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**EMPLOYMENT SUPPORT ACT REVISIONS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brian E. Shiozawa**

House Sponsor: Rebecca P. Edwards

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**LONG TITLE**

**Committee Note:**

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

**General Description:**

This bill modifies the Utah Workforce Services Code by revising and updating Chapter 3, Employment Support Act.

**Highlighted Provisions:**

This bill:

- ▶ revises the Employment Support Act by:
  - updating language;
  - restructuring sections and parts;
  - amending definitions; and
  - adding cross-references;
- ▶ amends assessment and counselor assignment provisions of the Family Employment Program; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



28 **Utah Code Sections Affected:**

29 AMENDS:

- 30 **35A-3-101**, as last amended by Laws of Utah 1998, Chapter 1
- 31 **35A-3-102**, as last amended by Laws of Utah 2007, Chapter 235
- 32 **35A-3-103**, as last amended by Laws of Utah 2012, Chapter 212
- 33 **35A-3-103.5**, as last amended by Laws of Utah 2012, Chapter 305
- 34 **35A-3-104**, as renumbered and amended by Laws of Utah 1997, Chapter 174
- 35 **35A-3-105**, as last amended by Laws of Utah 2008, Chapter 382
- 36 **35A-3-106**, as last amended by Laws of Utah 2011, Chapter 297
- 37 **35A-3-108**, as last amended by Laws of Utah 2011, Chapter 297
- 38 **35A-3-109**, as renumbered and amended by Laws of Utah 1997, Chapter 174
- 39 **35A-3-110**, as renumbered and amended by Laws of Utah 1997, Chapter 174
- 40 **35A-3-111**, as last amended by Laws of Utah 2008, Chapter 382
- 41 **35A-3-112**, as renumbered and amended by Laws of Utah 1997, Chapter 174
- 42 **35A-3-113**, as renumbered and amended by Laws of Utah 1997, Chapter 174
- 43 **35A-3-115**, as last amended by Laws of Utah 2011, Chapter 188
- 44 **35A-3-201**, as last amended by Laws of Utah 2003, Chapter 13
- 45 **35A-3-202**, as last amended by Laws of Utah 2005, Chapter 81
- 46 **35A-3-203**, as last amended by Laws of Utah 2014, Chapter 371
- 47 **35A-3-204**, as renumbered and amended by Laws of Utah 1997, Chapter 375
- 48 **35A-3-205**, as last amended by Laws of Utah 2012, Chapter 212
- 49 **35A-3-206**, as last amended by Laws of Utah 2014, Chapter 371
- 50 **35A-3-207**, as last amended by Laws of Utah 2013, Chapters 167 and 413
- 51 **35A-3-301**, as enacted by Laws of Utah 1997, Chapter 174
- 52 **35A-3-302**, as last amended by Laws of Utah 2013, Chapter 112
- 53 **35A-3-303**, as enacted by Laws of Utah 1997, Chapter 174
- 54 **35A-3-304**, as last amended by Laws of Utah 2012, Chapter 354
- 55 **35A-3-304.5**, as enacted by Laws of Utah 2012, Chapter 354
- 56 **35A-3-306**, as last amended by Laws of Utah 2007, Chapter 51
- 57 **35A-3-307**, as last amended by Laws of Utah 2010, Chapter 296
- 58 **35A-3-308**, as last amended by Laws of Utah 2008, Chapter 3

- 59           **35A-3-309**, as last amended by Laws of Utah 2012, Chapter 212  
60           **35A-3-310**, as last amended by Laws of Utah 2008, Chapter 382  
61           **35A-3-310.5**, as last amended by Laws of Utah 2011, Chapter 297  
62           **35A-3-311**, as last amended by Laws of Utah 2012, Chapter 41  
63           **35A-3-312**, as last amended by Laws of Utah 2009, Chapter 39  
64           **35A-3-313**, as last amended by Laws of Utah 2014, Chapter 371  
65           **35A-3-401**, as last amended by Laws of Utah 2004, Chapter 29  
66           **35A-3-402**, as renumbered and amended by Laws of Utah 1997, Chapter 174  
67           **35A-3-502**, as renumbered and amended by Laws of Utah 1997, Chapter 174  
68           **35A-3-503**, as last amended by Laws of Utah 2011, Chapter 297  
69           **35A-3-504**, as last amended by Laws of Utah 1998, Chapter 1  
70           **35A-3-505**, as renumbered and amended by Laws of Utah 1997, Chapter 174  
71           **35A-3-506**, as renumbered and amended by Laws of Utah 1997, Chapter 174  
72           **35A-3-507**, as renumbered and amended by Laws of Utah 1997, Chapter 174  
73           **35A-3-508**, as last amended by Laws of Utah 1999, Chapter 21  
74           **35A-3-510**, as renumbered and amended by Laws of Utah 1997, Chapter 174  
75           **35A-3-601**, as renumbered and amended by Laws of Utah 2003, Chapter 90  
76           **35A-3-603**, as last amended by Laws of Utah 2012, Chapter 41  
77           **35A-3-604**, as last amended by Laws of Utah 2008, Chapter 382  
78           **35A-3-605**, as renumbered and amended by Laws of Utah 2003, Chapter 90  
79           **35A-3-606**, as renumbered and amended by Laws of Utah 2003, Chapter 90  
80           **35A-3-607**, as renumbered and amended by Laws of Utah 2003, Chapter 90  
81           **35A-3-608**, as last amended by Laws of Utah 2012, Chapter 41  
82           **35A-3-609**, as renumbered and amended by Laws of Utah 2003, Chapter 90  
83           **35A-3-610**, as renumbered and amended by Laws of Utah 2003, Chapter 90  
84           **76-8-1201**, as last amended by Laws of Utah 2003, Chapter 90  
85           **76-8-1205**, as last amended by Laws of Utah 2012, Chapter 41  
86    RENUMBERS AND AMENDS:  
87           **35A-3-701**, (Renumbered from 35A-3-116, as last amended by Laws of Utah 2014,  
88    Chapter 371)  
89           **35A-3-702**, (Renumbered from 35A-3-117, as enacted by Laws of Utah 2014, Chapter

90 250)

91 REPEALS:

92 **35A-3-602**, as last amended by Laws of Utah 2008, Chapter 382

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

95 Section 1. Section **35A-3-101** is amended to read:

96 **35A-3-101. Title.**

97 [(+) This chapter [~~shall be~~] is known as the "Employment Support Act."

98 [(2) A person eligible for employment assistance under Chapter 3 or 5 shall receive any  
99 assistance under the applicable chapter, including stabilization, assessment, training, or  
100 placement, through the department in accordance with Chapter 2, Part 2, Service Delivery.]

101 Section 2. Section **35A-3-102** is amended to read:

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

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

104 (1) "Adjudicative proceeding" has the same meaning as defined in Section **63G-4-103**.

105 (2) "Administrative order" means an order issued by the department that addresses an  
106 overpayment of public assistance.

107 [(+) (3) "Applicant" means a person who requests assistance under this chapter.

108 (4) "Assignment of support" means the transfer to the department of a recipient's rights  
109 to receive some or all of the recipient's child support payments.

110 [(2) (5) "Average monthly number of families" means the average number of families  
111 who received cash assistance on a monthly basis during the previous federal fiscal year.

112 [(3) (6) "Cash assistance" means [a] the monthly dollar amount [~~of cash a client~~] a  
113 recipient is eligible to receive under the Family Employment Program under Section  
114 **35A-3-302**.

115 [(4) (7) "Child care services" means care of a child by a responsible person who is not  
116 the child's parent or legal guardian, for a portion of the day that is less than 24 hours in a  
117 qualified setting, as defined by [~~rule, by a responsible person who is not the child's parent or~~  
118 ~~legal guardian~~] rules made by the department in accordance with Title 63G, Chapter 3, Utah  
119 Administrative Rulemaking Act.

120 (8) (a) "Civic organization" means an organization that provides services to its

121 community.

122 (b) "Civic organization" includes a community service club or organization, a  
 123 charitable health care or service organization, a fraternal organization, a labor union, a minority  
 124 or ethnic organization, a commercial or industrial organization, a commerce or business club, a  
 125 private nonprofit organization, a private nonprofit corporation that provides funding to a  
 126 community service organization, an organization that advocates or provides for the needs of  
 127 persons with low incomes, a religious organization, and an organization that fosters strong  
 128 neighborhoods and communities.

129 (9) "Court order" means a judgment or order of a court of this state, another state, or  
 130 the federal government that addresses an overpayment of public assistance.

131 ~~[(5)]~~ (10) "Date of enrollment" means the date on which the applicant was approved as  
 132 eligible for cash assistance.

133 ~~[(6)]~~ (11) "Director" means the director of the division assigned by the department to  
 134 administer a program.

135 ~~[(7)]~~ (12) "Diversion" or "diversion payment" means a [single payment of cash  
 136 assistance] one-time cash assistance payment under Section 35A-3-303 to a [client] recipient  
 137 who is eligible for cash assistance, but does not require extended cash assistance under Part 3,  
 138 Family Employment Program.

139 ~~[(8) "Division" means the Employment Development Division.]~~

140 ~~[(9)]~~ (13) "Education or training" means:

- 141 (a) basic remedial education;
- 142 (b) adult education;
- 143 (c) high school education;
- 144 (d) education to obtain the equivalent of a high school diploma;
- 145 (e) education to learn English as a second language;
- 146 (f) applied technology training;
- 147 (g) employment skills training; or
- 148 (h) on-the-job training.

149 ~~[(10)]~~ (14) "Full-time education or training" means training on a full-time basis as  
 150 defined by the educational institution attended by the parent [client] recipient.

151 ~~[(11)]~~ (15) "General assistance" means financial assistance provided to a person [who

152 is not otherwise eligible for cash assistance under Part 3, Family Employment Program,  
153 because that person does not live in a family with a related dependent child] under Part 4,  
154 General Assistance.

155 (16) "Notice of agency action" means the notice required to commence an adjudicative  
156 proceeding as described in Section 63G-4-201.

157 (17) "Obligor" means an individual:

158 (a) who is liable to the state under Section 35A-3-603 and applicable federal statutes  
159 and regulations; or

160 (b) against whom an administrative or judicial order determining overpayment has  
161 been obtained.

162 (18) (a) "Overpayment" means money, public assistance, or another item of value  
163 provided under a state or federally funded benefit program to a person that is not entitled to  
164 receive it or is not entitled to receive it at the level provided.

165 (b) "Overpayment" includes money paid to a provider under this title in connection  
166 with public assistance or another publicly funded assistance program to the extent that the  
167 provider receives payment:

168 (i) for goods or services not provided; or

169 (ii) in excess of the amount to which the provider is entitled.

170 ~~[(12)]~~ (19) "Parent [client] recipient" means a person who enters into an employment  
171 plan with the [division] department to qualify for cash assistance under Part 3, Family  
172 Employment Program.

173 (20) "Performance goals" means a target level of performance that will be compared to  
174 actual performance.

175 (21) "Performance indicators" means actual performance information regarding a  
176 program or activity.

177 (22) "Performance monitoring system" means a process to regularly collect and analyze  
178 performance information, including performance indicators and performance goals.

179 ~~[(13)]~~ (23) "Plan" or "state plan" means the state plan submitted to the Secretary of the  
180 United States Department of Health and Human Services to receive funding from the United  
181 States through the Temporary Assistance for Needy Families Block Grant in accordance with  
182 42 U.S.C. Sec. 602.

183           (24) "Recipient" means a person who is qualified to receive, is receiving, or has  
184 received assistance under this chapter.

185           ~~[(14)]~~ (25) "Single minor parent" means a person under 18 years of age who is not  
186 married and has a minor child in the person's care and custody.

187           (26) "Transitional cash assistance" means assistance provided to a recipient to stabilize  
188 employment and reduce the future use of cash assistance provided under Part 3, Family  
189 Employment Program.

190           Section 3. Section **35A-3-103** is amended to read:

191           **35A-3-103. Department responsibilities.**

192           The ~~[division]~~ department shall:

193           (1) administer public assistance programs assigned by the Legislature and the  
194 governor;

195           (2) determine eligibility ~~[in accordance with the requirements of this chapter]~~ for  
196 public assistance programs ~~[assigned to it by the Legislature or the governor]~~ in accordance  
197 with the requirements of this chapter;

198           (3) cooperate with the federal government in the administration of public assistance  
199 programs;

200           (4) administer ~~[the Utah]~~ state employment ~~[service]~~ services in accordance with  
201 Section [35A-3-115](#);

202           (5) provide for the compilation of necessary or desirable information, statistics, and  
203 reports;

204           (6) perform other duties and functions required by law;

205           (7) monitor the application of eligibility policy;

206           (8) develop personnel training programs for ~~[more]~~ effective and efficient operation of  
207 ~~[aH]~~ the programs [under the administration of] administered by the [division] department;

208           (9) provide refugee resettlement services in accordance with Section [35A-3-116](#);

209           (10) provide child care assistance for children in accordance with Part 2, Office of  
210 Child Care; and

211           (11) provide services ~~[and support]~~ that enable ~~[clients]~~ an applicant or recipient to  
212 qualify for affordable housing in cooperation with:

213           (a) the Utah Housing Corporation;

- 214 (b) the Housing and Community Development Division; and
- 215 (c) local housing authorities.

216 Section 4. Section **35A-3-103.5** is amended to read:

217 **35A-3-103.5. Employment and the provision of services for the disabled.**

218 (1) As used in this section, "recipient" means an individual who:

- 219 (a) has a disability;
- 220 (b) suffers from a mental illness; or
- 221 (c) is undergoing treatment for a substance abuse problem.

222 (2) [~~When~~] Subject to funds made available for this purpose and subject to federal and  
223 state law, when providing services to a recipient in the programs provided under this chapter,  
224 the department shall[~~, within funds appropriated by the Legislature and in accordance with the~~  
225 ~~requirements of federal and state law and memorandums of understanding between the~~  
226 ~~department and other state entities that provide services to a recipient,]~~ give priority to  
227 providing services that assist an eligible recipient in obtaining and retaining meaningful and  
228 gainful employment that enables the recipient to earn sufficient income to:

- 229 (a) purchase goods and services;
- 230 (b) establish self-sufficiency; and
- 231 (c) exercise economic control of the recipient's life.

