

**DEPARTMENT OF WORKFORCE SERVICES AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lincoln Fillmore**

House Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill modifies provisions related to the Department of Workforce Services.

**Highlighted Provisions:**

This bill:

- ▶ grants rulemaking authority;
  - ▶ adds four members to the Governor's Committee on Employment of People with Disabilities;
  - ▶ modifies how the Qualified Emergency Food Agencies Fund is distributed;
  - ▶ modifies requirements for fees for service for persons representing an individual in child support proceedings;
  - ▶ extends the sunset on the Office of Rehabilitation Transition Restricted Account;
- and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**35A-1-206**, as last amended by Laws of Utah 2016, Chapters 236, 271, and 296



28           **35A-4-103**, as last amended by Laws of Utah 2012, Chapter 41  
 29           **35A-8-1009**, as last amended by Laws of Utah 2013, Chapter 400  
 30           **35A-13-103**, as renumbered and amended by Laws of Utah 2016, Chapter 271  
 31           **35A-13-302**, as renumbered and amended by Laws of Utah 2016, Chapter 271  
 32           **63I-2-253**, as last amended by Laws of Utah 2016, Chapters 128, 229, 236, 271, and  
 33   318

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

36           Section 1. Section **35A-1-206** is amended to read:

37           **35A-1-206. State Workforce Development Board -- Appointment -- Membership**  
 38 **-- Terms of members -- Compensation.**

39           (1) There is created within the department the State Workforce Development Board in  
 40 accordance with the provisions of the Workforce Innovation and Opportunity Act, 29 U.S.C.  
 41 Sec. 3101 et seq.

42           (2) The board shall consist of the following 39 members:

43           (a) the governor or the governor's designee;

44           (b) one member of the Senate, appointed by the president of the Senate;

45           (c) one representative of the House of Representatives, appointed by the speaker of the  
 46 House of Representatives;

47           (d) the executive director or the executive director's designee;

48           (e) the executive director of the Department of Human Services or the executive  
 49 director's designee;

50           (f) the ~~executive~~ director of the Utah State Office of Rehabilitation or the ~~executive~~  
 51 director's designee;

52           (g) the superintendent of the State Board of Education or the superintendent's designee;

53           (h) the commissioner of higher education or the commissioner's designee;

54           (i) the commissioner of technical education of the Utah College of Applied Technology  
 55 or the commissioner of technical education's designee;

56           (j) the executive director of the Governor's Office of Economic Development or the  
 57 executive director's designee;

58           (k) the executive director of the Department of Veterans' and Military Affairs or the

59 executive director's designee; and

60 (l) the following members appointed by the governor:

61 (i) 20 representatives of business in the state, selected among the following:

62 (A) owners of businesses, chief executive or operating officers of businesses, or other  
63 business executives or employers with policymaking or hiring authority;

64 (B) representatives of businesses, including small businesses, that provide employment  
65 opportunities that include high-quality, work-relevant training and development in in-demand  
66 industry sectors or occupations in the state; and

67 (C) representatives of businesses appointed from among individuals nominated by state  
68 business organizations or business trade associations;

69 (ii) six representatives of the workforce within the state, which:

70 (A) shall include at least two representatives of labor organizations who have been  
71 nominated by state labor federations;

72 (B) shall include at least one representative from a registered apprentice program;

73 (C) may include one or more representatives from a community-based organization  
74 that has demonstrated experience and expertise in addressing the employment, training, or  
75 educational needs of individuals with barriers to employment; and

76 (D) may include one or more representatives from an organization that has  
77 demonstrated experience and expertise in addressing the employment, training, or education  
78 needs of eligible youth, including organizations that serve out of school youth; and

79 (iii) two elected officials that represent a city or a county.

80 (3) (a) The governor shall appoint one of the appointed business representatives as  
81 chair of the board.

82 (b) The chair shall serve at the pleasure of the governor.

83 (4) (a) The governor shall ensure that members appointed to the board represent  
84 diverse geographic areas of the state, including urban, suburban, and rural areas.

85 (b) A member appointed by the governor shall serve a term of four years and may be  
86 reappointed to one additional term.

87 (c) A member shall continue to serve until the member's successor has been appointed  
88 and qualified.

89 (d) Except as provided in Subsection (4) (e), as terms of board members expire, the

90 governor shall appoint each new member or reappointed member to a four-year term.

91 (e) Notwithstanding the requirements of Subsection (4)(d), the governor shall, at the  
92 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
93 board members are staggered so that approximately one half of the board is appointed every  
94 two years.

