

SB0148S01 compared with SB0148

~~text~~ shows text that was in SB0148 but was deleted in SB0148S01.

text shows text that was not in SB0148 but was inserted into SB0148S01.

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Senator Todd Weiler proposes the following substitute bill:

WORKFORCE SERVICES REVISIONS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah Workforce Services Code.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the names of divisions within the Department of Workforce Services;
- ▶ creates the State Workforce Development Board and describes its membership and duties;
- ▶ makes the Department of Workforce Services' Code consistent with the federal Workforce Innovation and Opportunity Act;
- ▶ modifies background check provisions for certain child care providers; and
- ▶ makes technical changes.

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Money Appropriated in this Bill:

None

Other Special Clauses:

~~{ None }~~ This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

35A-1-104, as last amended by Laws of Utah 2008, Chapter 382
35A-1-202, as last amended by Laws of Utah 2012, Chapter 212
35A-1-206, as last amended by Laws of Utah 2014, Chapters 371 and 387
35A-1-207, as last amended by Laws of Utah 2011, Chapter 188
35A-2-101, as last amended by Laws of Utah 2011, Chapter 188
35A-2-102, as last amended by Laws of Utah 2011, Chapter 188
35A-2-201, as last amended by Laws of Utah 2011, Chapter 188
35A-3-102, as last amended by Laws of Utah 2015, Chapter 221
35A-3-103, as last amended by Laws of Utah 2015, Chapter 221
35A-3-310.5, as last amended by Laws of Utah 2015, Chapter 221
35A-4-312, as last amended by Laws of Utah 2015, Chapter 143
35A-5-102, as last amended by Laws of Utah 2008, Chapter 382
35A-5-202, as last amended by Laws of Utah 2012, Chapter 347
35A-11-203, as enacted by Laws of Utah 2014, Chapter 127
53B-12-101, as last amended by Laws of Utah 2008, Chapter 382
62A-1-111, as last amended by Laws of Utah 2014, Chapter 213
62A-4a-105, as last amended by Laws of Utah 2014, Chapters 140 and 265
62A-4a-709, as last amended by Laws of Utah 2005, Chapter 81

REPEALS:

35A-2-103, as last amended by Laws of Utah 2011, Chapter 188
35A-3-115, as last amended by Laws of Utah 2015, Chapter 221
35A-5-201, as renumbered and amended by Laws of Utah 1997, Chapter 375

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

Section 1. Section **35A-1-104** is amended to read:

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35A-1-104. Department authority.

Within all other authority or responsibility granted to it by law, the department may:

- (1) adopt rules when authorized by this title, in accordance with the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (2) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;
- (3) conduct adjudicative proceedings in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;
- (4) establish eligibility standards for its programs, not inconsistent with state or federal law or regulations;
- (5) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who is not eligible;
- (6) administer oaths, certify to official acts, issue subpoenas to compel witnesses and the production of books, accounts, documents, and other records necessary as evidence;
- (7) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;
- (8) receive gifts, grants, devises, and donations or their proceeds, crediting the program designated by the donor, and using the gift, grant, devise, or donation for the purposes requested by the donor, as long as the request conforms to state and federal policy;
- (9) accept and employ volunteer labor or services;
- (10) reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;
- (11) carry out the responsibility assigned by the state workforce services plan developed by the [~~State Council on Workforce Services~~] State Workforce Development Board;
- (12) provide training and educational opportunities for its staff;
- (13) examine and audit the expenditures of any public funds provided to a local authority, agency, or organization that contracts with or receives funds from those authorities or agencies;
- (14) accept and administer grants from the federal government and from other sources, public or private;
- (15) employ and determine the compensation of clerical, legal, technical, investigative,

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and other employees necessary to carry out its policymaking, regulatory, and enforcement powers, rights, duties, and responsibilities under this title;

(16) establish and conduct free employment agencies, and bring together employers seeking employees and working people seeking employment, and make known the opportunities for employment in this state;

(17) collect, collate, and publish statistical and other information relating to employees, employers, employments, and places of employment, and other statistics as it considers proper;

(18) encourage the expansion and use of apprenticeship programs meeting state or federal standards for apprenticeship programs;

(19) develop processes to ensure that the department responds to the full range of employee and employer clients; and

(20) carry out the responsibilities assigned to it by statute.

Section 2. Section **35A-1-202** is amended to read:

35A-1-202. Divisions -- Creation -- Duties -- Workforce Appeals Board, councils, Child Care Advisory Committee, and economic service areas.