232 (3) The department shall develop a written plan to implement the policy described in  
233 Subsection (2) that includes:

- 234 (a) assessing the strengths and needs of a recipient;
- 235 (b) customizing strength-based approaches to obtaining employment;
- 236 (c) expecting, encouraging, providing, and rewarding employment:
- 237 (i) integrated employment in the workplace at competitive wages and benefits; and
- 238 (ii) self-employment;
- 239 (d) developing partnerships with potential employers;
- 240 (e) maximizing appropriate employment training opportunities;
- 241 (f) coordinating services with other government agencies and community resources;
- 242 (g) to the extent possible, eliminating practices and policies that interfere with the  
243 policy described in Subsection (2); and

- 244 (h) arranging sub-minimum wage work or volunteer work for an eligible recipient



245 when employment at market rates cannot be obtained.

246 (4) The department shall, on an annual basis:

247 (a) set goals to implement the policy described in Subsection (2) and the plan described  
248 in Subsection (3);

249 (b) determine whether the goals for the previous year have been met; and

250 (c) modify the plan described in Subsection (3) as needed.

251 Section 5. Section **35A-3-104** is amended to read:

252 **35A-3-104. Contracts for administration and provision of public assistance.**

253 The [~~division, in consultation with the~~] department[;] may contract with other public or  
254 private agencies to assist in the administration and provision of public assistance.

255 Section 6. Section **35A-3-105** is amended to read:

256 **35A-3-105. Determination of eligibility and responsibility -- Information from  
257 State Tax Commission.**

258 (1) The [~~division~~] department may have access to relevant information contained in the  
259 income tax returns of [~~a client, applicant, or~~] an applicant, a recipient, or a person who has a  
260 duty to support [a client] an applicant or recipient, in determining:

261 (a) eligibility for public assistance;

262 (b) payment responsibilities for institutional care; or

263 (c) any other administrative purpose consistent with this chapter.

264 (2) The information requested by the [~~division~~] department shall be:

265 (a) provided by the State Tax Commission on forms furnished by the [~~division~~]  
266 department; and

267 (b) treated by the department as a private record under Title 63G, Chapter 2,  
268 Government Records Access and Management Act[; ~~by the division~~].

269 Section 7. Section **35A-3-106** is amended to read:

270 **35A-3-106. Residency requirements.**

271 [~~To be~~] (1) An applicant is only eligible for public assistance under this chapter[; ~~an~~] if  
272 the applicant [shall be] is living in Utah voluntarily with the intention of making [this] the state  
273 the applicant's place of residence[; ~~and not~~].

274 (2) An applicant is not eligible for public assistance under this chapter if the applicant  
275 is living in Utah for a temporary purpose.

276 Section 8. Section 35A-3-108 is amended to read:

277 **35A-3-108. Assignment of support.**

278 (1) (a) ~~[The division shall obtain]~~ An applicant shall provide an assignment of support  
279 ~~[from each applicant or client]~~ to the department regardless of whether the payment is court  
280 ordered.

281 (b) Upon the receipt of public assistance, any right of the recipient to receive support  
282 from another person passes to the ~~[state,]~~ department, including a right to support on behalf of  
283 any family member for whom the recipient is applying for or receiving assistance, even if the  
284 ~~[client]~~ recipient has not executed and delivered an assignment of support to the ~~[division]~~  
285 department as required by Subsection (1)(a).

286 ~~[(c) The right to support described in Subsection (1)(b) includes a right to support in~~  
287 ~~the applicant's or client's own behalf or in behalf of any family member for whom the applicant~~  
288 ~~or client is applying for or receiving assistance.]~~

289 (2) An assignment of support, or a ~~[passing of rights under Subsection (1)(b)]~~ right to  
290 receive support passed to the department, includes payments ordered, decreed, or adjudged by  
291 ~~[any]~~ a court within this state, ~~[any other]~~ another state, or a territory of the United States and is  
292 not in lieu of, and does not supersede or alter, any other court order, decree, or judgment.

293 (3) When an assignment of support is executed or the right to support passes to the  
294 department under ~~[Subsection (1)(b), the applicant or client]~~ this section, the recipient is  
295 eligible to regular monthly assistance and the support paid to the ~~[division]~~ department is a  
296 refund.

297 (4) All ~~[sums]~~ money refunded under this section shall be deposited into the General  
298 Fund, except any amount which is required to be credited to the federal government~~[, shall be~~  
299 ~~deposited into the General Fund].~~

300 (5) ~~[On]~~ Except for support already received by the department, on and after the date a  
301 family stops receiving cash assistance, an assignment of support under [Subsection (1)] this  
302 section does not apply to ~~[any]~~ support that accrued before the family received ~~[such]~~ the  
303 assistance ~~[if the department has not collected the support by the date the family stops~~  
304 ~~receiving cash assistance, if the assignment is executed on or after October 1, 1998].~~

305 (6) The department shall distribute ~~[arrearages]~~ overdue or unpaid amounts to  
306 ~~[families]~~ a recipient in accordance with the requirements of the Social Security Act, 42 U.S.C.

307 Sec. 657.

308 (7) ~~[The total amount of]~~ When an assignment of support includes child support, the  
 309 department may not collect more child support ~~[assigned to the department and collected]~~  
 310 payments under this section ~~[may not exceed]~~ than the total amount of cash assistance  
 311 ~~[received by the recipient]~~ provided to the recipient.

312 Section 9. Section **35A-3-109** is amended to read:

313 **35A-3-109. Assistance provided to guardian or other caretaker -- Periodic review.**

314 (1) ~~[When it appears necessary or advisable,]~~ At the discretion of the department, the  
 315 department may pay the public assistance ~~[may be paid]~~ to the legal guardian of ~~[an applicant~~  
 316 ~~or client]~~ a recipient.

317 (2) The ~~[division]~~ department may only provide cash assistance on behalf of an eligible  
 318 recipient under Part 3, Family Employment Program, ~~[on behalf of an eligible client,]~~ to  
 319 another individual interested in or concerned with the welfare of the ~~[client only when]~~  
 320 recipient if:

321 (a) by reason of the ~~[client's]~~ recipient's physical or mental condition, the ~~[client]~~  
 322 recipient is unable to manage funds;

323 (b) ~~[when]~~ the provision of cash assistance directly to the ~~[client]~~ recipient would be  
 324 contrary to the ~~[client's]~~ recipient's welfare; or

325 (c) ~~[when]~~ the ~~[division]~~ department is ~~[so directed by]~~ acting according to federal  
 326 requirements.

327 (3) The ~~[division]~~ department shall:

328 (a) undertake or contract with other state agencies to make special efforts to protect the  
 329 welfare of ~~[clients]~~ a recipient and improve ~~[their]~~ the recipient's capacity for self-care[-  
 330 Periodic]; and

331 (b) periodically review ~~[of a client's]~~ a recipient's condition ~~[is required. When~~  
 332 ~~conditions change,]~~ to determine whether, in the best interest of the recipient:

333 (i) cash assistance that is provided to an individual other than the ~~[client shall]~~ recipient  
 334 should be discontinued ~~[or, when advisable,]; or~~

335 (ii) a legal guardian ~~[shall]~~ should be appointed~~[-, whichever action best serves the~~  
 336 ~~interests and welfare of the client].~~

337 Section 10. Section **35A-3-110** is amended to read:

338 **35A-3-110. Third party obligation -- Interest.**

339 ~~[Whenever the division]~~ (1) If the department expends public assistance on behalf of [a  
 340 ~~client]~~ a recipient for services or supplies, for which another person is obligated to reimburse  
 341 the ~~[division, that other]~~ department, the department shall notify the person of the obligation to  
 342 make the reimbursement.

343 (2) Upon receiving notification under Subsection (1), the notified person shall make  
 344 [such] the reimbursement within 60 days [of notification by the division. If reimbursement is  
 345 not made within that period, and no extension of time is granted by the division, interest shall  
 346 accrue on the].

347 (3) After the time period established under Subsection (2), the department shall charge  
 348 interest on any unpaid balance at the rate of 8% per annum unless an extension is granted by  
 349 the department.

350 Section 11. Section **35A-3-111** is amended to read:

351 **35A-3-111. Collection of overpayments.**

352 (1) The department ~~[is responsible for the recovery of]~~ shall recover overpayments  
 353 [required] as described in Section 35A-3-603.

354 (2) ~~[Excess property liens required in the various programs]~~ An excess property lien  
 355 that is required by a department program, but is not transferred to the federal government [shall  
 356 remain], remains a condition of eligibility in public assistance programs.

357 (3) A ~~[client can]~~ recipient may appeal an initial department determination that there  
 358 has been an overpayment under rules made by the department in accordance with Title 63G,  
 359 Chapter 3, Utah Administrative Rulemaking Act.

360 Section 12. Section **35A-3-112** is amended to read:

361 **35A-3-112. Assistance not assignable -- Exemption from execution, garnishment,**  
 362 **bankruptcy, or insolvency proceedings.**

363 (1) Public assistance provided under this chapter is not assignable[;] at law or in  
 364 equity[; and none].

365 (2) None of the money paid or payable under this chapter is subject to:

366 (a) execution, levy, attachment, garnishment, or other legal process[;]; or [to]

367 (b) the operation of [any] bankruptcy or insolvency law.

368 Section 13. Section **35A-3-113** is amended to read:

369           **35A-3-113. Prohibition of charges or fees for representing applicants or**  
 370 **recipients.**

371           ~~[A] Except for criminal proceedings,~~ a person may not ~~[make any]~~ charge or receive  
 372 ~~[any] a~~ fee for representing an applicant ~~[or client in any]~~ or recipient in a proceeding under  
 373 this chapter, ~~[except criminal proceedings,]~~ or with respect to ~~[any]~~ an application, ~~[whether~~  
 374 ~~the fee or charge is to be paid by the applicant, client, or any other person, if that fee is in~~  
 375 ~~excess of an amount]~~ in an amount greater than the amount determined by the court or body  
 376 before whom an applicant or ~~[client]~~ recipient has been represented regardless of who pays the  
 377 charge or fee.

378           Section 14. Section **35A-3-115** is amended to read:

379           **35A-3-115. Public employment offices -- Agreements with other authorities --**  
 380 **Federal system accepted -- Appropriation.**

381           (1) (a) The ~~[division]~~ department shall establish and maintain ~~[free]~~ public  
 382 employment offices in a manner and in places as ~~[may be]~~ necessary for the proper  
 383 administration of this chapter and for the purposes of performing the functions ~~[as are within~~  
 384 ~~the purview of the Act of Congress entitled "An act to provide for the establishment of a~~  
 385 ~~national employment system and for co-operation with the states in the promotion of such~~  
 386 ~~system, and for other purposes," approved June 6, 1933, 48 Stat. 113; U. S. Code, Title 29,~~  
 387 ~~Section 49 (c) as amended, hereinafter referred to as the "Wagner-Peyser Act."]~~ described in  
 388 the Wagner-Peyser Act, 29 U.S.C. Sec. 49, as amended.

389           (b) The ~~[division]~~ department shall consult with the directors of economic service areas  
 390 when determining the location of public employment offices.

391           (c) The ~~[division]~~ department may locate a public employment office in connection  
 392 with ~~[or as an integrated part of]~~ an employment center established under Section [35A-2-203](#).

393           (2) (a) The provisions of the Wagner-Peyser Act, 29 U.S.C. 49-49c, 49g, 49h, 49k, and  
 394 557, are accepted by ~~[this]~~ the state.

395           (b) The department is designated and constitutes the agency of ~~[this]~~ the state for the  
 396 purposes of the ~~[act]~~ Wagner-Peyser Act, 29 U.S.C. Sec. 49, as amended.

397           (3) (a) For the purpose of establishing and maintaining ~~[free]~~ public employment  
 398 offices, and promoting the use of ~~[their facilities]~~ the offices, the ~~[division]~~ department may  
 399 enter into agreements with ~~[the railroad retirement board, or any other]~~ any agency or

400 department of the United States, [~~or of this or any other state, charged with the administration~~  
401 ~~of any law whose purposes are reasonably related to the purposes of this chapter]~~ this state, or  
402 another state.

403 (b) As a part of an agreement entered into under Subsection (3)(a), the [~~division~~]  
404 department may accept money, services, or [~~quarters~~] facilities as a contribution to the  
405 maintenance of the state system of public employment offices or as reimbursement for services  
406 performed.

407 Section 15. Section **35A-3-201** is amended to read:

408 **Part 2. Office of Child Care**

409 **35A-3-201. Definitions.**

410 As used in this part:

411 (1) "Child care" means the child care services [~~referred to~~] defined in [~~Subsection~~]

412 Section 35A-3-102[(4) provided] for:

413 (a) children [~~through~~] age 12 or younger; and

414 (b) children with disabilities [~~through~~] age 18 or younger.

415 (2) "Child care provider association" means an association:

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

418 (b) is affiliated with a national child care provider association.

419 (3) "Committee" means the Child Care Advisory Committee created in Section

420 35A-3-205.

421 (4) "Director" means the director of the Office of Child Care.

422 (5) "Office" means the Office of Child Care created in Section 35A-3-202.

423 Section 16. Section **35A-3-202** is amended to read:

424 **35A-3-202. Creation.**

425 (1) There is created within the Department of Workforce Services an Office of Child  
426 Care.

427 (2) The office shall be administered by a director who shall be appointed by the  
428 executive director and who may be removed from that position at the will of the executive  
429 director.

430 Section 17. Section **35A-3-203** is amended to read:

431 **35A-3-203. Functions and duties of office -- Annual report.**

432 The office shall:

433 (1) assess critical child care needs throughout the state on an ongoing basis and focus  
434 its activities on helping to meet the most critical needs;435 (2) provide child care subsidy services for income-eligible children through age 12 and  
436 for income-eligible children with disabilities through age 18;

437 (3) provide information:

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

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

440 (4) coordinate services for quality child care training and child care resource and  
441 referral core services;

442 (5) apply for, accept, or expend gifts or donations from public or private sources;

443 (6) provide administrative support services to the committee;

444 (7) work collaboratively with the following for the delivery of quality child care and  
445 early childhood programs, and school age programs throughout the state:

446 (a) the State Board of Education; and

447 (b) the Department of Health;

448 (8) research child care programs and public policy [~~that will~~] to improve the quality  
449 and accessibility [~~and that will further the purposes of the office and~~] of child care, early  
450 childhood programs, and school age programs in the state;451 (9) provide planning and technical assistance for the development and implementation  
452 of programs in communities that lack child care, early childhood programs, and school age  
453 programs;454 (10) provide organizational support for the establishment of nonprofit organizations  
455 approved by the Child Care Advisory Committee, created in Section [35A-3-205](#); and456 (11) coordinate with the department to include in the annual written report described in  
457 Section [35A-1-109](#) information regarding the status of child care in Utah.458 Section 18. Section **35A-3-204** is amended to read:459 **35A-3-204. Duties of director.**

460 The director shall:

461 (1) enforce rules made by the department regulating the use of services provided by the

462 office;

463 (2) supervise office staff and prepare an annual work plan; and

464 (3) apply for, accept, and expend [~~gifts or~~] donations from public or private sources to  
465 assist the office in fulfilling its statutory obligations.

