187 diem, or expenses from their agency for their service may receive per diem and expenses incurred  
188 in the performance of their official duties from the committee at the rates established by the  
189 Division of Finance under Sections 63A-3-106 and 63A-3-107.

190 ~~[(i)]~~ (c) ~~[State government officer and employee members]~~ Members identified in  
191 Subsections (9)(a) and (b) may decline to receive per diem and expenses for their service.

192 Section 5. Section **35A-3-206** is amended to read:

193 **35A-3-206. Expendable trust fund -- Use of monies -- Committee and director duties**  
194 **-- Restrictions.**

195 (1) There is created an expendable trust fund known as the Child Care Expendable Trust  
196 Fund.

197 (2) The ~~[executive]~~ director shall administer the trust fund under the direction of the  
198 committee.

199 (3) The ~~[department]~~ office shall be the trustee of the fund.

200 (4) The trust fund shall be used to accept monies designated for child care initiatives  
201 improving the quality, affordability, or accessibility of child care.

202 (5) The monies in the trust fund that are not restricted to a specific use under federal law  
203 or by donors may not be expended without approval of the committee.

204 (6) There shall be deposited into the trust fund money from numerous sources including  
205 grants, private foundations, or individual donors.

206 (7) The monies in the trust fund shall be invested by the state treasurer ~~[pursuant to]~~ under  
207 Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings  
208 derived from the trust fund monies shall be deposited in the trust fund.

209 (8) The monies in the trust fund may not be used for administrative expenses of the  
210 ~~[department]~~ office normally provided for by legislative appropriation.

211 (9) The committee shall:

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

- 214 (b) recommend specific child care projects to the director;
- 215 (c) recommend policy and procedures for administering the trust fund;
- 216 (d) make recommendations on grants, loans, or contracts from the trust fund for any of the
- 217 child care activities authorized under this part;
- 218 (e) establish the criteria by which loans and grants will be made;
- 219 (f) determine the order in which approved child care projects will be funded;
- 220 (g) make recommendations regarding the distribution of money from the trust fund in
- 221 accordance with the procedures, conditions, and restrictions placed upon the monies by the donors;
- 222 and
- 223 (h) have joint responsibility with the office to solicit public and private funding for the
- 224 trust fund.
- 225 (10) Trust fund monies [~~may~~] shall be used for [~~any of the following activities~~]:
- 226 (a) training of child care providers;
- 227 (b) scholarships and grants for child care providers' professional development;
- 228 (c) child care public awareness and consumer education services;
- 229 (d) child care provider recruitment;
- 230 (e) Office of Child Care sponsored activities;
- 231 (f) matching money for obtaining grants; or
- 232 (g) other activities that will assist in the improvement of child care quality, affordability,
- 233 or accessibility.
- 234 (11) The [~~executive~~] director, with the consent of the committee and the executive
- 235 director, may grant, lend, or contract trust fund money for child care purposes to:
- 236 (a) local governments;
- 237 (b) nonprofit community, charitable, or neighborhood-based organizations;
- 238 (c) regional or statewide nonprofit organizations; or
- 239 (d) child care providers.
- 240 (12) Preference may be given but not limited to applicants for trust fund monies that
- 241 demonstrate any of the following:
- 242 (a) programatic or financial need;
- 243 (b) diversity of clientele or geographic location; and
- 244 (c) coordination with or enhancement of existing services.



245 (13) The executive director or the executive director's designee shall monitor the activities  
246 of the recipients of grants, loans, or contracts issued from the trust fund on an annual basis to  
247 ensure compliance with the terms and conditions imposed on the recipient by the trust fund.

248 (14) The entities receiving grants, loans, or contracts shall provide the [~~executive~~] director  
249 with an annual accounting of how the monies they received from the trust fund have been spent.

250 (15) (a) The [~~executive~~] director shall make an annual report to the committee regarding  
251 the status of the trust fund and the programs and [~~the~~] services funded by the trust fund.

252 (b) The report shall be included as a component of the report to the Legislature required  
253 under Subsection 35A-3-203(12).

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**Legislative Review Note**  
**as of 11-15-01 10:08 AM**

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

**Office of Legislative Research and General Counsel**

**Committee Note**

The Workforce Services and Community and Economic Development Interim Committee recommended this bill.