(1) There is created within the department the following divisions:

(a) the ~~[Employment]~~ Workforce Development Division to administer the development and implementation of employment assistance programs ~~[that are: (i) related to the operations of the department; and (ii) consistent with federal and state law; (b) to administer those services that are not delivered through the economic service areas: (i)];~~

(b) the Workforce ~~[Development and Information]~~ Research and Analysis Division;
[and]

~~[(ii)]~~ (c) the Unemployment Insurance Division to administer Chapter 4, Employment Security Act;

(d) the Eligibility Services Division to administer public assistance eligibility;

~~[(e)]~~ (e) the Division of Adjudication to adjudicate claims or actions in accordance with this title; and

~~[(d)]~~ (f) the Housing and Community Development Division, ~~[which is]~~ described in Sections 35A-8-201 and 35A-8-202.

(2) In addition to the divisions created under Subsection (1), within the department are the following:

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- (a) the Workforce Appeals Board created in Section 35A-1-205;
- (b) the State [~~Council on Workforce Services~~] Workforce Development Board created in Section 35A-1-206;
- (c) the Employment Advisory Council created in Section 35A-4-502;
- (d) the Child Care Advisory Committee created in Section 35A-3-205; and
- (e) the economic service areas created in accordance with Chapter 2, Economic Service Areas.

Section 3. Section **35A-1-206** is amended to read:

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

- ~~[(1) There is created a State Council on Workforce Services that shall:]~~
 - ~~[(a) perform the activities described in Subsection (8);]~~
 - ~~[(b) advise on issues requested by the department and the Legislature; and]~~
 - ~~[(c) make recommendations to the department regarding:]~~
 - ~~[(i) the implementation of Chapter 2, Economic Service Areas, Chapter 3, Employment Support Act, and Chapter 5, Training and Workforce Improvement Act; and]~~
 - ~~[(ii) the coordination of apprenticeship training;]~~
 - ~~[(2)(a) The council shall consist of the following voting members:]~~
 - ~~[(i) a private sector representative from each economic service area as designated by the economic service area director;]~~
 - ~~[(ii) the superintendent of public instruction or the superintendent's designee;]~~
 - ~~[(iii) the commissioner of higher education or the commissioner's designee; and]~~
 - ~~[(iv) the following members appointed by the governor in consultation with the executive director:]~~
 - ~~[(A) four representatives of small employers as defined by rule by the department;]~~
 - ~~[(B) four representatives of large employers as defined by rule by the department;]~~
 - ~~[(C) four representatives of employees or employee organizations, including at least one representative from nominees suggested by public employees organizations;]~~
 - ~~[(D) two representatives of the clients served under this title including community-based organizations;]~~
 - ~~[(E) a representative of veterans in the state;]~~

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~~[(F) the executive director of the Utah State Office of Rehabilitation; and]~~

~~[(G) the Applied Technology College president.]~~

~~[(b) The following shall serve as nonvoting ex officio members of the council:]~~

~~[(i) the executive director or the executive director's designee;]~~

~~[(ii) a legislator appointed by the governor from nominations of the speaker of the House of Representatives and president of the Senate;]~~

~~[(iii) the executive director of the Department of Human Services;]~~

~~[(iv) the director of the Governor's Office of Economic Development or the director's designee; and]~~

~~[(v) the executive director of the Department of Health.]~~

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

(2) The board shall consist of the following 37 members:

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

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

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

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

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

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

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

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

(i) the president of the Utah College of Applied Technology or the president's designee;

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

~~(h)~~ (k) the executive director of the Department of Veterans' and Military Affairs or the executive director's designee; and

~~(h)~~ (l) the following members appointed by the governor:

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(i) 18 representatives of business in the state, selected among the following:

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

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

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

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

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

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

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

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

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

(3) (a) The governor shall appoint [~~one nongovernmental member from the council as the chair of the council~~] one of the appointed business representatives as chair of the board.

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

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

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

~~[(b)]~~ (c) A member shall continue to serve until the member's successor has been appointed and qualified.

~~[(c)]~~ (d) Except as provided in Subsection (4)~~[(d)]~~ (e), as terms of [~~council~~] board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

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

~~[(e)]~~ (f) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

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

(5) A majority of ~~[the voting]~~ members constitutes a quorum for the transaction of business.

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

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

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

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

(7) The department shall provide staff and administrative support to the ~~[council]~~ board at the direction of the executive director.

~~[(8) The council shall:]~~

~~[(a) develop a state workforce services plan in accordance with Section 35A-1-207;]~~

~~[(b) review economic service area plans to certify consistency with state policy guidelines;]~~

~~[(c) improve the understanding and visibility of state workforce services efforts through external and internal marketing strategies;]~~

~~[(d) include in the annual written report described in Section 35A-1-109, information and accomplishments related to the activities of the department;]~~

~~[(e) issue other studies, reports, or documents the council considers advisable that are not required under Subsection (8)(d);]~~

~~[(f) coordinate the planning and delivery of workforce development services with~~

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~~public education, higher education, vocational rehabilitation, and human services; and]~~

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

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

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

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

(d) developing strategies for staff training;

(e) developing and improving employment centers; and

~~[(g) perform]~~ (f) performing other responsibilities within the scope of workforce services as requested by:

(i) the Legislature;

(ii) the governor; or

(iii) the executive director.