466 Section 19. Section **35A-3-205** is amended to read:

467 **35A-3-205. Creation of committee.**

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

469 (2) The committee shall counsel and advise the office in fulfilling its statutory  
470 obligations [~~to include~~], including:

471 (a) [~~a review of and recommendations~~] reviewing and providing recommendations on  
472 the office's annual budget;

473 (b) providing recommendations on how the office might best respond to child care  
474 needs throughout the state; and

475 (c) providing recommendations on the use of [~~new~~] money in the Child Care Fund and  
476 other money that comes into the office[~~; including those for the Child Care Fund~~].

477 (3) The committee is composed of the following members, with special attention given  
478 to insure diversity and representation from both urban and rural groups:

479 (a) one expert in early childhood development;

480 (b) one child care provider who operates a center;

481 (c) one child care provider who operates a family child care business;

482 (d) one parent who is representative of households receiving a child care subsidy from  
483 the office;

484 (e) one representative from the public at-large;

485 (f) one representative of the State Office of Education;

486 (g) one representative of the Department of Health;

487 (h) one representative of the Department of Human Services;

488 (i) two representatives from the corporate community, one who is a recent "Family  
489 Friendly" award winner and who received the award because of efforts [~~in the~~] related to child  
490 care [~~arena~~];

491 (j) two representatives from the small business community;

492 (k) one representative from child care advocacy groups;



- 493 (l) one representative of children with disabilities;
- 494 (m) one representative from the state Head Start Association appointed by the  
495 association;
- 496 (n) one representative from each child care provider association; and
- 497 (o) one representative of a child care resource and referral center appointed by the  
498 organization representing child care resource and referral agencies.
- 499 (4) (a) The executive director shall appoint the members designated in Subsections  
500 (3)(a) through (e) and (j) through (n).
- 501 (b) The head of the respective departments shall appoint the members referred to in  
502 Subsections (3)(f) through (i).
- 503 (c) Each child care provider association shall appoint its respective member referred to  
504 in Subsection (3)(o).
- 505 (5) (a) Except as required by Subsection (5)(b), as terms of current committee members  
506 expire, the appointing authority shall appoint each new member or reappointed member to a  
507 four-year term.
- 508 (b) Notwithstanding the requirements of Subsection (5)(a), the appointing authority  
509 shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the  
510 terms of committee members are staggered so that approximately half of the committee is  
511 appointed every two years.
- 512 (6) When a vacancy occurs in the membership for any reason, including missing three  
513 consecutive meetings where the member has not been excused by the chair prior to or during  
514 the meeting, the replacement shall be appointed for the unexpired term.
- 515 (7) A majority of the members constitutes a quorum for the transaction of business.
- 516 (8) (a) The executive director shall select a chair from the committee membership.
- 517 (b) A chair may serve no more than two one-year terms as chair.
- 518 (9) A member may not receive compensation or benefits for the member's service, but  
519 may receive per diem and travel expenses [~~in accordance with~~] as allowed in:
- 520 (a) Section 63A-3-106;
- 521 (b) Section 63A-3-107; and
- 522 (c) rules made by the Division of Finance [~~pursuant~~] according to Sections 63A-3-106  
523 and 63A-3-107.

524 Section 20. Section 35A-3-206 is amended to read:

525 **35A-3-206. Child Care Fund -- Use of money -- Committee and director duties --**

526 **Restrictions.**

527 (1) There is created an expendable special revenue fund known as the "Child Care  
528 Fund."

529 (2) The director of the office shall administer the fund under the direction of the  
530 committee.

531 (3) (a) The office may form nonprofit corporations or foundations controlled by the  
532 director of the office and the committee to aid and assist the office in attaining its charitable,  
533 research, and educational objectives.

534 (b) The nonprofit corporations or foundations may receive and administer legislative  
535 appropriations, government grants, contracts, and private gifts to carry out their public  
536 purposes.

537 (c) Money collected by ~~[the]~~ a nonprofit corporation or foundation described in this  
538 Subsection (3) may be deposited in the Child Care Fund.

539 (d) A nonprofit foundation controlled by the director of the office and the committee  
540 shall submit to the Division of Finance, within 60 days after the close of the foundation's fiscal  
541 year, a financial report summarizing the foundation's financial position and results of  
542 operations of the most recent fiscal year.

543 (4) (a) ~~[There shall]~~ Money may be deposited into the fund ~~[money]~~ from ~~[numerous]~~ a  
544 variety of sources, including grants, private foundations, and individual donors.

545 (b) The fund shall be used to accept money designated for child care initiatives  
546 improving that will improve the quality, affordability, or accessibility of child care.

547 (5) The money in the fund that is not restricted to a specific use under federal law or by  
548 donors may not be expended without approval of the committee.

549 (6) The state treasurer shall invest the money in the fund under Title 51, Chapter 7,  
550 State Money Management Act, except that all interest or other earnings derived from money in  
551 the fund ~~[money]~~ shall be deposited in the fund.

552 (7) The money in the fund may not be used for administrative expenses of the office  
553 normally provided for by legislative appropriation.

554 (8) The committee shall:

- 555 (a) advise the director of the office on child care needs in the state and on relevant  
556 operational aspects of any grant, loan, or revenue collection program established under this  
557 part;
- 558 (b) recommend specific child care projects to the director of the office;
- 559 (c) recommend policy and procedures for administering the fund;
- 560 (d) make recommendations on grants, loans, or contracts from the fund for any of the  
561 child care activities authorized under this part;
- 562 (e) establish the criteria by which loans and grants will be made;
- 563 (f) determine the order in which approved child care projects will be funded;
- 564 (g) make recommendations regarding the distribution of money from the fund in  
565 accordance with the procedures, conditions, and restrictions placed ~~upon~~ on the money by the  
566 donors; and
- 567 (h) have joint responsibility with the office to solicit public and private funding for the  
568 fund.
- 569 (9) Fund money shall be used for ~~any of~~ the following activities:
- 570 (a) training of child care providers;
- 571 (b) scholarships and grants for child care providers' professional development;
- 572 (c) child care public awareness and consumer education services;
- 573 (d) child care provider recruitment;
- 574 (e) Office of Child Care sponsored activities;
- 575 (f) matching money for obtaining grants; or
- 576 (g) other activities that will assist in the improvement of child care quality,  
577 affordability, or accessibility.
- 578 (10) The director of the office, with the consent of the committee and the executive  
579 director, may grant, lend, or contract ~~fund~~ money from the fund for child care purposes to:
- 580 (a) local governments;
- 581 (b) nonprofit community, charitable, or neighborhood-based organizations;
- 582 (c) regional or statewide nonprofit organizations; or
- 583 (d) child care providers.
- 584 (11) Preference may be given, but awards may not be limited to ~~applicants for fund~~  
585 money, entities that apply for money from the fund and that demonstrate ~~any of~~ the

586 following:

- 587 (a) programmatic or financial need;  
 588 (b) diversity of ~~[clientele]~~ beneficiaries or geographic location; ~~[and]~~ or  
 589 (c) coordination with or enhancement of existing services.

590 (12) The executive director or the executive director's designee shall monitor on an  
 591 annual basis the activities of the ~~[recipients of]~~ entities that receive grants, loans, or contracts  
 592 issued from the fund ~~[on an annual basis]~~ to ensure compliance with the terms and conditions  
 593 imposed on the ~~[recipient]~~ entities by the fund.

594 (13) ~~[The entities receiving grants, loans, or contracts]~~ Each entity receiving a grant,  
 595 loan, or contract shall provide the director of the office with an annual accounting of how the  
 596 money ~~[they]~~ the entity received from the fund has been spent.

597 (14) (a) The director of the office shall make an annual report to the committee  
 598 regarding the status of the fund and the programs and services funded by the fund.

599 (b) The report shall be included in the annual written report described in Section  
 600 [35A-1-109](#).

601 Section 21. Section **35A-3-207** is amended to read:

602 **35A-3-207. Community-based prevention programs.**

603 (1) As used in this section:

604 (a) "political subdivision" means a town, city, county, or school district;

605 (b) "qualified sponsor" means a:

606 (i) political subdivision;

607 (ii) community nonprofit, religious, or charitable organization;

608 (iii) regional or statewide nonprofit organization; or

609 (iv) private for profit or nonprofit child care organization with experience and expertise  
 610 in operating community-based prevention programs described in Subsection (2) and that are  
 611 licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities.

612 (2) Within appropriations from the Legislature, the department may provide grants to  
 613 qualified sponsors for community-based prevention programs that:

614 (a) support parents in their primary care giving role to children;

615 (b) provide positive alternatives to idleness for school-aged children when school is not  
 616 in session; and

617 (c) support other community-based prevention programs.

618 (3) In awarding [~~grants~~] a grant under this section, the department shall:

619 (a) request proposals for funding from potential qualified sponsors; and

620 [~~(b) comply with the requirements of Subsection (4).]~~

621 [~~(4) In awarding these grants, the department shall]~~

622 (b) ensure that each dollar of funds from political subdivisions or private funds is  
623 matched for each dollar received from the department. [~~The]~~

624 (4) In meeting the matching requirements under Subsection (3), the department may  
625 consider the value of in-kind contributions [such as], including materials, supplies, paid labor,  
626 volunteer labor, and the incremental increase in building maintenance and operation expenses  
627 incurred attributable to the prevention program [may be considered in meeting this match  
628 requirement].

629 (5) In awarding a grant under this section, the department shall consider:

630 (a) the cash portion of the proposed match in relation to the financial resources of the  
631 qualified sponsor; and

632 (b) the extent to which the qualified sponsor has:

633 (i) consulted and collaborated with parents of children who are likely to participate,  
634 local parent-teacher organizations, and other parent organizations;

635 (ii) identified at-risk factors that will be [~~ameliorated~~] addressed through the proposed  
636 prevention program;

637 (iii) identified protective factors and developmental assets that will be supported and  
638 strengthened through the proposed prevention program; and

639 (iv) encouraged the financial support of parents and the organizations [~~specified~~]  
640 described in Subsection (5)(b)(i).

641 (6) [~~At~~] The department shall award at least [50 percent] 50% of the grants [~~awarded~~]  
642 under this section [shall be awarded] to organizations described in Subsection (1)(b)(iv).

643 (7) [~~No federal funds shall be used~~] The department may not allow the use of federal  
644 funds as matching funds under this act.

645 Section 22. Section **35A-3-301** is amended to read:

646 **Part 3. Family Employment Program**

647 **35A-3-301. Purpose -- Legislative findings.**

648 (1) The Legislature finds that:

649 (a) ~~[it is in the public interest to fundamentally alter the state's cash assistance program~~  
650 ~~for needy families with children; (b)]~~ employment improves the quality of life for parents,  
651 children, and individuals by increasing family income, developing job skills, and improving  
652 self-esteem; and

653 ~~[(c)]~~ (b) the purpose of the cash assistance provided under this part is to assist a parent  
654 ~~[client]~~ recipient to obtain employment that is sufficient to sustain a family, to ensure the  
655 dignity of those receiving assistance, and to strengthen families.

656 (2) The Legislature recognizes that even with assistance, some ~~[clients]~~ recipients may  
657 be unable to attain complete self-sufficiency.

658 Section 23. Section ~~35A-3-302~~ is amended to read:

659 **35A-3-302. Eligibility requirements.**

660 (1) ~~[The program of]~~ There is created the "Family Employment Program" to provide  
661 cash assistance ~~[provided]~~ under this part ~~[is known as the Family Employment Program].~~

662 (2) (a) The ~~[division]~~ department shall submit a state plan to the Secretary of the  
663 United States Department of Health and Human Services to obtain ~~[federal]~~ funding under the  
664 federal Temporary Assistance for Needy Families Block Grant.

665 (b) The ~~[division]~~ department shall make the state plan consistent with this part and  
666 federal law.

667 (c) If a discrepancy ~~[arises]~~ exists between a provision of the state plan and this part,  
668 this part supersedes the provision in the state plan.

669 (3) The services ~~[and supports]~~ provided under this part are for both one-parent and  
670 two-parent families.

671 (4) To be eligible for cash assistance under this part, a family shall:

672 (a) have at least one minor dependent child; or

673 (b) have a parent who is in the third trimester of a pregnancy.

674 (5) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
675 Act, the department shall make rules for eligibility and the amount of cash assistance a family  
676 is eligible to receive under this part based on:

677 (a) family size;

678 (b) family income;

679 (c) income disregards;  
680 (d) other relevant factors; and  
681 (e) if the applicant has met the eligibility requirements under Subsections (5)(a)  
682 through (d), the assessment and other requirements described in Sections 35A-3-304 and  
683 35A-3-304.5.

684 (6) ~~[The division shall disregard]~~ To determine eligibility, the department may not  
685 consider money on deposit in an Individual Development Account established under Section  
686 35A-3-312 ~~[in determining eligibility]~~.

687 (7) The department shall provide for an appeal of a determination of eligibility in  
688 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

689 (8) (a) The department shall make a report to either the Legislature's Executive  
690 Appropriations Committee or the Social Services Appropriations Subcommittee on any  
691 proposed rule change made under Subsection (5) that would modify the:

692 (i) eligibility requirements for cash assistance; or  
693 (ii) ~~[the]~~ amount of cash assistance a family ~~[would be]~~ is eligible to receive.

694 (b) The department shall submit the report under Subsection (8)(a) prior to  
695 implementing the proposed rule change ~~[and the]~~.

696 (c) The report under Subsection (8)(a) shall include:

697 (i) a description of the department's current practice or policy that it is proposing to  
698 change;

699 (ii) an explanation of why the department is proposing the change;

700 (iii) the effect of an increase or decrease in cash benefits on families; and

701 (iv) the fiscal impact of the proposed change.