95 (f) When a vacancy occurs in the membership for any reason, the replacement shall be  
96 appointed for the unexpired term.

97 (g) The executive director shall terminate the term of any governor-appointed member  
98 of the board if the member leaves the position that qualified the member for the appointment.

99 (5) A majority of members constitutes a quorum for the transaction of business.

100 (6) (a) A member of the board who is not a legislator may not receive compensation or  
101 benefits for the member's service, but may receive per diem and travel expenses as allowed in:

102 (i) Section [63A-3-106](#);

103 (ii) Section [63A-3-107](#); and

104 (iii) rules made by the Division of Finance according to Sections [63A-3-106](#) and  
105 [63A-3-107](#).

106 (b) Compensation and expenses of a member who is a legislator are governed by  
107 Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

108 (7) The department shall provide staff and administrative support to the board at the  
109 direction of the executive director.

110 (8) The board has the duties, responsibilities, and powers described in 29 U.S.C. Sec.  
111 3111, including:

112 (a) identifying opportunities to align initiatives in education, training, workforce  
113 development, and economic development;

114 (b) developing and implementing the state workforce services plan described in  
115 Section [35A-1-207](#);

116 (c) utilizing strategic partners to ensure the needs of industry are met, including the  
117 development of expanded strategies for partnerships for in-demand occupations and  
118 understanding and adapting to economic changes;

119 (d) developing strategies for staff training;

120 (e) developing and improving employment centers; and

121 (f) performing other responsibilities within the scope of workforce services as  
122 requested by:

- 123 (i) the Legislature;
- 124 (ii) the governor; or
- 125 (iii) the executive director.

126 Section 2. Section **35A-4-103** is amended to read:

127 **35A-4-103. Void agreements -- Child support obligations -- Penalties.**

128 (1) (a) Any agreement by an individual to waive, release, or commute his rights to  
129 benefits or any other rights under this chapter is void.

130 (b) Any agreement by any individual in the employ of any person or concern to pay all  
131 or any portion of an employer's contributions, required under this chapter from the employer, is  
132 void.

133 (c) An employer may not directly or indirectly:

- 134 (i) make, require, or accept any deduction from wages to finance the employer's  
135 contributions required from the employer;
- 136 (ii) require or accept any waiver of any right under this chapter by any individual in the  
137 employer's employ;
- 138 (iii) discriminate in regard to the hiring or tenure of work on any term or condition of  
139 work of any individual on account of the individual claiming benefits under this chapter; or
- 140 (iv) in any manner obstruct or impede the filing of claims for benefits.

141 (d) (i) Any employer or officer or agent of an employer who violates Subsection (1)(c)  
142 is, for each offense, guilty of a class B misdemeanor.

143 (ii) Notwithstanding Sections [76-3-204](#) and [76-3-301](#), a fine imposed under this  
144 Subsection (1) shall be not less than \$100, and a penalty of imprisonment shall be not more  
145 than six months.

146 (2) An individual claiming benefits may not be charged fees or costs of any kind in any  
147 proceeding under this chapter by the department or its representatives, or by any court or any  
148 officer of the court.

149 (3) (a) Any individual claiming benefits in any proceeding before the department or its  
150 representatives or a court may be represented by counsel or any other authorized agent.

151 (b) [~~A counsel or agent~~] An authorized agent, who is not an attorney, may not [~~either~~]

152 charge or receive for the ~~[counsel's or]~~ authorized agent's services more than an amount  
153 approved by the division or administrative law judge in accordance with rules made by the  
154 department.

155 (4) Except as provided for in Subsection (5):

156 (a) any assignment, pledge, or encumbrance of any right to benefits that are or may  
157 become due or payable under this chapter is void;

158 (b) rights to benefits are exempt from levy, execution, attachment, or any other remedy  
159 provided for the collection of debt;

160 (c) benefits received by any individual, so long as they are not mingled with other  
161 funds of the recipient, are exempt from any remedy for the collection of all debts except debts  
162 incurred for necessities furnished to the individual or the individual's spouse or dependents  
163 during the time when the individual was unemployed; and

164 (d) any waiver of any exemption provided for in Subsection (4) is void.

165 (5) (a) An individual filing a new claim for unemployment compensation shall, at the  
166 time of filing the claim, disclose whether or not the individual owes:

167 (i) child support obligations; or

168 (ii) an uncollected overissuance of SNAP benefits.