Section 4. Section **35A-1-207** is amended to read:

35A-1-207. State workforce services plan -- Economic service area plans.

~~[(1)]~~ The State [~~Council on Workforce Services~~] Workforce Development Board shall annually ~~[develop]~~ maintain and update a state workforce services plan that ~~[shall include]~~ includes:

(1) a four-year strategy, as described in 29 U.S.C. Sec. 3112, for the following core programs:

(a) youth services;

(b) adult employment and training services;

(c) dislocated worker employment and training services;

(d) adult education and literacy activities;

(e) employment services; and

(f) vocational rehabilitation services;

(2) a strategy for aligning and coordinating the core programs;

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(3) a strategy for coordinating the workforce needs of job seekers and employers in the various regions of the state;

(4) planning to ensure that employment centers address the requirements of the special employment needs population, including:

(a) individuals who have special employment needs based on factors such as race, gender, age, disability, economic status, education, language skills, or work history; and

(b) an "individual with a barrier to employment" as that term is defined in 29 U.S.C. Sec. 3102;

~~[(a)] (5) a mechanism for getting consumer and public feedback on department programs [in each economic service area];~~

~~[(b)] (6) projected analysis of the workforce needs of employers and clients;~~

~~[(c) policy standards in programs and process when required by statute or considered necessary by the council that ensure statewide program consistency among economic service areas;]~~

~~[(d)] (7) state outcome-based standards for measuring program performance to ensure equitable service to all clients;~~

~~[(e) state oversight systems to review economic service area compliance with state policies;]~~

~~[(f) elements of economic service area plans that relate to statewide initiatives and programs;]~~

~~[(g)] (8) strategies to ensure program responsiveness, universal access, and unified case management;~~

~~[(h)] (9) strategies to eliminate unnecessary barriers to access services; and~~

~~[(i)] (10) strategies to provide assistance to employees facing employment dislocation and their employers.~~

~~[(2)(a) Economic service area directors shall annually develop an economic service area plan to be followed in administering services.]~~

~~[(b) The plan shall include:]~~

~~[(i) a projected analysis of the economic service area workforce needs of employers and clients;]~~

~~[(ii) assurances that state policy standards will be incorporated into the economic~~

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~~service area design;~~

~~[(iii) an economic service area budget outlining administration and customer support and services expenditures;]~~

~~[(iv) the location of employment centers and staff levels to deliver services;]~~

~~[(v) the services to be provided including assessment and support services, job training options, job placement, and employer outreach;]~~

~~[(vi) identification of targeted occupations for which training will be approved;]~~

~~[(vii) economic service area outcome-based performance standards that ensure equitable services to all clients;]~~

~~[(viii) economic service area oversight processes that include a process to evaluate program effectiveness and develop plans to improve programs;]~~

~~[(ix) internal and external marketing strategies to improve the understanding and visibility of economic service area efforts;]~~

~~[(x) coordination of apprenticeship training; and]~~

~~[(xi) strategies to provide assistance to employees facing employment dislocation and their employers.]~~

Section 5. Section **35A-2-101** is amended to read:

35A-2-101. Economic service areas -- Creation.

(1) (a) The executive director shall establish economic service areas to furnish the services described in Section 35A-2-201.

(b) In establishing economic service areas, the executive director shall seek input from[:]

~~[(i) state and local government agencies and departments;]~~

~~[(ii) the groups representing public employees;]~~

~~[(iii) employers, business, education, and other entities affected by the structure of the economic service areas; and]~~

~~[(iv) the general public]~~ the State Workforce Development Board.

(2) In establishing the economic service areas, the executive director [~~shall~~] may consider:

(a) areas comprised of multiple counties;

(b) the alignment of transportation and other infrastructure or services;

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- (c) the interdependence of the economy within a geographic area;
- (d) the ability to develop regional marketing and economic development programs;
- (e) the labor market areas;
- (f) the population of the area, as established in the most recent estimate by the Utah Population Estimates Committee;
- (g) the number of individuals in the previous year receiving:
 - (i) services under Chapter 3, Employment Support Act; and
 - (ii) benefits under Chapter 4, Employment Security Act; and
- (h) other factors that relate to the management of the programs administered or that relate to the delivery of services provided under this title.

Section 6. Section **35A-2-102** is amended to read:

35A-2-102. Directors of economic service areas -- Appointment.

(1) ~~[The chief officer of each economic service area shall be a director, who serves as the executive and administrative head of the economic service area]~~ The executive director shall appoint a director to oversee each economic service area.

(2) A director ~~[-(a) shall be appointed by the executive director, and (b)]~~ appointed under this section may be removed from that position at the will of the executive director.