702 ~~[(c)]~~ (d) The department may use the Notice of Proposed Rule Amendment form filed  
703 with the Division of Administrative Rules as its report if the notice contains the information  
704 required under Subsection (8)~~[(b)]~~(c).

705 (9) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
706 Act, the department shall make rules to ensure that:

707 (a) a recipient of assistance from the Family Employment Program:

708 (i) has adequate access to the assistance;

709 (ii) has the ability to use and withdraw assistance with minimal fees or surcharges,

710 including the opportunity to obtain assistance with no fees or surcharges;

711 (iii) is provided information regarding fees and surcharges that may apply to assistance  
712 accessed through an electronic fund transaction; and

713 (iv) is provided information explaining the restrictions on accessing assistance  
714 described in Subsection (10); and

715 (b) information regarding fees and surcharges that may apply when accessing  
716 assistance from the Family Employment Program through an electronic fund transaction is  
717 available to the public.

718 (10) An individual receiving assistance under this section may not access the assistance  
719 through an electronic benefit transfer, including through an automated teller machine or  
720 point-of-sale device, in an establishment in the state that:

721 (a) exclusively or primarily sells intoxicating liquor;

722 (b) allows gambling or gaming; or

723 (c) provides adult-oriented entertainment where performers disrobe or perform  
724 unclothed.

725 (11) An establishment [~~in the state~~] described under Subsection (10)(a), (b), or (c) may  
726 not allow an individual to access the assistance [~~described in~~] under this section on the  
727 establishment's premises through an electronic benefit transfer, including through an automated  
728 teller machine or point-of-sale device[~~; if the establishment: (a) exclusively or primarily sells  
729 intoxicating liquor; (b) allows gambling or gaming; or (c) provides adult-oriented  
730 entertainment where performers disrobe or perform unclothed~~].

731 (12) In accordance with federal requirements[~~;~~] and in accordance with Title 63G,  
732 Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to prevent  
733 individuals from accessing assistance in a manner prohibited by Subsections (10) and (11),  
734 which rules may include enforcement provisions that impose sanctions that temporarily or  
735 permanently disqualify an individual from receiving assistance.

736 [~~(13) When exercising rulemaking authority under this part, the department shall  
737 comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

738 Section 24. Section **35A-3-303** is amended to read:

739 **35A-3-303. Diversion.**

740 (1) (a) When an applicant applies for cash assistance under this part, the [~~division~~]



741 department shall assess whether the applicant should be [~~diverted from receiving extended cash~~  
742 ~~assistance.~~] helped by:

743 (i) diversion to avoid extended cash assistance; or

744 (ii) normal cash assistance under this part.

745 (b) In completing the assessment[~~, the division shall~~] under this section, the department  
746 may consider the following:

747 (i) the applicant's employment history;

748 (ii) the likelihood of the applicant obtaining immediate full-time employment;

749 (iii) the applicant's general prospect for obtaining full-time employment;

750 (iv) the applicant's need for cash assistance to pay for housing or substantial and  
751 unforeseen expenses or work-related expenses;

752 (v) housing stability; and

753 (vi) the adequacy of the applicant's child care arrangements, if applicable.

754 [~~(b) A finding by the division with regard to eligibility for diversion shall primarily~~  
755 ~~consider whether, but for the diversion assistance received under this section, the applicant~~  
756 ~~would receive extended cash assistance.~~]

757 (2) If the [~~division~~] department determines that the applicant [~~is eligible for~~] should be  
758 helped by diversion [~~assistance~~] and the applicant agrees with this determination, the [~~division~~]  
759 department shall provide a single payment of cash assistance up to three times the maximum  
760 monthly amount of cash assistance that the applicant would be otherwise qualified to receive  
761 based on household size.

762 (3) [~~When~~] If the department determines that diversion is not appropriate, an applicant  
763 may receive cash assistance as [~~otherwise~~] provided in this part.

764 Section 25. Section **35A-3-304** is amended to read:

765 **35A-3-304. Assessment -- Participation requirements and limitations --**

766 **Employment plan -- Mentors.**

767 (1) (a) Within [~~20~~] 30 business days of the date of enrollment, the department shall  
768 provide that a parent [~~client shall~~] recipient:

769 (i) [~~be~~] is assigned an employment counselor; and

770 (ii) [~~complete~~] completes an assessment provided by the [~~division~~] department  
771 regarding the parent [~~client's~~] recipient's:

772 ~~[(A) family circumstances;]~~  
773 ~~[(B) education;]~~  
774 ~~[(C) work history;]~~  
775 ~~[(D) skills;]~~  
776 ~~[(E) ability to become self-sufficient; and]~~

777 (A) prior work experience;  
778 (B) ability to become employable;  
779 (C) skills; and

780 ~~[(F)]~~ (D) likelihood of a substance use disorder involving the misuse of a controlled  
781 substance.

782 (b) The assessment provided under Subsection (1)(a)(ii) shall include:

783 (i) a survey to be completed by the parent ~~[client]~~ recipient with the assistance of the  
784 ~~[division]~~ department; and

785 (ii) a written questionnaire to be completed by the parent ~~[client]~~ recipient designed to  
786 accurately determine the likelihood of the parent ~~[client]~~ recipient having a substance use  
787 disorder involving the misuse of a controlled substance.

788 (c) In addition to the other requirements of this part, if the results of the written  
789 questionnaire taken by a parent ~~[client]~~ recipient indicate a reasonable likelihood that the parent  
790 ~~[client]~~ recipient has a substance use disorder involving the misuse of a controlled substance,  
791 the parent ~~[client]~~ recipient may only receive cash assistance provided under this part in  
792 accordance with the additional requirements of Section [35A-3-304.5](#).

793 (2) (a) Within 15 business days of a parent ~~[client]~~ recipient completing an assessment,  
794 the ~~[division]~~ department and the parent ~~[client]~~ recipient shall enter into an employment plan.

795 (b) The employment plan shall have a target date for entry into employment.

796 (c) The ~~[division]~~ department shall provide a copy of the employment plan to the  
797 parent ~~[client]~~ recipient.

798 (d) ~~[As to]~~ For the parent ~~[client, the]~~ recipient, the employment plan may include:

799 (i) job searching requirements;

800 (ii) if the parent ~~[client]~~ recipient does not have a high school diploma, participation in  
801 an educational program to obtain a high school diploma, or its equivalent;

802 (iii) education or training necessary to obtain employment;

- 803 (iv) a combination of work and education or training; and
- 804 (v) assisting the Office of Recovery Services in good faith to:
- 805 (A) establish the paternity of a minor child; and
- 806 (B) establish or enforce a child support order.
- 807 (e) If the parent [~~client~~] recipient tests positive for the unlawful use of a controlled
- 808 substance after taking a drug test under Section 35A-3-304.5, the employment plan shall
- 809 include an agreement by the parent [~~client~~] recipient to:
- 810 (i) participate in treatment for a substance use disorder; and
- 811 (ii) meet the other requirements of Section 35A-3-304.5.
- 812 (f) [~~As to the division, the~~] The department's responsibilities under the employment
- 813 plan may include:
- 814 (i) providing cash and other types of public and employment assistance, including child
- 815 care;
- 816 (ii) assisting the parent [~~client~~] recipient to obtain education or training necessary for
- 817 employment;
- 818 (iii) assisting the parent [~~client~~] recipient to set up and follow a household budget; and
- 819 (iv) assisting the parent [~~client~~] recipient to obtain employment.
- 820 (g) The [~~division~~] department may amend the employment plan to reflect new
- 821 information or changed circumstances.
- 822 (h) If immediate employment is an activity [~~contained~~] in the employment plan, the
- 823 parent [~~client~~] recipient shall:
- 824 (i) promptly commence a search for employment for a specified number of hours each
- 825 week [~~for employment~~]; and
- 826 (ii) regularly submit a report to the [~~division~~] department on:
- 827 (A) how time was spent in search for a job;
- 828 (B) the number of job applications completed;
- 829 (C) the interviews attended;
- 830 (D) the offers of employment extended; and
- 831 (E) other related information required by the [~~division~~] department.
- 832 (i) (i) If full-time education or training to secure employment is an activity [~~contained~~]
- 833 in an employment plan, the parent [~~client~~] recipient shall promptly undertake a full-time

834 education or training program.

835 (ii) The employment plan may describe courses, education or training goals, and  
836 classroom hours.

837 (j) (i) ~~[As a condition of receiving]~~ The department may only provide cash assistance  
838 under this part~~[, a parent client shall agree]~~ if the parent recipient agrees in writing to make a  
839 good faith effort to comply with the parent recipient's employment plan.

840 ~~[(ii) If a parent client consistently fails to show good faith in complying with the~~  
841 ~~employment plan, the division may seek under Subsection (2)(i)(iii) to terminate all or part of~~  
842 ~~the cash assistance services provided under this part.]~~

843 ~~[(iii) The division shall establish a process to reconcile disputes between a client and~~  
844 ~~the division as to whether:]~~

845 (ii) The department shall establish a process to reconcile disputes between a parent  
846 recipient and the department as to whether:

847 (A) the parent ~~[client]~~ recipient has made a good faith effort to comply with the  
848 employment plan; or

849 (B) the ~~[division]~~ department has complied with the employment plan.

850 (iii) If a parent recipient consistently fails to show good faith in complying with the  
851 employment plan, the department may seek to terminate all or part of the cash assistance  
852 services provided under this part.

853 (3) (a) Except as provided in Subsection (3)(b), a parent ~~[client's]~~ recipient's supported  
854 participation in education or training beyond that required to obtain a high school diploma or  
855 its equivalent is limited to the lesser of:

856 (i) 24 months; or

857 (ii) the completion of the education and training requirements of the employment plan.

858 (b) A parent ~~[client]~~ recipient may participate in education or training for up to six  
859 months beyond the 24-month limit of Subsection (3)(a)(i) if:

860 (i) the parent ~~[client]~~ recipient is employed for 80 or more hours ~~[a]~~ per month; ~~[and]~~

861 (ii) the extension is for good cause shown; and

862 (iii) the extension is approved by the director or the director's designee.

863 (c) A parent ~~[client]~~ recipient who receives an extension under Subsection (3)(b)  
864 ~~[remains]~~ is subject to Subsection (4).

865 (4) (a) A parent [~~client~~] recipient with a high school diploma or equivalent who has  
 866 received 24 months of education or training shall participate in full-time work activities as  
 867 defined by rules made by the department in accordance with Title 63G, Chapter 3, Utah  
 868 Administrative Rulemaking Act.

869 (b) The 24 months [~~need not~~] described in Subsection (4)(a) do not have to be  
 870 continuous[~~and the department may define "full-time work activities" by rule~~].

871 (5) [~~As a condition for receiving~~] The department may only provide cash assistance on  
 872 behalf of a minor child under this part[;] if the minor child [~~shall be~~] is:

873 (a) enrolled in and attending school in compliance with Sections 53A-11-101.5 and  
 874 53A-11-101.7; or

875 (b) exempt from school attendance under Section 53A-11-102.

876 (6) This section does not apply to a person who has received diversion assistance under  
 877 Section 35A-3-303.

878 (7) (a) The [~~division shall~~] department may recruit and train volunteers to serve as  
 879 mentors for parent [~~clients~~] recipients.

880 (b) A mentor may advocate on behalf of a parent [~~client~~] recipient and help a parent  
 881 [~~client~~] recipient:

882 (i) develop life skills;

883 (ii) implement an employment plan; or

884 (iii) obtain services and [~~supports~~] support from:

885 (A) the volunteer mentor;

886 (B) the [~~division~~] department; or

887 (C) civic organizations.

888 Section 26. Section 35A-3-304.5 is amended to read:

889 **35A-3-304.5. Drug testing requirements.**

890 (1) If the results of a questionnaire described in Subsection 35A-3-304(1) indicate a  
 891 reasonable likelihood that [~~a parent client~~] an applicant may have a substance use disorder  
 892 involving the misuse of a controlled substance, the [~~division~~] department shall require the  
 893 [~~parent client~~] applicant to take a drug test at the [~~division's~~] department's expense in order to  
 894 continue to receive cash assistance under this part.

895 (2) If [~~a parent client~~] an applicant refuses to take a drug test required under Subsection

896 (1), the department shall terminate cash assistance under this part and the ~~[parent client]~~  
897 applicant may not reapply for cash assistance under this part for:

898 (a) 90 days after a first refusal to take a drug test ~~[within one year]~~; or

899 (b) one year after a second refusal to take a drug test within one year.

900 (3) A drug test given under this section shall be administered with due regard to the  
901 privacy and dignity of the person being tested.

902 (4) Before taking a drug test under this section, ~~[a parent client]~~ an applicant may  
903 advise the person administering the test regarding any prescription or over-the-counter  
904 medication the ~~[parent client]~~ applicant is taking.

905 (5) The result of a drug test given under this section is a private record in accordance  
906 with Section 63G-2-302 and disclosure to a third party is prohibited except as provided under  
907 Title 63G, Chapter 2, Government Records Access and Management Act.

908 (6) If ~~[a parent client]~~ an applicant tests negative for the unlawful use of a controlled  
909 substance after taking a drug test under Subsection (1), the ~~[parent client remains]~~ applicant is  
910 eligible for cash assistance, subject to the other eligibility requirements of this part.

911 (7) If ~~[a parent client]~~ an applicant tests positive for the unlawful use of a controlled  
912 substance after taking a drug test under Subsection (1), the ~~[parent client]~~ applicant:

913 (a) shall be given a list of approved substance use disorder treatment providers that are  
914 available in the area in which the individual resides; and

915 (b) may continue to receive benefits if the ~~[parent client]~~ applicant enters into and  
916 follows the requirements of ~~[an]~~ the applicant's employment plan, including:

917 (i) receiving treatment, at the ~~[division's]~~ department's expense, from an approved  
918 substance use disorder treatment provider for at least 60 days;

919 (ii) testing negative for the unlawful use of a controlled substance:

920 (A) in each subsequent drug test required by ~~[division]~~ department rule during  
921 treatment; and

922 (B) in an additional drug test given at the conclusion of treatment; and

923 (iii) meeting the other requirements of receiving cash assistance under this part.