169 (b) If the individual owes child support obligations, and is determined to be eligible for  
170 unemployment compensation, the division shall notify the state or local child support agency  
171 charged with enforcing that obligation that the individual is eligible for unemployment  
172 compensation.

173 (c) The division shall deduct and withhold from any unemployment compensation  
174 payable to an individual that owes child support obligations:

175 (i) any amount required to be deducted and withheld from unemployment  
176 compensation under legal process, as defined in the Social Security Act, 42 U.S.C. Sec. 659(i),  
177 properly served upon the department;

178 (ii) the amount determined under an agreement submitted to the division under  
179 Subsection 454 (19)(B)(i) of the Social Security Act, 42 U.S.C. Sec. 654, by the state or local  
180 child support enforcement agency, except if Subsection (5)(c)(i) is applicable; or

181 (iii) the amount specified by the claimant to the division if neither Subsection (5)(c)(i)  
182 nor (ii) is applicable.

183 (d) The division shall notify the state SNAP agency that an individual is eligible for  
184 unemployment compensation if the individual:

185 (i) owes an uncollected overissuance of SNAP benefits; and

186 (ii) is determined to be eligible for unemployment compensation.

187 (e) The division shall deduct and withhold from any unemployment compensation  
188 payable to an individual who owes an uncollected overissuance of SNAP benefits:

189 (i) the amount specified by the individual to the division to be deducted and withheld  
190 under this Subsection (5)(e);

191 (ii) the amount, if any, determined pursuant to an agreement submitted to the state  
192 SNAP agency under Section 13(c)(3)(B) of the Food and Nutrition Act of 2008; or

193 (iii) any amount otherwise required to be deducted and withheld from unemployment  
194 compensation pursuant to Section 13(c)(3)(B) of the Food and Nutrition Act of 2008.

195 (f) Any amount deducted and withheld under Subsection (5)(c) or (e) shall:

196 (i) be paid by the department to the appropriate:

197 (A) state or local child support enforcement agency; or

198 (B) state SNAP agency; and

199 (ii) for all purposes, be treated as if it was paid to the individual as unemployment  
200 compensation and then paid by the individual to the appropriate:

201 (A) state or local child support enforcement agency in satisfaction of the individual's  
202 child support obligation; or

203 (B) state SNAP agency in satisfaction of the individual's uncollected overissuance.

204 (g) For purposes of this Subsection (5):

205 (i) "Child support obligation" means obligations that are enforced under a plan  
206 described in Section 454 of the Social Security Act, 42 U.S.C. Sec. 654, that has been approved  
207 by the Secretary of Health and Human Services under Part D of Title IV of the Social Security  
208 Act, 42 U.S.C. Sec. 651 et seq.

209 (ii) "State SNAP agency" means the Department of Workforce Services or its designee  
210 responsible for the collection of uncollected overissuances.

211 (iii) "State or local child support enforcement agency" means any agency or political  
212 subdivision of the state operating under a plan described in this Subsection (5).

213 (iv) "Uncollected overissuance" is as defined in Section 13(c)(1) of the Food and

214 Nutrition Act of 2008.

215 (v) "Unemployment compensation" means any compensation payable under this  
216 chapter, including amounts payable under an agreement directed by federal law that provides  
217 compensation assistance or allowances for unemployment.

218 (h) This Subsection (5) is applicable only if appropriate arrangements have been made  
219 for reimbursement by the state or local child support enforcement agency or state SNAP agency  
220 for the administrative costs of the department under this Subsection (5) that are directly related  
221 to the enforcement of child support obligations or the repayment of uncollected overissuance of  
222 SNAP benefits.

223 Section 3. Section 35A-8-1009 is amended to read:

224 **35A-8-1009. Qualified Emergency Food Agencies Fund -- Expenditure of**  
225 **revenues.**

226 (1) As used in this section:

227 (a) "Association of governments" means the following created under the authority of  
228 Title 11, Chapter 13, Interlocal Cooperation Act:

- 229 (i) an association of governments; or
- 230 (ii) a regional council that acts as an association of governments.

231 (b) "Food and food ingredients" [~~is as~~] means the same as that term is defined in  
232 Section 59-12-102.