(3) ~~[An economic service]~~ A director shall be experienced in administration and possess additional qualifications as determined by the executive director, and as provided by law.

(4) The director shall report on a regular basis to the ~~[State Council on Workforce Services]~~ State Workforce Development Board on the delivery of services in the economic service area.

Section 7. Section **35A-2-201** is amended to read:

35A-2-201. Services provided in economic service areas.

~~[(+)]~~ Economic service areas shall:

~~[(+)]~~ (1) through their employment centers, be the primary provider of services and support under Chapter 3, Employment Support Act; and

~~[(b) broker or contract]~~ (2) provide access to and assess eligibility for services or training under Chapter 5, Training and Workforce Improvement Act~~[-, and]~~.

~~[(c) serve as economic service area clearinghouses of information concerning~~

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~~workforce development and services and support available under this title.]~~

~~[(2)(a) In providing, brokering, or contracting for the services or training described in Subsection (1)(b), the economic service area director, in consultation with the executive director, shall ensure that the economic service area provides, brokers, or contracts for services and training that meet the needs of the special needs population in the economic service area.]~~

~~[(b) For purposes of Subsection (2)(a), "special needs population" means individuals who have special employment needs based on factors including race, gender, age, disability, economic status, education, language skills, and work history.]~~

Section 8. Section **35A-3-102** is amended to read:

35A-3-102. Definitions.

As used in this chapter:

- (1) "Adjudicative proceeding" has the same meaning as defined in Section 63G-4-103.
- (2) "Administrative order" means an order issued by the department that addresses an overpayment of public assistance.
- (3) "Applicant" means a person who requests assistance under this chapter.
- (4) "Assignment of support" means the transfer to the state of a recipient's right to receive support from another person that accrues during the period the recipient receives public assistance, including a right to receive support on behalf of any family member for whom the recipient is applying for or receiving assistance.
- (5) "Average monthly number of families" means the average number of families who received cash assistance on a monthly basis during the previous federal fiscal year.
- (6) "Cash assistance" means the monthly dollar amount a recipient is eligible to receive under the Family Employment Program under Section 35A-3-302.
- (7) "Child care services" means care of a child by a responsible person who is not the child's parent or legal guardian, for a portion of the day that is less than 24 hours in a qualified setting, as defined by rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (8) (a) "Civic organization" means an organization that provides services to its community.
(b) "Civic organization" includes a community service club or organization, a charitable health care or service organization, a fraternal organization, a labor union, a minority

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or ethnic organization, a commercial or industrial organization, a commerce or business club, a private nonprofit organization, a private nonprofit corporation that provides funding to a community service organization, an organization that advocates or provides for the needs of persons with low incomes, a religious organization, and an organization that fosters strong neighborhoods and communities.

(9) "Core programs" means the following activities as described in 29 U.S.C. Sec. 3102:

- (a) youth services;
- (b) adult employment and training services;
- (c) dislocated worker employment and training services;
- (d) adult education and literacy activities;
- (e) employment services; and
- (f) vocational rehabilitation services.

~~[(9)]~~ (10) "Court order" means a judgment or order of a court of this state, another state, or the federal government that addresses an overpayment of public assistance.

~~[(10)]~~ (11) "Date of enrollment" means the date on which the applicant was approved as eligible for cash assistance.

~~[(11)]~~ (12) "Director" means the director of the division assigned by the department to administer a program.

~~[(12)]~~ (13) "Diversion" or "diversion payment" means a one-time cash assistance payment under Section 35A-3-303 to a recipient who is eligible for cash assistance, but does not require extended cash assistance under Part 3, Family Employment Program.

~~[(13)]~~ (14) "Education or training" means education or training in accordance with 29 U.S.C. Sec. 3174 and includes:

- (a) basic remedial education;
- (b) adult education;
- (c) high school education;
- (d) education to obtain the equivalent of a high school diploma;
- (e) education to learn English as a second language;
- (f) applied technology training;
- (g) employment or occupational skills training; ~~[or]~~

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(h) on-the-job training[?];

(i) incumbent worker training;

(j) programs that combine workplace training with related instruction, which may include cooperative education programs;

(k) training programs operated by the private sector;

(l) skills upgrading and retraining;

(m) entrepreneurial training; or

(n) customized training conducted with a commitment by an employer to employ an individual upon successful completion of the training.

~~[(14)]~~ (15) "Full-time education or training" means training on a full-time basis as defined by the educational institution attended by the parent recipient.

~~[(15)]~~ (16) "General assistance" means financial assistance provided to a person under Part 4, General Assistance.

~~[(16)]~~ (17) "Notice of agency action" means the notice required to commence an adjudicative proceeding as described in Section 63G-4-201.