924 (8) ~~[If a parent client]~~ (a) The department shall terminate cash assistance under this  
925 part, if an applicant:

926 (i) declines to enter into an employment plan required by Subsection (7)~~], or if the~~

927 ~~parent client~~]; or

928 (ii) enters into, but fails to meet, a requirement of an employment plan under  
929 Subsection (7), including if the ~~[parent client]~~ applicant refuses to take a drug test required by  
930 the employment plan or tests positive for the unlawful use of a controlled substance in a drug  
931 test required by the employment plan~~]; the department shall terminate cash assistance under~~  
932 ~~this part and the parent client~~].

933 (b) An applicant whose cash assistance has been terminated under Subsection (8)(a)  
934 may not reapply for cash assistance under this part for:

935 ~~[(a)]~~ (i) except as provided in Subsection (8)(b)(ii), 90 days after the day on which the  
936 department determines, under this Subsection (8), that the ~~[parent client]~~ applicant is no longer  
937 eligible for cash assistance; or

938 ~~[(b)]~~ (ii) one year after the day on which the department determines, under this  
939 Subsection (8), that the ~~[parent client]~~ applicant is no longer eligible for cash assistance, if the  
940 department has previously determined on at least one other occasion in the past year that the  
941 ~~[parent client]~~ applicant is no longer eligible for cash assistance under this Subsection (8).

942 Section 27. Section **35A-3-306** is amended to read:

943 **35A-3-306. Limits on eligibility -- Transitional cash assistance.**

944 (1) ~~[For purposes of]~~ As used in this section, "battered or subjected to extreme cruelty"  
945 has the same meaning as defined in ~~[is defined in Section 103(a)(1) of P.L. 104-193 or 42~~  
946 ~~U.S.C. Sec. 608(a)(7)(C)(iii).]~~ The Personal Responsibility and Work Opportunity  
947 Reconciliation Act of 1996, 42 U.S.C. Sec. 608(a)(7)(C)(iii).

948 (2) Except as provided in Subsection (4), the ~~[division]~~ department may not provide  
949 cash assistance to a family who has received cash assistance for 36 months or more.

950 (3) (a) The ~~[division]~~ department shall count toward the ~~[36-month]~~ time limit  
951 described in Subsection (2) any time after January 1, 1997, during which:

952 (i) the parent ~~[client]~~ recipient received cash assistance in this or another state; and

953 (ii) the parent ~~[client]~~ recipient is disqualified from receiving cash assistance and the  
954 parent ~~[client's]~~ recipient's income and assets are counted in determining eligibility for the  
955 family in this or another state.

956 (b) ~~[(i) The division]~~ The department may not count toward the ~~[36-month]~~ time limit  
957 described in Subsection (2) or the ~~[24-month]~~ time period described in Subsection (4) any time

958 during which:

959 ~~[(A)]~~ (i) a person 18 years of age or older received cash assistance as a minor child and  
960 not as a parent; or

961 ~~[(B)]~~ (ii) a parent ~~[client]~~ recipient received transitional ~~[support]~~ cash assistance under  
962 Subsection (5).

963 ~~[(ii) Transitional support cash assistance:]~~

964 ~~[(A) may be paid if the department determines the assistance is necessary to stabilize~~  
965 ~~employment and prevent recidivism;]~~

966 ~~[(B) is only available to a parent client who was previously receiving cash assistance~~  
967 ~~under the Family Employment Program but who becomes ineligible due to earned or unearned~~  
968 ~~income; and]~~

969 ~~[(C) may be granted for a maximum of three months provided the parent client is~~  
970 ~~employed an average of 30 hours per week during the transitional period.]~~

971 (4) (a) ~~[For up to 24 months, the division]~~ The department may provide cash assistance  
972 to a family for up to 24 months beyond the ~~[36-month]~~ time limit described in Subsection (2) if  
973 during the previous two months~~;~~ the parent ~~[client]~~ recipient was employed for ~~[no less than]~~  
974 at least 20 hours per week.

975 (b) ~~[For up to 20% of the average monthly number of families who receive cash~~  
976 ~~assistance under this part, the division]~~ Notwithstanding the time limit described in Subsection  
977 (2), the department may provide cash assistance to a family beyond the ~~[36-month]~~ time limit  
978 in Subsection (2):

979 (i) by reason of a hardship; ~~[or]~~

980 (ii) if the family includes an individual who has been battered or subjected to extreme  
981 cruelty~~[-]; or~~

982 (iii) if a parent volunteers to fully participate in a department-approved employment  
983 and training activity as prescribed by rules made by the department in accordance with Title  
984 63G, Chapter 3, Utah Administrative Rulemaking Act.

985 (c) ~~[For up to 20% of the average monthly number of families who receive cash~~  
986 ~~assistance under this part, the division]~~ Notwithstanding the time limit established in  
987 Subsection (4)(a), the department may provide cash assistance to a family beyond the  
988 additional ~~[24-month]~~ time period in Subsection (4)(a):



989 (i) by reason of a hardship; or  
 990 (ii) if the family includes an individual who has been battered or subjected to extreme  
 991 cruelty.

992 (d) The department may only provide the additional cash assistance described in  
 993 Subsections (4)(b) and (c) for up to 20% of the average monthly number of families who  
 994 receive cash assistance under this part.

995 [~~(d)~~] (e) Except as provided in Subsections (4)(b) and (c), the [division] department  
 996 may not provide cash assistance to a family who has received 60 months of cash assistance  
 997 after October 1, 1996.

998 (5) (a) The department may provide transitional cash assistance to a parent recipient:

999 (i) if the department determines the transitional cash assistance is necessary to stabilize  
 1000 employment and prevent recidivism of a recipient;

1001 (ii) who was previously receiving cash assistance under the Family Employment  
 1002 Program but who becomes ineligible due to earned or unearned income; and

1003 (iii) for a maximum of three months if the parent recipient is employed an average of  
 1004 30 hours per week during the transitional period.

1005 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 1006 department shall make rules for the provision of transitional cash assistance under this section.

1007 Section 28. Section **35A-3-307** is amended to read:

1008 **35A-3-307. Cash assistance to a single minor parent.**

1009 (1) The [division] department may provide cash assistance to a single minor parent in  
 1010 accordance with this section.

1011 (2) A single minor parent who receives cash assistance under this part shall:

1012 (a) except as provided under Subsection (3), reside in a place of residence maintained  
 1013 by a parent, legal guardian, or other adult relative of the single minor parent [~~except as~~  
 1014 ~~provided in Subsection (3)];~~

1015 (b) participate in education for parenting and life skills;

1016 (c) participate in infant and child wellness programs [~~operated by the Department of~~  
 1017 ~~Health]~~ approved by the department; and

1018 (d) for [~~not less than~~] at least 20 hours per week:

1019 (i) [~~attend high school or an alternative to high school,]~~ if the single minor parent does

1020 not have a high school diploma, attend high school or an alternative to high school;

1021 (ii) participate in education or training; or

1022 (iii) participate in a combination of employment and education or training.

1023 (3) (a) If the [~~division~~] department determines that the requirements of Subsection

1024 (2)(a) are not appropriate for a single minor parent, the [~~division~~] department may assist the

1025 single minor parent to obtain suitable living arrangements, including an adult-supervised living

1026 arrangement.

1027 (b) [~~As a condition of receiving~~] The department may only provide cash assistance[;] to

1028 a single minor parent who is exempt from the requirements of Subsection (2)(a) [~~shall reside~~] if

1029 the single minor parent resides in a living arrangement that is approved by the [~~division~~]

1030 department.

1031 (c) The approval by the [~~division~~] department of a living arrangement under Subsection

1032 (3)(b):

1033 (i) is a means of safeguarding the use of state and federal funds; and

1034 (ii) is not a certification or guarantee of the safety, quality, or condition of the living

1035 arrangements of the single minor parent.

1036 (4) (a) If a single minor parent resides with a parent, the [~~division~~] department shall

1037 include the income of the parent of the single minor parent in determining the single minor

1038 parent's eligibility for services [~~and supports~~] under this part.

1039 (b) If a single minor parent receives services [~~and supports~~] under this chapter but does

1040 not reside with a parent, the [~~division~~] department shall seek an order under Title 78B, Chapter

1041 12, Utah Child Support Act, requiring the parent of the single minor parent to financially

1042 support the single minor parent.

1043 (5) The requirements of this section shall be included in a single minor parent's

1044 employment plan under Section [35A-3-304](#).

1045 Section 29. Section **35A-3-308** is amended to read:

1046 **35A-3-308. Adoption services -- Printed information -- Supports provided.**

1047 (1) The [~~division~~] department may provide assistance under this section to [~~a client~~] an

1048 applicant who is pregnant and is not receiving cash assistance [~~no sooner than~~] at the beginning

1049 of the third trimester of pregnancy.

1050 (2) For a pregnant [~~clients~~] applicant, the [~~division~~] department shall:

1051 (a) refer the ~~[client]~~ applicant for appropriate prenatal medical care, including maternal  
1052 health services provided under Title 26, Chapter 10, Family Health Services;

1053 (b) inform the ~~[client]~~ applicant of free counseling about adoption from licensed child  
1054 placement agencies and licensed attorneys; and

1055 (c) offer the ~~[client]~~ applicant the adoption information packet described in Subsection  
1056 (3).

1057 (3) The department shall publish an adoption information packet that:

1058 (a) is easy to understand;

1059 (b) contains geographically indexed materials on the public and private organizations  
1060 that provide adoption assistance;

1061 (c) lists the names, addresses, and telephone numbers of licensed child placement  
1062 agencies and licensed attorneys who place children for adoption;

1063 (d) explains that private adoption is legal and that the law permits adoptive parents to  
1064 reimburse the costs of prenatal care, childbirth, neonatal care, and other expenses related to  
1065 pregnancy; and

1066 (e) describes the services ~~[and supports]~~ available to the ~~[client]~~ applicant under this  
1067 section.

1068 (4) (a) A ~~[client]~~ recipient remains eligible for assistance under this section, even  
1069 though the ~~[client]~~ recipient relinquishes a child for adoption, ~~[provided that]~~ if the adoption is  
1070 in accordance with Sections [78B-6-120](#) through [78B-6-122](#).

1071 (b) The assistance provided under this section may include:

1072 (i) reimbursement for expenses associated with care and confinement during pregnancy  
1073 as provided ~~[for]~~ in Subsection (5); and

1074 (ii) for a maximum of 12 months from the date of relinquishment, coordination of  
1075 services to assist the ~~[client]~~ recipient in:

1076 (A) receiving appropriate educational and occupational assessment and planning;

1077 (B) enrolling in appropriate education or training programs, including high school  
1078 completion and adult education programs;

1079 (C) enrolling in programs that provide assistance with job readiness, employment  
1080 counseling, finding employment, and work skills;

1081 (D) finding suitable housing;

1082 (E) receiving medical assistance, under Title 26, Chapter 18, Medical Assistance Act,  
1083 if the [client] recipient is otherwise eligible; and

1084 (F) receiving counseling and other mental health services.

1085 (5) (a) Except as provided in Subsection (5)(b), a [client] recipient under this section is  
1086 eligible to receive an amount equal to the maximum monthly amount of cash assistance paid  
1087 under this part to one person for up to 12 consecutive months from the date of relinquishment.

1088 (b) If a [client] recipient is otherwise eligible to receive cash assistance under this part,  
1089 the [client] recipient is eligible to receive an amount equal to the increase in cash assistance the  
1090 [client] recipient would have received but for the relinquishment for up to 12 consecutive  
1091 months from the date of relinquishment.

1092 (6) (a) To ~~[be]~~ remain eligible for assistance under this section, a [client] recipient  
1093 shall:

1094 (i) with the cooperation of the [division] department, develop and implement an  
1095 employment plan [containing] that includes goals for achieving self-sufficiency and  
1096 [describing] that describes the action the [client] recipient will take concerning education and  
1097 training ~~[that will result in]~~ to achieve full-time employment;

1098 (ii) if the [client] recipient does not have a high school diploma, enroll in high school  
1099 or an alternative to high school and demonstrate progress toward graduation; and

1100 (iii) make a good faith effort to meet the goals of the employment plan as [provided]  
1101 described in Section [35A-3-304](#).

1102 (b) Cash assistance provided to a [client] recipient before the [client] recipient  
1103 relinquishes a child for adoption is part of the state plan.

1104 (c) Assistance provided under Subsection (5):

1105 (i) shall be provided for with state funds; and

1106 (ii) may not be ~~[totaled]~~ counted when determining subsequent eligibility for cash  
1107 assistance under this chapter.

1108 (d) The time limit provisions of Section [35A-3-306](#) apply to cash assistance provided  
1109 under the state plan.

1110 (e) The [division] department shall monitor a [client's] recipient's compliance with this  
1111 section.

1112 (f) Except for Subsection (6)(b), Subsections (2) through (6) are excluded from the

1113 state plan.

1114 Section 30. Section **35A-3-309** is amended to read:

1115 **35A-3-309. Information regarding home ownership.**

1116 (1) The [~~division~~] department shall provide information and service coordination to  
1117 assist [~~a client to obtain~~] an applicant in obtaining affordable housing.

1118 (2) The information and services may include:

1119 (a) information from the Utah Housing Corporation and the Housing and Community  
1120 Development Division regarding special housing programs, including programs for first-time  
1121 home buyers and [~~persons~~] individuals with low and moderate incomes and the eligibility  
1122 requirements for those programs;

1123 (b) referrals to programs operated by volunteers from the real estate industry that assist  
1124 [~~clients~~] applicants in obtaining affordable housing, including information on home ownership,  
1125 down payments, closing costs, and credit requirements; and

1126 (c) referrals to housing programs operated by municipalities, counties, local housing  
1127 authorities, and nonprofit housing organizations that assist individuals [~~to obtain~~] in obtaining  
1128 affordable housing, including first-time home ownership.

1129 Section 31. Section **35A-3-310** is amended to read:

1130 **35A-3-310. Child care services -- Rules.**

1131 (1) [~~A parent client~~] An applicant may receive assistance for child care under this part  
1132 for a minor child in the care and custody of the parent [~~client~~] recipient, unless the other parent  
1133 in a two-parent family:

1134 (a) is capable of caring for the family's child;

1135 (b) is not employed; and

1136 (c) has not entered into an employment plan with the [~~division~~] department.

1137 (2) The [~~division~~] department shall encourage a parent [~~client~~] recipient to obtain child  
1138 care at no cost from a parent, sibling, relative, or other suitable provider.

