

Representative Richard M. Siddoway proposes the following substitute bill:

CHILD CARE AMENDMENTS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Richard M. Siddoway

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

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

AMENDS:

26-39-102, as last amended by Chapter 77, Laws of Utah 1999

26-39-104, as last amended by Chapter 77, Laws of Utah 1999

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

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

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

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

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

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

Section 1. Section **26-39-102** is amended to read:

26-39-102. Definitions.

As used in this chapter:

(1) "Child" means:



26 (a) a child of a person other than the provider of child care;

27 (b) a child of a licensed or certified residential child care provider who is under the age
28 of four; and

29 (c) a child of an employee or owner of a licensed child care center who is under the age
30 of four.

31 (2) "Child care" means continuous care and supervision of five or more children [~~under~~
32 ~~14 years of age~~] through age 12 and children with disabilities through age 18, in lieu of care
33 ordinarily provided by parents in their own home, for less than 24 hours a day, for direct or indirect
34 compensation.

35 (3) "Child care program" means a child care facility or program operated by a person
36 pursuant to a license issued in accordance with this chapter.

37 (4) "Residential child care" means child care provided in the home of a provider.

38 Section 2. Section **26-39-104** is amended to read:

39 **26-39-104. Duties of the department.**

40 (1) With regard to child care programs licensed pursuant to this chapter, the department
41 may:

42 (a) make and enforce rules to implement the provisions of this chapter and, as necessary
43 to protect children's common needs for a safe and healthy environment, to provide for:

44 (i) adequate facilities and equipment; and

45 (ii) competent caregivers considering the age of the children and the type of program
46 offered by the licensee;

47 (b) make and enforce rules necessary to carry out the purposes of this chapter, in the
48 following areas:

49 (i) requirements for applications, the application process, and compliance with other
50 applicable statutes and rules;

51 (ii) documentation and policies and procedures that providers shall have in place in order
52 to be licensed, in accordance with Subsection (1)(a);

53 (iii) categories, classifications, and duration of initial and ongoing licenses;

54 (iv) changes of ownership or name, changes in licensure status, and changes in operational
55 status;

56 (v) license expiration and renewal, contents, and posting requirements;

57 (vi) procedures for inspections, complaint resolution, disciplinary actions, and other
58 procedural measures to encourage and assure compliance with statute and rule; and

59 (vii) guidelines necessary to assure consistency and appropriateness in the regulation and
60 discipline of licensees; and

61 (c) set and collect licensing and other fees in accordance with Section 26-1-6.

62 (2) (a) The department may not regulate educational curricula, academic methods, or the
63 educational philosophy or approach of the provider.

64 (b) The department shall allow for a broad range of educational training and academic
65 background in certification or qualification of child day care directors.

66 (3) In licensing and regulating child care programs, the department shall reasonably
67 balance the benefits and burdens of each regulation and, by rule, provide for a range of licensure,
68 depending upon the needs and different levels and types of child care provided.

69 (4) Notwithstanding the definition of "child" in Subsection 26-39-102(1), the department
70 shall count children [~~under the age of 14~~] through age 12 and children with disabilities through age
71 18 toward the minimum square footage requirement for indoor and outdoor areas, including the
72 child of:

73 (a) a licensed residential child care provider; or

74 (b) an owner or employee of a licensed child care center.

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

76 **35A-3-102. Definitions.**

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

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

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

82 (3) "Cash assistance" means a monthly dollar amount of cash a client is eligible to receive
83 under Section 35A-3-302.

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

87 (5) "Date of enrollment" means the date on which the applicant was approved as eligible

88 for cash assistance.

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

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

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

94 (9) "Education or training" means:

95 (a) basic remedial education;

96 (b) adult education;

97 (c) high school education;

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

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

100 (f) applied technology training;

101 (g) employment skills training; or

102 (h) on-the-job training.

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

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

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

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

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

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

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

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

118 (14) "Plan" or "state plan" means the state plan submitted to the Secretary of the United

119 States Department of Health and Human Services to receive funding from the United States
120 through the Temporary Assistance for Needy Families Block Grant.

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

123 Section 4. Section **35A-3-201** is amended to read:

124 **35A-3-201. Definitions.**

125 As used in this part:

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

127 (a) children through age 12; and

128 (b) children with disabilities through age 18.

129 [~~1~~] (2) "Committee" means the Child Care Advisory Committee created in Section
130 35A-3-205.

131 [~~2~~] (3) "Director" means the director of the Office of Child Care.

132 [~~3~~] (4) "Office" means the Office of Child Care created in Section 35A-3-202.