~~[(17)]~~ (18) "Obligor" means an individual:

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

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

~~[(18)]~~ (19) (a) "Overpayment" means money, public assistance, or another item of value provided under a state or federally funded benefit program to a person that is not entitled to receive it or is not entitled to receive it at the level provided.

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

(i) for goods or services not provided; or

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

~~[(19)]~~ (20) "Parent recipient" means a person who enters into an employment plan with the department to qualify for cash assistance under Part 3, Family Employment Program.

~~[(20)]~~ (21) "Performance goals" means a target level of performance that will be

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compared to actual performance.

[(21)] (22) "Performance indicators" means actual performance information regarding a program or activity.

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

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

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

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

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

Section 9. Section **35A-3-103** is amended to read:

35A-3-103. Department responsibilities.

The department shall:

- (1) administer public assistance programs assigned by the Legislature and the governor;
- (2) determine eligibility for public assistance programs in accordance with the requirements of this chapter;
- (3) cooperate with the federal government in the administration of public assistance programs;
- (4) administer state employment services [~~in accordance with Section 35A-3-115~~];
- (5) provide for the compilation of necessary or desirable information, statistics, and reports;
- (6) perform other duties and functions required by law;
- (7) monitor the application of eligibility policy;
- (8) develop personnel training programs for effective and efficient operation of the

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programs administered by the department;

(9) provide refugee resettlement services in accordance with Section [35A-3-116] 35A-3-701;

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

(11) provide services that enable an applicant or recipient to qualify for affordable housing in cooperation with:

- (a) the Utah Housing Corporation;
- (b) the Housing and Community Development Division; and
- (c) local housing authorities.

Section 10. Section **35A-3-310.5** is amended to read:

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

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

- (a) (i) is selected by a recipient of a child care assistance payment; or
- (ii) is a recipient of a child care assistance payment;
- (b) is not required to undergo a criminal background check with the Department of Health, Bureau of Child Care Licensing;
- (c) is not a license exempt child care center or program; and

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

(2) (a) A child care provider identified under Subsection (1) shall submit to the department the name and other identifying information, including a set of fingerprints, of:

- (i) existing, new, and proposed individuals who provide or may provide child care; and
- (ii) individuals who are at least 18 years of age and reside in the premises where the

child care is provided.

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

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

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

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~~[(B) resided in Utah continuously since submitting the fingerprints.]~~

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

(i) process and conduct background checks on all individuals as requested by the department; and

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

~~[(d) If the department waives the fingerprint requirement under Subsection (2)(b), the Criminal Investigation and Technical Services Division may allow the department or its representative access to the Criminal Investigation and Technical Services Division's database to determine whether the individual has been convicted of a crime.]~~

~~[(e)] (c)~~ The child care provider shall pay the cost of the history background check provided under Subsection (2)~~[(c)](b)~~.

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

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

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

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

(A) is age 28 or older; and

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

(4) Except as provided in Subsection (5), a child care provider under this section may not permit an individual described under Subsection (3)(b) to:

(a) provide subsidized child care; or

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

(5) (a) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to exempt the following from the restrictions of Subsection

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(4):

(i) a specific misdemeanor;

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

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

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

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to determine:

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

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

Section 11. Section **35A-4-312** is amended to read:

35A-4-312. Records.

(1) (a) An employing unit shall keep true and accurate work records containing information the department may prescribe by rule.

(b) A record shall be open to inspection and subject to being copied by the division or its authorized representatives at a reasonable time and as often as necessary.

(c) An employing unit shall make a record available in the state for three years after the calendar year in which the services are rendered.

(2) The division may require from an employing unit a sworn or unsworn report with respect to a person employed by the employing unit that the division considers necessary for the effective administration of this chapter.

(3) Except as provided in this section or in Sections 35A-4-103 and 35A-4-106, information obtained under this chapter or obtained from an individual may not be published or

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open to public inspection in a manner revealing the employing unit's or individual's identity.

(4) (a) The information obtained by the division under this section may not be used in court or admitted into evidence in an action or proceeding, except:

(i) in an action or proceeding arising out of this chapter;

(ii) if the Labor Commission enters into a written agreement with the division under Subsection (6)(b), in an action or proceeding by the Labor Commission to enforce:

(A) Title 34, Chapter 23, Employment of Minors;

(B) Title 34, Chapter 28, Payment of Wages;

(C) Title 34, Chapter 40, Utah Minimum Wage Act; or

(D) Title 34A, Utah Labor Code;

(iii) under the terms of a court order obtained under Subsection 63G-2-202(7) and Section 63G-2-207; or

(iv) under the terms of a written agreement between the Office of State Debt Collection and the division as provided in Subsection (5).

(b) The information obtained by the division under this section shall be disclosed to:

(i) a party to an unemployment insurance hearing before an administrative law judge of the department or a review by the Workforce Appeals Board to the extent necessary for the proper presentation of the party's case; or

(ii) an employer, upon request in writing for information concerning a claim for a benefit with respect to a former employee of the employer.