1139 (3) [~~Within appropriations from the Legislature and in~~] In accordance with Title 63G,  
1140 Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing  
1141 eligibility for child care services for a minor child in the care and custody of a parent who does  
1142 not receive cash assistance under this part.

1143 Section 32. Section **35A-3-310.5** is amended to read:

1144           **35A-3-310.5. Child care providers -- Criminal background checks -- Payment of**  
1145 **costs -- Prohibitions -- Department rules.**

1146           (1) This section applies to a child care provider who:

1147           (a) (i) is selected by [~~an applicant for, or~~] a recipient of[, ] a child care assistance  
1148 payment; or

1149           (ii) is a recipient of a child care assistance payment;

1150           (b) is not required to undergo a criminal background check with the Department of  
1151 Health, Bureau of Child Care Licensing;

1152           (c) is not a license exempt child care center or program; and

1153           (d) is an eligible child care provider [~~under~~] in accordance with department rules made  
1154 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1155           (2) (a) [~~Each~~] A child care provider identified under Subsection (1) shall submit to the  
1156 department the name and other identifying information, [~~which shall include~~] including a set of  
1157 fingerprints, of:

1158           (i) existing, new, and proposed [~~providers of~~] individuals who provide or may provide  
1159 child care; and

1160           (ii) individuals who are at least 18 years of age and reside in the premises where the  
1161 child care is provided.

1162           (b) The department may waive the fingerprint requirement under Subsection (2)(a) for  
1163 an individual who has:

1164           (i) resided in Utah for five years prior to the required submission; or

1165           (ii) (A) previously submitted a set of fingerprints under this section for a national  
1166 criminal history record check; and

1167           (B) resided in Utah continuously since submitting the fingerprints.

1168           (c) The [~~Utah Division of~~] Criminal Investigation and Technical Services Division  
1169 created within the Department of Public Safety under Section [53-10-103](#) shall:

1170           (i) process and conduct background checks on all individuals as requested by the  
1171 department[~~, including submitting the~~]; and

1172           (ii) submit required fingerprints to the U.S. Federal Bureau of Investigation for a  
1173 national criminal history background check of the individual.

1174           (d) If the department waives the fingerprint requirement under Subsection (2)(b), the

1175 [~~Utah Division of~~] Criminal Investigation and Technical Services Division may allow the  
1176 department or its representative access to the [~~division's~~] Criminal Investigation and Technical  
1177 Services Division's [~~data base~~] database to determine whether the individual has been  
1178 convicted of a crime.

1179 (e) The child care provider shall pay the cost of the history background check provided  
1180 under Subsection (2)(c).

1181 (3) (a) [~~Each~~] A child care provider identified under Subsection (1) shall submit to the  
1182 department the name and other identifying information of an individual, age 12 through 17,  
1183 who resides in the premises where the child care is provided.

1184 [~~(b) The identifying information referred to in Subsection (3)(a) does not include~~  
1185 ~~fingerprints.~~]

1186 [~~(c)~~] (b) The department or its representative shall access juvenile court records to  
1187 determine whether an individual described in Subsection (2) or (3)(a) has been adjudicated in  
1188 juvenile court of committing an act which, if committed by an adult, would be a felony or  
1189 misdemeanor if:

1190 (i) the individual described in Subsection (2) is under the age of 28; or

1191 (ii) the individual described in Subsection (2):

1192 (A) is [~~over the~~] age [~~of~~] 28 or older; and

1193 (B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in  
1194 abeyance or diversion agreement for a felony or misdemeanor.

1195 (4) Except as provided in Subsection (5), a child care provider under this section may  
1196 not permit an individual [~~who has been convicted of, has pleaded no contest to, or is currently~~  
1197 ~~subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, or if~~  
1198 ~~Subsection (3)(b) applies, an individual who has been adjudicated in juvenile court of~~  
1199 ~~committing an act which if committed by an adult would be a felony or misdemeanor]~~  
1200 described under Subsection (3)(b) to:

1201 (a) provide subsidized child care; or

1202 (b) reside at the premises where subsidized child care is provided.

1203 (5) (a) The department may make [~~a rule~~] rules in accordance with Title 63G, Chapter  
1204 3, Utah Administrative Rulemaking Act, to exempt the following from the restrictions of  
1205 Subsection (4):

1206 (i) a specific misdemeanor;  
1207 (ii) a specific act adjudicated in juvenile court, which if committed by an adult would  
1208 be a misdemeanor; and

1209 (iii) background checks of individuals other than the provider who are residing at the  
1210 premises where subsidized child care is provided if that child care is provided in the child's  
1211 home.

1212 (b) In accordance with criteria established by ~~[rule]~~ department rules made in  
1213 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the executive  
1214 director or the director's designee may consider and exempt individual cases, not otherwise  
1215 exempt under Subsection (5)(a), from the restrictions of Subsection (4).

1216 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1217 department shall ~~[establish by rule]~~ make rules to determine:

1218 (a) whether a child care subsidy payment should be made prior to the completion of a  
1219 background check, particularly in the case of a delay in making or completing the background  
1220 check; and

1221 (b) if, and how often, a child care provider shall resubmit the information required  
1222 under Subsections (2) and (3).

1223 Section 33. Section **35A-3-311** is amended to read:

1224 **35A-3-311. Cash assistance to noncitizen legal residents and drug dependent**  
1225 **persons.**

1226 (1) ~~[The division]~~ If barred from using federal funds under federal law, the department  
1227 may provide cash assistance to a legal resident who is not a citizen of the United States using  
1228 funds appropriated from the ~~[general fund if barred under federal law from using federal funds]~~  
1229 General Fund.

1230 (2) (a) The State exercises the opt out provision in Section 115 of the Personal  
1231 Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193.

1232 (b) Consistent with Subsection (2)(a), the ~~[division]~~ department may provide cash  
1233 assistance and SNAP benefits to a person who has been convicted of a felony involving a  
1234 controlled substance, as defined in Section [58-37-2](#).

1235 (c) As a condition for receiving cash assistance under this part, a drug dependant  
1236 person, as defined in Section [58-37-2](#), shall:



- 1237 (i) receive available treatment for the dependency; and  
 1238 (ii) make progress toward overcoming the dependency.  
 1239 (d) The department may only refer [~~a client~~] a recipient who is a drug dependent person  
 1240 to a treatment provider [~~that~~] for treating drug dependency if the provider has achieved an  
 1241 objective level of success, as defined by department [~~rule, in treating drug dependency~~] rules  
 1242 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1243 Section 34. Section **35A-3-312** is amended to read:

1244 **35A-3-312. Individual development accounts.**

1245 (1) As used in this section:

1246 (a) "Individual development account" means a trust account funded through periodic  
 1247 contributions by a [~~client~~] recipient and matched by or through a not-for-profit organization  
 1248 organized under Section 501(c)(3), Internal Revenue Code.

1249 (b) "Qualified acquisition costs" means the costs of acquiring, constructing, or  
 1250 reconstructing a residence, including settlement and closing costs.

1251 (c) "Qualified businesses capitalization expenses" means expenditures for capital,  
 1252 plant, equipment, working capital, and inventory.

1253 (2) An individual development account may be established by or on behalf of a [~~client~~]  
 1254 recipient to enable [~~a client~~] the recipient to accumulate funds for the following purposes:

1255 (a) postsecondary educational expenses [~~after leaving cash assistance~~], including  
 1256 tuition, fees, books, supplies, and transportation costs, if:

1257 (i) the recipient has terminated cash assistance under this chapter; and

1258 (ii) the expenses are paid from the individual development account directly to an  
 1259 educational institution that the [~~parent client~~] recipient is attending as part of an employment  
 1260 plan;

1261 (b) qualified acquisition costs associated with a first-time home purchase if paid from  
 1262 the individual development account directly to a person to whom the amount is due;

1263 (c) amounts paid from an individual development account directly to a business  
 1264 capitalization account that is established in a federally insured financial institution and used  
 1265 solely for qualified business capitalization expenses; or

1266 (d) the purchase of assistive technologies, vehicle modifications, or home  
 1267 improvements [~~that will~~] to allow a [~~client~~] recipient with a disability to participate in

1268 work-related activities.

1269 (3) A ~~[client]~~ recipient may only deposit earned income and funds received from a  
1270 not-for-profit organization into an individual development account.

1271 Section 35. Section **35A-3-313** is amended to read:

1272 **35A-3-313. Performance goals.**

1273 ~~[(1) As used in this section:]~~

1274 ~~[(a) "Performance goals" means a target level of performance or an expected level of  
1275 performance against which actual performance is compared.]~~

1276 ~~[(b) "Performance indicators" means actual performance information regarding a  
1277 program or activity.]~~

1278 ~~[(c) "Performance monitoring system" means a process to regularly collect and analyze  
1279 performance information including performance indicators and performance goals.]~~

1280 ~~[(2)(a)]~~ (1) The department shall establish a performance monitoring system for cash  
1281 assistance provided under this part.

1282 ~~[(b)]~~ (2) The department shall establish the performance indicators and performance  
1283 goals that will be used in the performance monitoring system for cash assistance under this  
1284 part.

1285 ~~[(c)(i)]~~ (3) (a) The department shall include in the annual written report described in  
1286 Section **35A-1-109**, a description of the difference between actual performance and  
1287 performance goals for the second, third, and fourth quarters of the prior fiscal year and the first  
1288 quarter of the current fiscal year.

1289 ~~[(ii)(A)]~~ (b) (i) The legislative fiscal analyst or the analyst's designee shall convey the  
1290 information described in Subsection ~~[(2)(c)(i)]~~ (3)(a) to the appropriation subcommittee that  
1291 has oversight responsibilities for the Department of Workforce Services during the general  
1292 session of the Legislature that follows the submission of the report.

1293 ~~[(B)]~~ (ii) The subcommittee may consider the information in its deliberations regarding  
1294 the budget for services ~~[and supports]~~ under this chapter.

1295 Section 36. Section **35A-3-401** is amended to read:

1296 **Part 4. General Assistance**

1297 **35A-3-401. General Assistance.**

1298 (1) (a) The department may provide General Assistance ~~[may be provided]~~ to

1299 individuals who are:

1300 (i) not receiving cash assistance under Part 3, Family Employment Program, or  
 1301 Supplemental Security Income<sup>2</sup>; and ~~[who are]~~

1302 (ii) unemployable according to standards established by the department.

1303 (b) (i) General Assistance ~~[may be provided by]~~ described in Subsection (1)(a) may  
 1304 include payment in cash or in kind.

1305 (ii) The ~~[office]~~ department may provide General Assistance up to an amount [less]  
 1306 that is no more than the existing payment level for an otherwise similarly situated [client of]  
 1307 recipient receiving cash assistance under Part 3, Family Employment Program.

1308 (c) The ~~[office]~~ department shall establish asset limitations for a General Assistance  
 1309 [clients] applicant.

1310 (d) (i) General Assistance may be granted to meet special nonrecurrent needs of an  
 1311 applicant for the federal Supplemental Security Income ~~[program]~~ for the Aged, Blind, and  
 1312 Disabled program provided under 20 C.F.R. Sec. 416, if the applicant agrees to reimburse the  
 1313 ~~[division]~~ department for assistance advanced while awaiting the determination of eligibility by  
 1314 the Social Security Administration.

1315 (ii) General Assistance payments may not be made to a ~~[current client of]~~ recipient  
 1316 currently receiving:

1317 (A) cash assistance; or

1318 (B) Supplemental Security Income for the Aged, Blind, and Disabled.

1319 (e) (i) General Assistance may be used for the reasonable cost of burial for a ~~[client,]~~  
 1320 recipient if heirs or relatives are not financially able to assume this expense.

1321 (ii) Notwithstanding Subsection (1)(e)(i), if the body of a person is unclaimed<sup>2</sup>  
 1322 Section [53B-17-301](#) applies.

1323 (iii) The department shall fix the cost of a reasonable burial and conditions under  
 1324 which burial expenditures may be made.

1325 (2) The ~~[division]~~ department may cooperate with any governmental unit or agency, or  
 1326 any private nonprofit agency, in establishing work projects to provide employment for  
 1327 employable persons.

1328 Section 37. Section **35A-3-402** is amended to read:

1329 **35A-3-402. Calculation of General Assistance grants.**

1330 ~~[Grants]~~ The department shall provide grants for General Assistance ~~[made pursuant to]~~  
1331 under Section 35A-3-401 ~~[, to the extent that those payments are made]~~ on an ongoing basis for  
1332 ~~[persons]~~ individuals who are unemployable~~[, shall be]~~:

1333 (1) within amounts appropriated by the Legislature; and

1334 (2) calculated in a manner ~~[analogous to that]~~ substantially similar to cash assistance as  
1335 provided in Section 35A-3-302.

1336 Section 38. Section **35A-3-502** is amended to read:

1337 **35A-3-502. Definitions of social capital.**

1338 (1) As used in this part~~[:]~~, "social capital" means the value provided to the state by a  
1339 civic organization, including values, cooperation, strength to families and neighborhoods, and  
1340 ensuring livable communities and nurturing environments.

1341 ~~[(1) "Civic organization" includes community service clubs and organizations,~~  
1342 ~~charitable health care and service organizations, fraternal organizations, labor unions, minority~~  
1343 ~~and ethnic organizations, commercial and industrial organizations, commerce and business~~  
1344 ~~clubs, private nonprofit organizations, private nonprofit corporations that provide funding to~~  
1345 ~~community service organizations, organizations that advocate or provide for the needs of~~  
1346 ~~persons with low incomes, religious organizations, and organizations that foster strong~~  
1347 ~~neighborhoods and communities.]~~

1348 ~~[(2) "Diversion payment" means a lump sum cash payment provided to a client in lieu~~  
1349 ~~of regular monthly cash assistance.]~~

1350 ~~[(3) "Performance monitoring system" means a process to regularly collect and analyze~~  
1351 ~~performance information, including performance indicators and performance goals.]~~

1352 ~~[(a) "Performance goals" means a target level of performance or an expected level of~~  
1353 ~~performance against which actual performance is measured.]~~

1354 ~~[(b) "Performance indicators" means actual performance information regarding a~~  
1355 ~~program or activity.]~~

1356 (2) Social capital links society together by:

1357 (a) creating opportunities for service and giving;

1358 (b) facilitating trust and cooperation; and

1359 (c) enhancing investments in physical and human capital.