233 [~~(c) "Pounds of food donated" means the aggregate number of pounds of food and food~~  
234 ~~ingredients that are donated:]~~

235 [~~(i) to a qualified emergency food agency; and]~~

236 [~~(ii) by a person, other than an organization that as part of its activities operates a~~  
237 ~~program that has as the program's primary purpose to:]~~

238 [~~(A) warehouse and distribute food to other agencies and organizations providing food~~  
239 ~~and food ingredients to low-income persons; or]~~

240 [~~(B) provide food and food ingredients directly to low-income persons:]~~

241 [~~(d)~~] (c) "Qualified emergency food agency" means an organization that:

242 (i) is:

- 243 (A) exempt from federal income taxation under Section 501(c)(3), Internal Revenue
- 244 Code;



245 (B) an association of governments; or  
 246 (C) a food pantry operated by a municipality located within the state;  
 247 (ii) as part of its activities operates a program that has as the program's primary purpose  
 248 to:

249 (A) warehouse and distribute food to other agencies and organizations providing food  
 250 and food ingredients to low-income persons; or

251 (B) provide food and food ingredients directly to low-income persons; and  
 252 (iii) the office determines to be a qualified emergency food agency.

253 (2) There is created an expendable special revenue fund known as the Qualified  
 254 Emergency Food Agencies Fund.

255 (3) (a) The Qualified Emergency Food Agencies Fund shall be funded by the sales and  
 256 use tax revenues described in:

- 257 (i) Section 59-12-103;
- 258 (ii) Section 59-12-204; and
- 259 (iii) Section 59-12-1102.

260 (b) Any interest earned on the Qualified Emergency Food Agencies Fund shall be  
 261 deposited into the General Fund.

262 (4) The office shall for a fiscal year distribute money deposited into the Qualified  
 263 Emergency Food Agencies Fund to qualified emergency food agencies within the state as  
 264 provided in this section.

265 (5) A qualified emergency food agency shall file an application with the office before  
 266 the qualified emergency food agency may receive a distribution under this section.

267 ~~[(6) Except as provided in Subsection (7), the office shall for a fiscal year distribute to~~  
 268 ~~a qualified emergency food agency an amount equal to the product of:]~~

269 ~~[(a) the pounds of food donated to the qualified emergency food agency during that~~  
 270 ~~fiscal year; and]~~

271 ~~[(b) 12 cents.]~~

272 ~~[(7) If the money deposited into the Qualified Emergency Food Agencies Fund is~~  
 273 ~~insufficient to make the distributions required by Subsection (6), the office shall make~~  
 274 ~~distributions to qualified emergency food agencies in the order that the office receives~~  
 275 ~~applications from the qualified emergency food agencies until all of the money deposited into~~

276 the Qualified Emergency Food Agencies Fund for the fiscal year is expended.]

277 [~~(8)~~] (6) A qualified emergency food agency may expend a distribution received in  
278 accordance with this section only for a purpose related to:

279 (a) warehousing and distributing food and food ingredients to other agencies and  
280 organizations providing food and food ingredients to low-income persons; or

281 (b) providing food and food ingredients directly to low-income persons.

282 [~~(9)~~] (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
283 Act, the Housing and Community Development Division may make rules providing procedures  
284 for implementing the distributions required by this section, including:

285 (a) standards for determining and verifying the amount of a distribution that a qualified  
286 emergency food agency may receive;

287 (b) procedures for a qualified emergency food agency to apply for a distribution,  
288 including the frequency with which a qualified emergency food agency may apply for a  
289 distribution; and

290 (c) consistent with Subsection (1)[~~(d)~~](c), determining whether an entity is a qualified  
291 emergency food agency.

292 Section 4. Section 35A-13-103 is amended to read:

293 **35A-13-103. Office authority.**

294 (1) The Utah State Office of Rehabilitation created in Section 35A-1-202 is under the  
295 direction of the department and under the direction and general supervision of the executive  
296 director.

297 (2) The department is the sole state agency designated to administer the state plans for  
298 vocational rehabilitation and independent living rehabilitation programs.

299 (3) The office is the sole state unit designated to carry out the state plans and other  
300 duties assigned by law or the department, including the following:

301 (a) determining eligibility for vocational rehabilitation services;

302 (b) providing vocational rehabilitation services to eligible individuals;

303 (c) determining the types and scope of vocational rehabilitation services provided by  
304 the office;

305 (d) determining employment outcomes related to vocational rehabilitation services if  
306 required; and

307 (e) determining the appropriate uses of federal rehabilitation funding.

308 (4) The office may not delegate the duties described in Subsection (3) to any other state  
309 government entity.

310 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and  
311 in accordance with the provisions of this chapter, the department in collaboration with the  
312 office may make rules related to administering the state plan for vocational rehabilitation,  
313 including determining eligibility for vocational rehabilitation services and establishing  
314 priorities in providing vocational rehabilitation services.