(5) The information obtained by the division under this section may be disclosed to:

(a) an employee of the department in the performance of the employee's duties in administering this chapter or other programs of the department;

(b) an employee of the Labor Commission for the purpose of carrying out the programs administered by the Labor Commission;

(c) an employee of the Department of Commerce for the purpose of carrying out the programs administered by the Department of Commerce;

(d) an employee of the governor's office or another state governmental agency administratively responsible for statewide economic development, to the extent necessary for economic development policy analysis and formulation;

(e) an employee of another governmental agency that is specifically identified and

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authorized by federal or state law to receive the information for the purposes stated in the law authorizing the employee of the agency to receive the information;

(f) an employee of a governmental agency or workers' compensation insurer to the extent the information will aid in:

(i) the detection or avoidance of duplicate, inconsistent, or fraudulent claims against:

(A) a workers' compensation program; or

(B) public assistance funds; or

(ii) the recovery of overpayments of workers' compensation or public assistance funds;

(g) an employee of a law enforcement agency to the extent the disclosure is necessary to avoid a significant risk to public safety or in aid of a felony criminal investigation;

(h) an employee of the State Tax Commission or the Internal Revenue Service for the purposes of:

(i) audit verification or simplification;

(ii) state or federal tax compliance;

(iii) verification of a code or classification of the:

(A) 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(B) 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(iv) statistics;

(i) an employee or contractor of the department or an educational institution, or other governmental entity engaged in workforce investment and development activities under the

~~[Workforce Investment Act of 1998]~~ Workforce Innovation and Opportunity Act, 29 U.S.C. Sec. 3101 et seq., for the purpose of:

(i) coordinating services with the department;

(ii) evaluating the effectiveness of those activities; and

(iii) measuring performance;

(j) an employee of the Governor's Office of Economic Development, for the purpose of periodically publishing in the Directory of Business and Industry, the name, address, telephone number, number of employees by range, code or classification of an employer, and type of ownership of Utah employers;

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(k) the public for any purpose following a written waiver by all interested parties of their rights to nondisclosure;

(l) an individual whose wage data is submitted to the department by an employer, if no information other than the individual's wage data and the identity of the employer who submitted the information is provided to the individual;

(m) an employee of the Insurance Department for the purpose of administering Title 31A, Chapter 40, Professional Employer Organization Licensing Act;

(n) an employee of the Office of State Debt Collection for the purpose of collecting state accounts receivable as provided in Section 63A-3-502;

(o) a creditor, under a court order, to collect on a judgment as provided in Section 35A-4-314; or

(p) an employee of the Wage and Hour Division of the United States Department of Labor for the purpose of carrying out the programs administered by the Wage and Hour Division as permitted under 20 C.F.R. 603.5(e), if the information is subject to the payment of costs described in 20 C.F.R. 603.8(d) and:

(i) is limited to:

(A) the name and identifying information of an employer found by the department to have misclassified one or more workers under Subsection 35A-4-204(3);

(B) the total number of misclassified workers for that employer; and

(C) the aggregate amount of misclassified wages for that employer;

(ii) an employer is given the opportunity to cure a misclassification of one or more workers, in a manner established by division rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, before the information is disclosed as described in this Subsection (5)(p); and

(iii) an annual report regarding the benefit to the state from disclosure of information under this Subsection (5)(p) is provided to the department for inclusion in the department's annual report described in Section 35A-1-109.

(6) Disclosure of private information under Subsection (4)(a)(ii) or Subsection (5), with the exception of Subsections (5)(a), (g), and (o), may be made if:

(a) the division determines that the disclosure will not have a negative effect on:

(i) the willingness of employers to report wage and employment information; or

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(ii) the willingness of individuals to file claims for unemployment benefits; and
(b) the agency enters into a written agreement with the division in accordance with rules made by the department.

(7) (a) The employees of a division of the department other than the Workforce [~~Development and Information~~] Research and Analysis Division and the Unemployment Insurance Division or an agency receiving private information from the division under this chapter are subject to the same requirements of privacy and confidentiality and to the same penalties for misuse or improper disclosure of the information as employees of the division.

(b) Use of private information obtained from the department by a person or for a purpose other than one authorized in Subsection (4) or (5) violates Subsection 76-8-1301(4).

Section 12. Section **35A-5-102** is amended to read:

35A-5-102. Federal grants for retraining.

(1) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the state, through the [~~Employment Development Division~~] department, may and is encouraged to apply for retraining, community assistance, or technology transfer funds available through:

- (a) the United States Department of Defense;
- (b) United States Department of Labor; or
- (c) other appropriate federal offices or departments.