1360 Section 39. Section **35A-3-503** is amended to read:

1361 **35A-3-503. Purpose -- Limitations.**

1362 ~~[(1) The Legislature finds that public policy should promote and encourage a strong~~  
 1363 ~~civic sector. Civic organizations have an important role that cannot be adequately addressed~~  
 1364 ~~through either private or public sector action. Important public values such as the condition of~~  
 1365 ~~our neighborhoods, the character of our children, and the renewal of our cities directly depend~~  
 1366 ~~on the strength of families, neighborhoods, and grassroots community organizations, as well as~~  
 1367 ~~the vitality of private and religious institutions that care for those in need. Civic organizations~~  
 1368 ~~transmit values between generations, encourage cooperation between citizens, and ensure that~~  
 1369 ~~our communities are livable and nurturing environments. The value provided to the state by~~  
 1370 ~~civic organizations is called social capital.]~~

1371 ~~[(2) The purpose of this part is to promote the availability of social capital.]~~

1372 (1) Using social capital, [clients of and applicants] an applicant for services under this  
 1373 chapter may receive a wide array of services ~~[and supports]~~ that cannot be provided by state  
 1374 government alone. ~~[Social capital links all parts of our society together by creating~~  
 1375 ~~opportunities for service and giving. It facilitates trust and cooperation and enhances~~  
 1376 ~~investments in physical and human capital.]~~

1377 ~~[(3) In enacting this part, the]~~ (2) The Legislature recognizes:

1378 (a) the constitutional limits of state government to sustain civic institutions that  
 1379 provide social capital~~[. While state government has always depended on these institutions, it];~~

1380 (b) that the state does not create ~~[them]~~ nor can it replace ~~[them. This part recognizes]~~  
 1381 civic institutions; and

1382 (c) that state government [shall] should respect, recognize, and, wherever possible,  
 1383 constitutionally encourage strong civic institutions that sustain a sense of community ~~[and~~  
 1384 ~~humanize our lives].~~

1385 Section 40. Section **35A-3-504** is amended to read:

1386 **35A-3-504. Relationship of civic and state services.**

1387 (1) (a) Services and supports provided by a civic organization under this part are in  
 1388 addition to, and not in lieu of, any service ~~[or support]~~ provided by the ~~[division to a client]~~  
 1389 department to a recipient.

1390 (b) Receipt of services from a civic organization may not diminish a ~~[person's]~~  
 1391 recipient's eligibility for services [or supports] from the [division] department.

1392 (2) ~~[A person]~~ An applicant or recipient is under no obligation to receive services from  
1393 a civic organization.

1394 (3) A civic organization is under no obligation to provide services to a person, except  
1395 as provided in a contract between the organization and the ~~[division pursuant to]~~ department  
1396 under Section 35A-3-507.

1397 Section 41. Section **35A-3-505** is amended to read:

1398 **35A-3-505. Application -- Referral to civic organizations.**

1399 (1) The ~~[division]~~ department:

1400 (a) shall ~~[, in compliance with Section 35A-3-504,]~~ assess whether an applicant ~~[would~~  
1401 ~~be]~~ is receptive to and would benefit ~~[by services from]~~ from a service provided by a civic  
1402 organization~~[. If so, the division]; and~~

1403 (b) may inform the applicant of the availability of ~~[those services and supports]~~  
1404 services provided by civic organizations.

1405 (2) (a) If an applicant chooses to receive ~~[those]~~ services ~~[and supports]~~ from a civic  
1406 organization, the ~~[division]~~ department shall facilitate the applicant's referral to one or more  
1407 appropriate civic organizations.

1408 (b) If an applicant chooses not to receive the services ~~[and supports]~~ of a civic  
1409 organization or requests services ~~[and supports]~~ available under this chapter in addition to the  
1410 services ~~[and supports]~~ of a civic organization, the ~~[division]~~ department shall process the  
1411 application as provided under this chapter.

1412 Section 42. Section **35A-3-506** is amended to read:

1413 **35A-3-506. Diversion payment -- Referral to civic organizations.**

1414 ~~[When a client]~~ If a recipient receives a diversion payment under Section **35A-3-303**,  
1415 the ~~[division]~~ department:

1416 (1) shall assess whether the ~~[client would benefit from]~~ recipient is receptive to and  
1417 would benefit from services ~~[and supports]~~ from a civic organization~~[. If so, the division]; and~~

1418 (2) may inform the ~~[client]~~ recipient of the services ~~[and supports]~~ that civic  
1419 organizations provide.

1420 Section 43. Section **35A-3-507** is amended to read:

1421 **35A-3-507. Request for proposals from civic organizations -- Contract**  
1422 **requirements.**

1423 (1) (a) [~~Before October 1, 1997, the director shall~~] The director or the director's  
1424 designee may issue a request for proposals[~~-Interested~~] to civic organizations [~~may submit~~  
1425 ~~proposals~~] for the purpose of contracting with the [~~division~~] department for the provision of  
1426 social capital.

1427 (b) [~~In cooperation with the coalition described in Section 35A-3-510,~~] In accordance  
1428 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall establish  
1429 by rule:

- 1430 (i) specifications for proposals;
- 1431 (ii) deadlines for submissions;
- 1432 (iii) contents of proposals;
- 1433 (iv) the criteria upon which proposals will be accepted; and
- 1434 (v) the amount of available funding.

1435 (2) Within appropriations from the Legislature, the director may enter into[~~one or more~~  
1436 ~~contracts with civic organizations~~] a contract with a civic organization, which shall [~~at least~~]  
1437 include:

1438 (a) the funding, if any, to be provided to the civic organization by the [~~division~~]  
1439 department;

1440 (b) the geographical boundary within which the civic organization is to provide  
1441 services [~~and supports~~] to individuals referred by the [~~division~~] department;

1442 (c) a description of the services [~~and supports~~] to be provided by the civic organization  
1443 to [~~clients~~] an applicant or recipient;

1444 (d) the performance monitoring system to be used by the civic organization to evaluate  
1445 the [~~effects~~] effectiveness of the services [~~and supports~~] that it provides; and

1446 (e) other provisions [~~as~~] that the [~~division~~] department and civic organization consider  
1447 appropriate.

1448 (3) (a) A contract between the [~~division~~] department and a civic organization under this  
1449 section is for a defined period of time and a fixed funding amount.

1450 (b) If a contract provides public funds, the civic organization [~~will be~~] is required to  
1451 comply with all applicable state and federal law with respect to those funds, [~~which may~~  
1452 ~~include~~] including any audit, recordkeeping, and financial accounting requirements.

1453 (4) The services [~~and supports~~] provided by civic organizations under this section do

1454 not include eligibility determinations, cash assistance, ~~[food coupons]~~ SNAP benefits, or  
 1455 quality assurance related to these functions.

1456 Section 44. Section **35A-3-508** is amended to read:

1457 **35A-3-508. Inventory of civic organizations.**

1458 (1) ~~[To enable the division to refer a client or applicant to an appropriate civic~~  
 1459 ~~organization under this part, the division]~~ The department, in cooperation with the coalition  
 1460 described in Section **35A-3-510**, shall complete a statewide inventory of interested civic  
 1461 organizations~~[- For those organizations that wish to participate, the],~~ which inventory shall  
 1462 include for each participating civic organization:

1463 (a) a description of the services ~~[and supports]~~ provided;

1464 (b) the geographical locations served;

1465 (c) methods of accessing services; and

1466 (d) eligibility requirements for services.

1467 (2) The inventory shall be ~~[stored]~~ maintained, updated annually, and made available in  
 1468 a usable form as a resource directory for ~~[all]~~ employment counselors in the department.

1469 Section 45. Section **35A-3-510** is amended to read:

1470 **35A-3-510. Coalition of civic and other organizations.**

1471 (1) The director shall convene a coalition of civic organizations, representatives of the  
 1472 ~~[division]~~ department, representatives of state and local agencies, advocacy organizations,  
 1473 public officials, community leaders, members of the Legislature, and other persons and  
 1474 organizations as ~~[he determines]~~ determined by the executive director.

1475 (2) The coalition shall offer advice to the director on issues relevant to this part.

1476 Section 46. Section **35A-3-601** is amended to read:

1477 **Part 6. Administrative Determination of Overpayments Act**

1478 **35A-3-601. Title.**

1479 This part ~~[shall be]~~ is known as the "Administrative Determination of Overpayments  
 1480 Act."

1481 Section 47. Section **35A-3-603** is amended to read:

1482 **35A-3-603. Civil liability for overpayment.**

1483 ~~[(1) As used in this section, "intentionally, knowingly, and recklessly" mean the same~~  
 1484 ~~as those terms are defined in Section 76-2-103.]~~



1485 ~~[(2) Each]~~ (1) A provider, ~~[client]~~ recipient, or other person who receives an  
 1486 overpayment shall, regardless of fault, return the overpayment or repay its value to the  
 1487 department immediately:

1488 (a) upon receiving written notice of the overpayment from the department; or  
 1489 (b) upon discovering the overpayment, if that occurs ~~[prior to]~~ before receiving notice.

1490 ~~[(3)]~~ (2) (a) Except as provided under Subsection (3)(b), interest on the unreturned  
 1491 balance of the overpayment shall accrue at the rate of 1% a month.

1492 (b) If the overpayment was not the fault of the person receiving it, that person is not  
 1493 liable for interest on the unreturned balance.

1494 (c) In accordance with federal law and rules made by the department in accordance  
 1495 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an overpayment may be  
 1496 recovered through deductions from cash assistance, General Assistance, SNAP benefits, other  
 1497 cash-related assistance provided to a ~~[client]~~ recipient under this chapter, or ~~[any]~~ other means  
 1498 provided by federal law.

1499 ~~[(4) Each]~~ (3) A person who knowingly assists a ~~[client]~~ recipient, provider, or other  
 1500 person in obtaining an overpayment is jointly and severally liable for the overpayment.

1501 ~~[(5)]~~ (4) (a) In proving civil liability for overpayment under this section, or Section  
 1502 [35A-3-605](#), when fault is alleged, the department shall prove by clear and convincing evidence  
 1503 that the overpayment was obtained intentionally, knowingly, recklessly as "intentionally,  
 1504 knowingly, and recklessly" are defined in Section [76-2-103](#), by false statement,  
 1505 misrepresentation, impersonation, or other fraudulent means, ~~[such as by]~~ including  
 1506 committing any of the acts or omissions described in Sections [76-8-1203](#) ~~[through]~~, [76-8-1204](#),  
 1507 or [76-8-1205](#).

1508 (b) If fault is established under Subsection ~~[(5)]~~ (4)(a), Section [35A-3-605](#), or Title 76,  
 1509 Chapter 8, Part 12, Public Assistance Fraud, ~~[any]~~ a person who obtained or helped another  
 1510 obtain an overpayment ~~[shall be]~~ is subject to:

1511 (i) a civil penalty of 10% of the amount of the overpayment; and

1512 (ii) disqualification from receiving cash assistance from the Family Employment  
 1513 Program created in Section [35A-3-302](#) and the General Assistance program under Section  
 1514 [35A-3-401](#), if the overpayment was obtained from either of those programs, for ~~[12 months for~~  
 1515 ~~the first offense, 24 months for the second offense, and permanently for the third offense, or as~~

1516 ~~otherwise provided by federal law; or~~ the period described in Subsection (4)(c); or

1517 (iii) disqualification from ~~[the]~~ SNAP, if ~~[that is the program from which]~~ the

1518 overpayment was received from SNAP, for the period described in Subsection (4)(c).

1519 (c) Unless otherwise provided by federal law, the period of a disqualification under

1520 Subsection (4)(b)(ii) and (iii) is for:

1521 (i) 12 months for ~~[the]~~ a first offense[;];

1522 (ii) 24 months for ~~[the]~~ a second offense[;]; and

1523 (iii) permanently for ~~[the]~~ a third offense[~~, or as otherwise provided by federal law~~].

1524 ~~[(6) If]~~ (5) (a) Except as provided under Subsection (5)(b), if an action is filed, the  
 1525 department may recover, in addition to the principal sum plus interest, reasonable ~~[attorneys']~~  
 1526 attorney fees and costs [unless].

1527 (b) If the repayment obligation arose from an administrative error by the department,  
 1528 the department may not recover attorney fees and costs.

1529 ~~[(7)]~~ (6) If a court finds that funds or benefits were secured, in whole or part, by fraud  
 1530 by the person from whom repayment is sought, the court shall assess an additional sum as  
 1531 considered appropriate as punitive damages up to the amount of repayment being sought.

1532 ~~[(8) Criminal actions]~~ (7) A criminal action for public assistance fraud [are] is  
 1533 governed by Title 76, Chapter 8, Part 12, Public Assistance Fraud.

1534 ~~[(9)]~~ (8) Jurisdiction over benefits is continuous.

1535 ~~[(10)]~~ (9) This chapter does not preclude the Department of Health from carrying out  
 1536 its responsibilities under Title 26, Chapter 19, Medical Benefits Recovery Act, and Chapter 20,  
 1537 Utah False Claims Act.

1538 Section 48. Section **35A-3-604** is amended to read:

1539 **35A-3-604. Obligor presumed to have notice of department's rights -- Authority**  
 1540 **to administer oaths, issue subpoenas, and compel witnesses and production of documents**  
 1541 **-- Recovery of attorney fees, costs, and interest -- Rulemaking authority -- Administrative**  
 1542 **procedures.**

1543 (1) An obligor is presumed to have received notice of the rights of the department  
 1544 under this part upon engaging in this state in any of the acts described in Subsections  
 1545 **35A-3-603**~~[(4)]~~**(3)** and ~~[(5)]~~ **(4)** or Section **76-8-1203**, **76-8-1204**, or **76-8-1205**.

1546 (2) For the purposes of this part, the department may administer oaths and certify

1547 official acts, issue subpoenas, and compel witnesses and the production of business records,  
1548 documents, and evidence.

1549 (3) (a) Except when an overpayment results from administrative error, the department  
1550 may recover from the obligor:

1551 (i) reasonable attorneys' fees;

1552 (ii) costs incurred in pursuing administrative remedies under this part; and

1553 (iii) interest at the rate of 1% a month accruing from the date an administrative or  
1554 judicial order is issued determining the amount due under this part.

1555 (b) The department may recover interest, [~~attorneys'~~] attorney fees, and costs, if notice  
1556 of the assessment has been included in a notice of agency action issued in [~~conformity~~]  
1557 compliance with Title 63G, Chapter 4, Administrative Procedures Act.