315 Section 5. Section **35A-13-302** is amended to read:

316 **35A-13-302. Governor's Committee on Employment of People with Disabilities.**

317 (1) There is created the Governor's Committee on Employment of People with  
318 Disabilities, composed of the following [~~15~~] 19 members:

319 (a) the director of the office;

320 (b) the state superintendent of public instruction or the superintendent's designee;

321 (c) the commissioner of higher education or the commissioner's designee;

322 (d) the executive director of the Department of Human Resource Management or the  
323 executive director's designee;

324 (e) the executive director of the Department of Human Services or the executive  
325 director's designee;

326 (f) the executive director of the Department of Health or the executive director's  
327 designee; and

328 (g) the following [~~nine~~] 13 members appointed by the governor:

329 (i) a representative of individuals who are blind or visually impaired;

330 (ii) a representative of individuals who are deaf or hard of hearing;

331 (iii) a representative of individuals who have disabilities;

332 (iv) [~~three~~] seven representatives of business or industry;

333 (v) a representative experienced in job training and placement;

334 (vi) a representative of veterans; and

335 (vii) a representative experienced in medical, health, or insurance professions.

336 (2) (a) (i) Except as provided in Subsection (2)(a)(ii), the governor shall appoint the  
337 committee members described in Subsection (1)(g) to serve four-year terms.

338 (ii) In making the initial appointments to the committee, the governor shall appoint  
339 approximately one-half of the members to two-year terms and one-half of the members to  
340 four-year terms.

341 (b) Committee members shall serve until their successors are appointed and qualified.

342 (c) The governor shall fill any vacancy that occurs on the committee for any reason by  
343 appointing a person according to the procedures of this section for the unexpired term of the  
344 vacated member.

345 (d) The director of the office shall select a chair of the committee from the  
346 membership.

347 (e) ~~Eight~~ Ten members of the committee are a quorum for the transaction of business.

348 (3) (a) The committee shall:

349 (i) promote employment opportunities for individuals with disabilities;

350 (ii) serve as the designated state liaison to the President's Committee on Employment  
351 of People with Disabilities;

352 (iii) provide training and technical assistance to employers in implementing the  
353 Americans with Disabilities Act;

354 (iv) develop and disseminate appropriate information through workshops, meetings,  
355 and other requests in response to needs to employers and others regarding employment of  
356 individuals with disabilities;

357 (v) establish contacts with various community representatives to identify and resolve  
358 barriers to full participation in employment and community life;

359 (vi) formally recognize exemplary contributions in the areas of employment, job  
360 placement, training, rehabilitation, support services, medicine, media or public relations, and  
361 personal achievements made by individuals with disabilities;

362 (vii) advise, encourage, and motivate individuals with disabilities who are preparing  
363 for or seeking employment to reach their full potential as qualified employees;

364 (viii) advocate for policies and practices that promote full and equal rights for  
365 individuals with disabilities;

366 (ix) advise the office, the department, and the governor on issues that affect  
367 employment and other requests for information on disability issues; and

368 (x) prepare an annual report on the progress, accomplishments, and future goals of the

369 committee and present the report to the department for inclusion in the department's annual  
370 report described in Section 35A-1-109.

371 (b) The committee may, by following the procedures and requirements of Title 63J,  
372 Chapter 5, Federal Funds Procedures Act, receive and accept federal funds, and may receive  
373 and accept state funds, private gifts, donations, and funds from any source to carry out its  
374 purposes.

375 (4) The office shall staff the committee.

376 Section 6. Section 63I-2-253 is amended to read:

377 **63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.**

378 (1) Section 53A-1-403.5 is repealed July 1, 2017.

379 (2) Section 53A-1-411 is repealed July 1, 2017.

380 (3) Section 53A-1-709 is repealed July 1, 2020.

381 (4) Subsection 53A-1a-513(4) is repealed July 1, 2017.

382 (5) Section 53A-1a-513.5 is repealed July 1, 2017.

383 (6) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2019.

384 (7) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is  
385 repealed July 1, 2017.

386 (8) (a) [Sections] Section 53A-24-601 [and 53A-24-602 are] is repealed January 1,  
387 2018.

388 (b) Section 53A-24-602 is repealed July 1, 2018.

389 (9) (a) Subsections 53B-2a-103(2) and (4) are repealed July 1, 2019.

390 (b) When repealing Subsections 53B-2a-103(2) and (4), the Office of Legislative  
391 Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3),  
392 make necessary changes to subsection numbering and cross references.

393 (10) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is  
394 repealed July 1, 2023.