133 Section 5. Section **35A-3-203** is amended to read:

134 **35A-3-203. Functions and duties of office -- Annual report.**

135 The office shall:

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

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

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

142 [~~4~~] (4) provide information:

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

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

145 [~~2~~] (5) coordinate services for quality child care training and child care resource and
146 referral core services;

147 [~~3~~] (6) apply for, accept, or expend gifts or donations from public or private sources;

148 [~~4~~] (7) provide administrative support services to the committee;

149 [~~5~~] (8) work collaboratively with the following for the delivery of quality child care and

150 early childhood programs, and school age programs [~~in~~] throughout the state:

151 (a) the State Board of Education;

152 (b) the Department of Community and Economic Development; and

153 (c) the Department of Health;

154 [~~(6)~~] (9) research child care programs and public policy that will improve quality and
155 accessibility and that will further the purposes of the office and child care, early childhood
156 programs, and school age programs; [~~and~~]

157 [~~(7)~~] (10) provide planning and technical assistance for the development and
158 implementation of programs in communities that lack child care, early childhood programs, and
159 school age programs; [~~and~~]

160 [~~(8)~~] (11) provide organizational support for the establishment of nonprofit organizations
161 approved by the Child Care Advisory Committee, created in Section 35A-3-205[-]; and

162 (12) provide a written report on the status of child care in Utah to the Legislature by
163 November 1 of each year through the Workforce Services and Community and Economic
164 Development Interim Committee.

165 Section 6. Section **35A-3-205** is amended to read:

166 **35A-3-205. Creation of committee.**

167 (1) There is created a Child Care Advisory Committee.

168 (2) The committee shall counsel and advise the office in fulfilling its statutory
169 obligations[-] to include:

170 (a) a review of and recommendations on the office's annual budget;

171 (b) recommendations on how the office might best respond to child care needs throughout
172 the state; and

173 (c) recommendations on the use of new monies that come into the office, including those
174 for the Child Care Expendable Trust Fund.

175 (3) The committee shall be composed of [~~13~~] the following members [~~as follows~~] with
176 special attention being given to insure diversity and representation from both urban and rural
177 groups:

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

180 (b) one child care provider who operates a center [~~appointed by the executive director in~~

181 ~~accordance with Subsection (4)];~~

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

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

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

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

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

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

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

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

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

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

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

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

204 (n) one representative of children with disabilities;

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

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

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

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

211 (4) (a) The executive director shall appoint the members designated in Subsections (3)(a)

212 through (f) and (k) through (n).

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

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

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

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

220 (c) No more than [five] seven of the members appointed by the executive director may be
221 from the same political party.

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

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

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

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

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

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

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

236 (9) (a) [(†)] Members who are not government employees may not receive compensation
237 or benefits for their services, but may receive per diem and expenses incurred in the performance
238 of the member's official duties at the rates established by the Division of Finance under Sections
239 63A-3-106 and 63A-3-107.

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

241 (b) [(†)] State government officer and employee members who do not receive salary, per
242 diem, or expenses from their agency for their service may receive per diem and expenses incurred

243 in the performance of their official duties from the committee at the rates established by the
244 Division of Finance under Sections 63A-3-106 and 63A-3-107.

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

247 Section 7. Section **35A-3-206** is amended to read:

248 **35A-3-206. Expendable trust fund -- Use of monies -- Committee and director duties**
249 **-- Restrictions.**

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

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

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

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

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

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

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

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

266 (9) The committee shall:

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

269 (b) recommend specific child care projects to the director;

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

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

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

274 (f) determine the order in which approved child care projects will be funded;
275 (g) make recommendations regarding the distribution of money from the trust fund in
276 accordance with the procedures, conditions, and restrictions placed upon the monies by the donors;
277 and

278 (h) have joint responsibility with the office to solicit public and private funding for the
279 trust fund.

280 (10) Trust fund monies [~~may~~ shall] be used for [~~any of the following activities~~]:

- 281 (a) training of child care providers;
- 282 (b) scholarships and grants for child care providers' professional development;
- 283 (c) child care public awareness and consumer education services;
- 284 (d) child care provider recruitment;
- 285 (e) Office of Child Care sponsored activities;
- 286 (f) matching money for obtaining grants; or
- 287 (g) other activities that will assist in the improvement of child care quality, affordability,
288 or accessibility.

289 (11) The [~~executive~~] director, with the consent of the committee and the executive
290 director, may grant, lend, or contract trust fund money for child care purposes to:

- 291 (a) local governments;
- 292 (b) nonprofit community, charitable, or neighborhood-based organizations;
- 293 (c) regional or statewide nonprofit organizations; or
- 294 (d) child care providers.

295 (12) Preference may be given but not limited to applicants for trust fund monies that
296 demonstrate any of the following:

- 297 (a) programatic or financial need;
- 298 (b) diversity of clientele or geographic location; and
- 299 (c) coordination with or enhancement of existing services.

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

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

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

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