(2) In applying for federal funds, the state, through [~~its Employment Development Division or other appropriate office~~] the department, may inform the federal government of state matching or enhancement funds if those funds are available under Section 67-1-12.

Section 13. Section **35A-5-202** is amended to read:

35A-5-202. Contracts with providers.

(1) In compliance with Title 63G, Chapter 6a, Utah Procurement Code, the department shall enter into a contract with one or more qualified providers to implement the [~~workforce improvement plan created under~~] state workforce services plan described in Section [35A-5-201] 35A-1-207.

(2) A contract entered into under this section [~~shall be~~]:

- (a) shall be performance based; and
- (b) may be structured so that the provider receives reimbursement based on:

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- (i) job development;
- (ii) participant placement in jobs;
- (iii) wages and benefits provided; and
- (iv) participant retention in jobs over at least a 12-month period.

(3) If the department determines through the procurement process that there are no qualified providers to implement the [~~workforce improvement plan~~] state workforce services plan, the department may implement the plan.

Section 14. Section **35A-11-203** is amended to read:

35A-11-203. Annual report.

(1) The commission shall annually prepare and publish a report directed to the:

- (a) governor;
- (b) Education Interim Committee;
- (c) Economic Development and Workforce Services Interim Committee;
- (d) Executive Appropriations Committee;
- (e) Legislative Management Committee;
- (f) Business, Economic Development, and Labor Appropriations Subcommittee; and
- (g) State [~~Council on Workforce Services~~] Workforce Development Board.

(2) The report described in Subsection (1) shall:

- (a) describe how the commission fulfilled its statutory purposes and duties during the year; and
- (b) contain recommendations on how the state should act to address issues relating to women in the economy.

Section 15. Section **53B-12-101** is amended to read:

53B-12-101. Utah Higher Education Assistance Authority designated -- Powers.

The board is the Utah Higher Education Assistance Authority and, in this capacity, may do the following:

- (1) guarantee 100% of the principal of and interest on a loan to or for the benefit of a person attending or accepted to attend an eligible postsecondary educational institution to assist that person in meeting any educational expenses incurred in an academic year;
- (2) take, hold, and administer real or personal property and money, including interest and income, either absolutely or in trust, for any purpose under this chapter;

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(3) acquire property for the purposes indicated in Subsection (2) by purchase or lease and by the acceptance of gifts, grants, bequests, devises, or loans;

(4) enter into or contract with an eligible lending institution, or with a public or private postsecondary educational institution to provide for the administration by the institution of any loan or loan guarantee made by it, including application and repayment provisions;

(5) participate in federal programs guaranteeing, reinsuring, or otherwise supporting loans to eligible borrowers for postsecondary educational purposes and agree to, and comply with, the conditions and regulations applicable to those programs;

(6) adopt, amend, or repeal rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to govern the activities authorized by this chapter;

(7) receive state appropriations for the fund established under Section 53B-12-104 to match deposits and to accept contributions received by it for this purpose;

(8) receive funds from the federal government to assist in implementing federally supported programs administered under this chapter;

(9) engage, appoint, or contract for the services of officers, agents, employees, and private consultants to render and perform professional and technical duties and provide assistance and advice in carrying out the purposes of this chapter, to describe their duties, and to fix the amount and source of their compensation; and

(10) receive employment information from the Workforce [~~Development and Information~~] Research and Analysis Division in accordance with Section 35A-4-312 for the purpose of collecting defaulted student loans made under this chapter. The information obtained under this Subsection (10) shall be limited to the employer's name, address, and telephone number for borrowers who have defaulted on a student loan held by the Utah Higher Education Assistance Authority.

Section 16. Section **62A-1-111** is amended to read:

62A-1-111. Department authority.

The department may, in addition to all other authority and responsibility granted to it by law:

(1) adopt rules, not inconsistent with law, as the department may consider necessary or desirable for providing social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and

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community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for its programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for its services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State [~~Council on Workforce Services~~] Workforce Development Board;

(13) carry out the responsibility assigned by Section 35A-8-602 with respect to coordination of services for the homeless;

(14) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for students with a disability;

(15) provide training and educational opportunities for its staff;

(16) collect child support payments and any other money due to the department;

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(17) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

(18) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the department is given custody of a minor by the juvenile court pursuant to Section 78A-6-117 or ordered to prepare an attainment plan for a minor found not competent to proceed pursuant to Section 78A-6-1301; any policy and procedures shall include:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

(19) carry out the responsibilities assigned to it by statute;

(20) examine and audit the expenditures of any public funds provided to local substance abuse authorities, local mental health authorities, local area agencies on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to local authorities, area agencies, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of services. For purposes of this Subsection (20) "public funds" means the same as that term is defined in Section 62A-15-102;

(21) pursuant to Subsection 62A-2-106(1)(d), accredit one or more agencies and persons to provide intercountry adoption services; and

(22) within appropriations authorized by the Legislature, promote and develop a system of care, as defined in Section 62A-1-104, within the department and with contractors that provide services to the department or any of the department's divisions.