1558 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1559 department may make, amend, and enforce rules to carry out the provisions of this part.

1560 (5) Service of all notices and orders under this part shall comply with:

1561 (a) Title 63G, Chapter 4, Administrative Procedures Act[~~the~~];

1562 (b) Utah Rules of Civil Procedure[~~;~~]; or

1563 (c) rules made by the department under this part in accordance with Title 63G, Chapter  
1564 3, Utah Administrative Rulemaking Act, that meet standards required by due process.

1565 Section 49. Section **35A-3-605** is amended to read:

1566 **35A-3-605. Issuance or modification of administrative order -- Voluntary**  
1567 **acknowledgment of overpayment -- Court orders supersede administrative orders --**  
1568 **Notification requirement.**

1569 [~~(1) As used in Subsection (2)(a)(i), "intentional program violation" means obtaining~~  
1570 ~~an "overpayment" as defined in Section 35A-3-602.~~]

1571 [~~(2)~~] (1) (a) Through an adjudicative proceeding, the department may issue or modify  
1572 an administrative order that:

1573 (i) determines whether an overpayment was made, the amount of the overpayment, and  
1574 whether benefits were obtained by an intentional program violation;

1575 (ii) reduces the overpayment [~~to~~] determined by an administrative judgment; or

1576 (iii) renews an administrative judgment.

1577 (b) The department shall commence an adjudicative proceeding to renew a judgment

1578 by serving notice of agency action on the obligor before the judgment is barred by the  
1579 applicable statute of limitations.

1580 ~~[(3)]~~ (2) The department may accept voluntary acknowledgment of an overpayment  
1581 obligation and enter into stipulated agreements to issue orders and judgments.

1582 ~~[(4)]~~ (3) (a) A provision of an administrative order is enforceable against an obligor,  
1583 unless it is in direct conflict with or is superseded by a provision of a court order.

1584 (b) To the extent of any conflict, the court order governs.

1585 ~~[(5)]~~ (4) After being properly served with a notice of agency action under this part, an  
1586 obligor shall notify the department of any subsequent change of address or employment.

1587 Section 50. Section **35A-3-606** is amended to read:

1588 **35A-3-606. Docketing abstract of final administrative order -- Real property and**  
1589 **personal property liens -- Effect of order -- Execution.**

1590 (1) (a) An abstract of a final administrative order may be docketed in the district court  
1591 of any county in the state.

1592 (b) The time of receipt of the abstract shall be noted by the clerk on the abstract and  
1593 entered in the docket.

1594 (2) (a) From the time the abstract is docketed in the judgment docket of a district court,  
1595 any administrative judgment included in the order abstracted constitutes a lien upon the real  
1596 property of the obligor situated in that county.

1597 (b) Unless satisfied, the lien is for a period of eight years from the date the order is  
1598 entered [~~unless previously satisfied~~].

1599 (3) The final administrative order fixing the liability of the obligor shall have the same  
1600 effect as any other money judgment entered in a district court.

1601 (4) ~~Attachment~~ (a) Except as provided under Subsection (4)(b), an attachment,  
1602 garnishment, or execution on a judgment included in or accruing under an administrative order  
1603 filed and docketed under this section shall be in the same manner and with the same effect as  
1604 an attachment, garnishment, or execution on a judgment of a district court[~~except that a~~].

1605 (b) A writ of garnishment on earnings shall continue to operate and require the  
1606 garnishee to withhold the nonexempt portion of the earnings at each succeeding earnings  
1607 disbursement interval until released in writing by the department or by court order.

1608 (5) The lien and enforcement remedies provided by this section are in addition to any

1609 other lien or remedy provided by law.

1610 Section 51. Section **35A-3-607** is amended to read:

1611 **35A-3-607. Property subject to execution or lien -- Restriction on transfer or**  
 1612 **conveyance -- Release of excess amount above liability to obligor.**

1613 (1) [~~After~~] (a) Unless released under Subsection (1)(b), after receiving notice that an  
 1614 abstract has been docketed and a lien established under this part, a person in possession of  
 1615 [~~any~~] property [~~which~~] that may be subject to execution or lien may not pay over, release, sell,  
 1616 transfer, encumber, or convey that property to [~~any~~] a person other than the department[;  
 1617 ~~unless~~].

1618 (b) The restrictions under Subsection (1)(a) do not apply if the person in possession  
 1619 first receives a release or waiver from the department, or a court order releasing the lien or  
 1620 stating that the liability does not exist or has been satisfied.

1621 (2) If a person has in his possession earnings, deposits, accounts, or balances owed to  
 1622 the obligor in excess of \$100 over the amount of the liability claimed by the department, [~~that~~]  
 1623 the person may, without liability under this part, release the excess to the obligor.

1624 Section 52. Section **35A-3-608** is amended to read:

1625 **35A-3-608. Schedule of payments to be paid upon liability -- Establishment --**  
 1626 **Cancellation.**

1627 (1) [~~At any time, the~~] The department may at any time:

1628 (a) consistent with the income, earning capacity, and resources of the obligor, set or  
 1629 reset the level and schedule of payments to be paid upon the liability; and

1630 (b) [~~at any time,~~] cancel the schedule of payments and demand immediate payment in  
 1631 full.

1632 (2) The department may recover an overpayment through deductions from cash  
 1633 assistance or SNAP benefits under Section [35A-3-603](#).

1634 Section 53. Section **35A-3-609** is amended to read:

1635 **35A-3-609. Statute of limitation -- Enforcement of lien or order.**

1636 [~~No~~] The department may not take action for the enforcement of an order or lien issued  
 1637 under this part [~~may be maintained~~] unless [~~it~~] the action is commenced within eight years  
 1638 [~~after~~] of the date of the order.

1639 Section 54. Section **35A-3-610** is amended to read:

1640 **35A-3-610. Legal representation at hearings.**

1641 (1) A party may be represented by legal counsel at ~~[any]~~ a hearing held under this part.

1642 (2) At the request of the department ~~[it is the duty of]~~, the attorney general or the  
1643 county attorney ~~[to]~~ shall represent the department in ~~[any]~~ a proceeding commenced under this  
1644 part.

1645 Section 55. Section **35A-3-701**, which is renumbered from Section 35A-3-116 is  
1646 renumbered and amended to read:

1647 **Part 7. Refugee Services**

1648 ~~[35A-3-116].~~ **35A-3-701. Refugee services fund -- Use of money --**

1649 **Committee and director duties -- Restrictions.**

1650 (1) There is created an expendable special revenue fund, known as the "Refugee  
1651 Services Fund."

1652 (2) The director shall administer the fund with input from the department and any  
1653 advisory committee involved with the provision of refugee services within the department.

1654 (3) (a) Money shall be deposited into the fund from legislative appropriations, federal  
1655 grants, private foundations, and individual donors.

1656 (b) The director shall encourage a refugee who receives services funded under  
1657 Subsection (8) to be a donor to the fund when the refugee's financial situation improves  
1658 sufficiently to make a donation.

1659 (4) Except for money restricted to a specific use under federal law or by a donor, the  
1660 director may not spend money from the fund without the input described in Subsection (2).

1661 (5) The state treasurer shall invest the money in the fund under Title 51, Chapter 7,  
1662 State Money Management Act, and all interest or other earnings derived from the fund money  
1663 shall be deposited in the fund.

1664 (6) Money in the fund may not be used by the director for administrative expenses.

1665 (7) If the department establishes a refugee services advisory committee referenced in  
1666 Subsection (2), the committee may:

1667 (a) advise the director on refugee services needs in the state and on relevant operational  
1668 aspects of any grant or revenue collection program established under this part;

1669 (b) recommend specific refugee projects to the director;

1670 (c) recommend policies and procedures for administering the fund;

- 1671 (d) make recommendations on grants made from the fund for refugee services activities  
1672 authorized under this section;
- 1673 (e) advise the director on the criteria by which grants from the fund shall be made;
- 1674 (f) recommend the order approved projects should be funded;
- 1675 (g) make recommendations regarding the distribution of money from the fund in  
1676 accordance with federal or donor restrictions; and
- 1677 (h) have joint responsibility to solicit public and private funding for the fund.
- 1678 (8) The director may use fund money to:
- 1679 (a) train an existing refugee organization to develop its capacity to operate  
1680 professionally and effectively and to become an independent, viable organization; or
- 1681 (b) provide grants to refugee organizations and other entities identified in Subsection  
1682 (9) to assist them:
- 1683 (i) with case management;
- 1684 (ii) in meeting emergency housing needs for refugees;
- 1685 (iii) in providing English language services;
- 1686 (iv) in providing interpretive services;
- 1687 (v) in finding and maintaining employment for refugees;
- 1688 (vi) in collaborating with the state's public education system to improve the  
1689 involvement of refugee parents in assimilating their children into public schools;
- 1690 (vii) in meeting the health and mental health needs of refugees;
- 1691 (viii) in providing or arranging for child care services; or
- 1692 (ix) in administering refugee services.
- 1693 (9) The director, with the input described in Subsection (2), may grant fund money for  
1694 refugee services outlined in Subsection (8) through a request for proposal process to:
- 1695 (a) local governments;
- 1696 (b) nonprofit community, charitable, or neighborhood-based organizations or private  
1697 for-profit organizations involved with providing or arranging for the provision of refugee  
1698 services; or
- 1699 (c) regional or statewide nonprofit organizations.
- 1700 (10) (a) The director shall enter into a written agreement with each [successful] entity  
1701 that successfully applies for a grant [applicant].

1702 (b) The agreement shall include specific terms for each grant consistent with the  
1703 provisions of this section, including the structure, amount, and nature of the grant.

1704 (11) The director shall monitor the activities of the recipients of grants issued from the  
1705 fund on an annual basis to ensure compliance with the terms and conditions imposed on the  
1706 recipient by the fund.

1707 (12) The director shall require an entity that receives a grant under this section to  
1708 provide periodic accounting of how the money was used.

1709 (13) As part of the annual written report described in Section 35A-1-109, the director  
1710 shall report the status of the fund, including programs and services funded by the fund.

1711 Section 56. Section 35A-3-702, which is renumbered from Section 35A-3-117 is  
1712 renumbered and amended to read:

1713 ~~[35A-3-117].~~ 35A-3-702. **Continuation of refugee services.**

1714 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1715 department may make rules to provide for the administration and coordination of services to  
1716 refugees beyond the time period refugee assistance is provided or funded by the federal  
1717 government, including the provision of:

- 1718 (a) services to address emergency needs;
- 1719 (b) English language training; and
- 1720 (c) services for victims of domestic violence.

1721 (2) The director shall administer and coordinate services under this section:

- 1722 (a) with input from the department and any office or advisory committee involved with  
1723 the provision of refugee services within the department; and
- 1724 (b) in accordance with any state and federal requirements related to the provision of  
1725 services to refugees.

1726 Section 57. Section 76-8-1201 is amended to read:

1727 **76-8-1201. Definitions.**

1728 As used in this part:

- 1729 (1) "Client" means a person who receives or has received public assistance.
- 1730 (2) "Overpayment" ~~[means the same as that term is]~~ has the same meaning as defined  
1731 in Section ~~[35A-3-602]~~ 35A-3-102.
- 1732 (3) "Provider" ~~[means the same as that term is]~~ has the same meaning as defined in



1733 Section 62A-11-103.

1734 (4) "Public assistance" [~~means the same as that term is~~] has the same meaning as  
1735 defined in Section 35A-1-102.

1736 Section 58. Section 76-8-1205 is amended to read:

1737 **76-8-1205. Public assistance fraud defined.**

1738 Each of the following persons, who intentionally, knowingly, or recklessly commits any  
1739 of the following acts, is guilty of public assistance fraud:

1740 (1) [~~any~~] a person who uses, transfers, acquires, traffics in, falsifies, or possesses [~~any~~]  
1741 SNAP benefits as defined in Section 35A-1-102, a SNAP identification card, a certificate of  
1742 eligibility for medical services, a Medicaid identification card, a fund transfer instrument, a  
1743 payment instrument, or a public assistance warrant in a manner not allowed by law;

1744 (2) [~~any~~] a person who fraudulently misappropriates [~~any~~] funds exchanged for SNAP  
1745 benefits as defined in Section 35A-1-102, or [~~any~~] an identification card, certificate of  
1746 eligibility for medical services, Medicaid identification card, or other public assistance with  
1747 which [~~he~~] the person has been entrusted or that has come into [~~his~~] the person's possession in  
1748 connection with [~~his~~] the person's duties in administering [~~any~~] a state or federally funded  
1749 public assistance program;

1750 (3) [~~any~~] a person who receives an unauthorized payment as a result of acts described  
1751 in this section;

1752 (4) [~~any~~] a provider who receives payment or [~~any~~] a client who receives benefits after  
1753 failing to comply with any applicable requirement in Sections 76-8-1203 and 76-8-1204;

1754 (5) [~~any~~] a provider who files a claim for payment under [~~any~~] a state or federally  
1755 funded public assistance program for goods or services not provided to or for a client of that  
1756 program;

1757 (6) [~~any~~] a provider who files or falsifies a claim, report, or document required by state  
1758 or federal law, rule, or provider agreement for goods or services not authorized under the state  
1759 or federally funded public assistance program for which the goods or services were provided;

1760 (7) [~~any~~] a provider who fails to credit the state for payments received from other  
1761 sources;

1762 (8) [~~any~~] a provider who bills a client or a client's family for goods or services not  
1763 provided, or bills in an amount greater than allowed by law or rule;

1764 (9) ~~any~~ a client who, while receiving public assistance, acquires income or resources  
1765 in excess of the amount ~~he~~ the client previously reported to the state agency administering the  
1766 public assistance, and fails to notify the state agency to which the client previously reported  
1767 within 10 days after acquiring the excess income or resources;

1768 (10) ~~any~~ a person who fails to act as required under Section 76-8-1203 or 76-8-1204  
1769 with intent to obtain or help another obtain an "overpayment" as defined in Section  
1770 ~~35A-3-602~~ 35A-3-102; and

1771 (11) ~~any~~ a person who obtains an overpayment by violation of Section 76-8-1203 or  
1772 76-8-1204.

1773 Section 59. **Repealer.**

1774 This bill repeals:

1775 Section 35A-3-602, **Definitions.**

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Legislative Review Note  
as of 11-21-14 6:28 PM

Office of Legislative Research and General Counsel