

1 **OFFICE OF RECOVERY SERVICES -**
2 **ELECTRONIC FUNDS TRANSFER**

3 2008 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Paul Ray**

6 Senate Sponsor: Carlene M. Walker

7
8 **LONG TITLE**

9 **General Description:**

10 This bill amends portions of the Recovery Services chapter of the Utah Human Services
11 Code, relating to electronic funds transfer.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ recodifies provisions of the Recovery Services chapter of the Utah Human Services
16 Code, relating to electronic funds transfer;
- 17 ▶ requires the Office of Recovery Services, within the Department of Human
18 Services, to distribute child support payments by electronic funds transfer;
- 19 ▶ grants rulemaking authority to the Office of Recovery Services to make exceptions
20 to the electronic funds transfer requirement, described above, where the requirement
21 would impose an undue hardship on the office or a person, or where the distribution
22 will not likely be made on a recurring basis; and
- 23 ▶ makes technical changes.

24 **Monies Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **62A-11-401**, as last amended by Laws of Utah 2000, Chapter 161

31 ENACTS:

32 **62A-11-701**, Utah Code Annotated 1953

33 **62A-11-702**, Utah Code Annotated 1953

34 **62A-11-704**, Utah Code Annotated 1953

35 RENUMBERS AND AMENDS:

36 **62A-11-703**, (Renumbered from 62A-11-502.1, as enacted by Laws of Utah 2007,
37 Chapter 131)

38 REPEALS:

39 **62A-11-403.1**, as enacted by Laws of Utah 2007, Chapter 131



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

42 Section 1. Section **62A-11-401** is amended to read:

43 **62A-11-401. Definitions.**

44 As used in this part [~~and in~~], Part 5, and Part 7:

45 (1) "Business day" means a day on which state offices are open for regular business.

46 (2) "Child" is defined in Section 62A-11-303.

47 (3) "Child support" means a base child support award as defined in [~~Subsection~~]
48 Section 78-45-2(~~4~~), or a financial award for uninsured monthly medical expenses, ordered by
49 a tribunal for the support of a child, including current periodic payments, all arrearages which
50 accrue under an order for current periodic payments, and sum certain judgments awarded for
51 arrearages, medical expenses, and child care costs. Child support includes obligations ordered
52 by a tribunal for the support of a spouse or former spouse with whom the child resides if the
53 spousal support is collected with the child support.

54 (4) "Child support order" or "support order" means a judgment, decree, or order,
55 whether temporary, final, or subject to modification, issued by a tribunal for child support and
56 related costs and fees, interest and penalties, income withholding, attorneys' fees, and other
57 relief.

58 (5) "Child support services" is defined in Section 62A-11-103.

59 (6) "Delinquent" or "delinquency" means that child support in an amount at least equal
60 to current child support payable for one month is overdue.

61 (7) "Immediate income withholding" means income withholding without regard to
62 whether a delinquency has occurred.

63 (8) "Income" is defined in Section 62A-11-103.

64 (9) "Jurisdiction" means a state or political subdivision of the United States, a territory
65 or possession of the United States, the District of Columbia, the Commonwealth of Puerto
66 Rico, an Indian tribe or tribal organization, or any comparable foreign nation or political
67 subdivision.

68 (10) "Obligee" is defined in Section 62A-11-303.

69 (11) "Obligor" is defined in Section 62A-11-303.

70 (12) "Office" is defined in Section 62A-11-103.

71 (13) "Payor" means an employer or any person who is a source of income to an obligor.
72 Section 2. Section **62A-11-701** is enacted to read:

73 **Part 7. Electronic Funds Transfer**

74 **62A-11-701. Title.**

75 This part is known as "Electronic Funds Transfer."

76 Section 3. Section **62A-11-702** is enacted to read:

77 **62A-11-702. Definitions.**

78 (1) The definitions in Section 62A-11-401 apply to this section.

79 (2) As used in this section, "account" is as defined in Section 62A-11-103.

80 Section 4. Section **62A-11-703**, which is renumbered from Section 62A-11-502.1 is
81 renumbered and amended to read:

82 ~~[62A-11-502.1].~~ **62A-11-703. Alternative payment by obligor through**
83 **electronic funds transfer.**

84 (1) The office may enter into a written alternative payment agreement with an obligor
85 which provides for electronic payment of child support under Part 4, Income Withholding in
86 IV-D Cases, or Part 5, Income Withholding in Non IV-D Cases. Electronic payment shall be
87 accomplished through an automatic withdrawal from the obligor's account at a financial
88 institution.

89 (2) The alternative payment agreement shall:

90 (a) provide for electronic payment of child support in lieu of income withholding;
 91 (b) specify the date on which electronic payments will be withdrawn from an obligor's
 92 account; and

93 (c) specify the amount which will be withdrawn.

94 (3) The office may terminate the agreement and initiate immediate income withholding
 95 if:

96 (a) required to meet federal or state requirements or guidelines;

97 (b) funds available in the account at the scheduled time of withdrawal are insufficient
 98 to satisfy the agreement; or

99 (c) requested by the obligor.

100 (4) If the payment amount requires adjusting, the office may initiate a new written
 101 agreement with the obligor. If, for any reason, the office and obligor fail to agree on the terms,
 102 the office may terminate the agreement and initiate income withholding.

103 (5) If an agreement is terminated for insufficient funds, a new agreement may not be
 104 entered into between the office and obligor for a period of at least 12 months.

105 (6) The office shall make rules specifying eligibility requirements for obligors to enter
 106 into alternative payment agreements.

107 Section 5. Section **62A-11-704** is enacted to read:

108 **62A-11-704. Mandatory distribution to obligee through electronic funds transfer.**

109 (1) Notwithstanding any provision of this chapter to the contrary, the office shall,
 110 except as provided in Subsection (3), distribute child support payments, under Subsection
 111 62A-11-413(2) or Section 62A-11-505, by electronic funds transfer.

112 (2) Distribution of child support payments by electronic payment under this section
 113 shall be made to:

114 (a) an account of the obligee; or

115 (b) an account that may be accessed by the obligee through the use of an electronic
 116 access card.

117 (3) (a) Subject to Subsection (3)(b), the office may make rules, pursuant to Title 63,
 118 Chapter 46a, Utah Administrative Rulemaking Act, to allow exceptions to the requirement to
 119 make distributions by electronic funds transfer under Subsection (1).

120 (b) The rules described in Subsection (3)(a) may only allow exceptions under

121 circumstances where:

122 (i) requiring distribution by electronic funds transfer would result in an undue hardship
123 to the office or a person; or

124 (ii) it is not likely that distribution will be made to the obligee on a recurring basis.

125 Section 6. **Repealer.**

126 This bill repeals:

127 Section **62A-11-403.1, Alternative payment through electronic funds transfer.**

Legislative Review Note
as of 12-31-07 9:59 AM

Office of Legislative Research and General Counsel

H.B. 265 - Office of Recovery Services - Electronic Funds Transfer

Fiscal Note

2008 General Session

State of Utah

State Impact

Passage of this Legislation will result in a savings of \$90,000 with \$30,600 in General Funds and \$59,400 in federal matching funds for the Office of Recovery Services for the distribution of child support payments by electronic funds transfer.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	(\$30,600)	(\$30,600)	\$0	\$0	\$0
Federal Funds	\$0	(\$59,400)	(\$59,400)	\$0	\$0	\$0
Total	\$0	(\$90,000)	(\$90,000)	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses or local governments. Individuals that are custodial parents will benefit by receiving their funds directly in their accounts which will reduce lost or stolen checks. Individuals without checking accounts will receive a "stored value" debit card.