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Section 17. Section **62A-4a-105** is amended to read:

62A-4a-105. Division responsibilities.

(1) The division shall:

(a) administer services to minors and families, including:

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home services, including:

(A) services designed to prevent family break-up; and

(B) family preservation services;

(iii) reunification services to families whose children are in substitute care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;

(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(v) shelter care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;

(vi) domestic violence services, in accordance with the requirements of federal law;

(vii) protective services to victims of domestic violence, as defined in Section 77-36-1, and their children, in accordance with the provisions of this chapter and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;

(viii) substitute care for dependent, abused, neglected, and delinquent children;

(ix) programs and services for minors who have been placed in the custody of the division for reasons other than abuse or neglect, under Section 62A-4a-250;

(x) services for minors who are victims of human trafficking or human smuggling as described in Sections 76-5-308 through 76-5-310 or who have engaged in prostitution or sexual solicitation as defined in Section 76-10-1302; and

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- (xi) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter;
- (c) establish standards for all:
 - (i) contract providers of out-of-home care for minors and families;
 - (ii) facilities that provide substitute care for dependent, abused, neglected, and delinquent children placed in the custody of the division; and
 - (iii) direct or contract providers of domestic violence services described in Subsection (1)(b)(vi);
- (d) have authority to:
 - (i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 62A-4a-107.5; and
 - (ii) approve facilities that meet the standards established under Subsection (1)(c) to provide substitute care for dependent, abused, neglected, and delinquent children placed in the custody of the division;
- (e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;
- (f) in accordance with Subsection (2)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, dependent, delinquent, ungovernable, and runaway children, and status offenders, in accordance with the requirements of this chapter, unless administration is expressly vested in another division or department of the state;
- (g) cooperate with the [~~Employment~~] Workforce Development Division in the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;
- (h) compile relevant information, statistics, and reports on child and family service matters in the state;
- (i) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 62A-4a-117 and 62A-4a-118;
- (j) provide social studies and reports for the juvenile court in accordance with Section 78A-6-605;
- (k) within appropriations from the Legislature, provide or contract for a variety of

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domestic violence services and treatment methods;

(l) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, pursuant to Section 78A-6-314, and promote adoption of those children;

(m) subject to Subsection (2)(b), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test; and

(n) perform other duties and functions required by law.

(2) (a) In carrying out the requirements of Subsection (1)(f), the division shall:

(i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and with all public and private licensed child welfare agencies and institutions, to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in this Subsection (2)(a), within the division's budget.

(b) When an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (1)(n), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

(ii) the individual is a participant in a drug court; or

(iii) the court finds that the individual is impecunious.

(3) Except to the extent provided by rule, the division is not responsible for investigating domestic violence in the presence of a child, as described in Section 76-5-109.1.

(4) The division may not require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo.

Section 18. Section **62A-4a-709** is amended to read:

62A-4a-709. Medical assistance identification.

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(1) As used in this section:

(a) "Adoption assistance" means financial support to adoptive parents provided under the Adoption Assistance and Child Welfare Act of 1980, Titles IV (e) and XIX of the Social Security Act.

(b) "Adoption assistance agreement" means a written agreement between the division and adoptive parents or between any state and adoptive parents, providing for adoption assistance.

(c) "Interstate compact" means an agreement executed by the division with any other state, under the authority granted in Section 62A-4a-907.

(2) The [~~Employment~~] Workforce Development Division in the Department of Workforce Services and the Division of Health Care Financing shall cooperate with the division and comply with interstate compacts.

(3) A child who is a resident of this state and is the subject of an interstate compact is entitled to receive medical assistance identification from the [~~Employment~~] Workforce Development Division in the Department of Workforce Services and the Division of Health Care Financing by filing a certified copy of his adoption assistance agreement with that office. The adoptive parents shall annually provide that office with evidence, verifying that the adoption assistance agreement is still effective.

(4) The [~~Employment~~] Workforce Development Division in the Department of Workforce Services shall consider the holder of medical assistance identification received under this section as it does any other holder of medical assistance identification received under an adoption assistance agreement executed by the division.

(5) The submission of any claim for payment or reimbursement under this section that is known to be false, misleading, or fraudulent is punishable as a third degree felony.

Section 19. Repealer.

This bill repeals:

Section 35A-2-103, Advisory groups -- Creation.

Section 35A-3-115, Public employment offices -- Agreements with other authorities -- Federal system accepted -- Appropriation.

Section 35A-5-201, Workforce improvement plan.

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Legislative Review Note

Office of Legislative Research and General Counsel

Section 20. Effective date.

This bill takes effect on July 1, 2016.