

ENROLLED ACT NO. 47, HOUSE OF REPRESENTATIVES

FIFTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2002 SPECIAL SESSION

AN ACT relating to the department of workforce services; specifying programs that are transferred to the department of workforce services; specifying duties of the department and the director of the department; requiring a report; reestablishing the workforce development training fund; providing for confidentiality as specified; conforming provisions to reflect responsibilities; repealing conflicting provisions; providing an appropriation; and providing for effective dates.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1.

(a) W.S. 9-2-2018 created the department of workforce services and required the director to submit a reorganization plan. Pursuant to W.S. 9-2-2018(b), the department of workforce services reorganization plan dated October 15, 2001 was approved by the governor and submitted to the legislature as required by law. The legislature hereby approves that plan for implementation beginning April 1, 2002. On that date, the governor may begin transferring programs specified in this section to the department of workforce services. The program transfers shall be substantially completed by December 31, 2002, and finalized by June 30, 2003. The implementation plan shall be subject to the following:

(i) The following programs are transferred from the department of employment to the department of workforce services as type 2 transfers:

(A) All public employment services;

(B) Wagner Peyser initiatives;

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(C) Workforce Investment Act, title I initiatives, including the office of workforce development and schools to careers initiative;

(D) Trade adjustment assistance;

(E) North American free trade agreement;

(F) Work opportunity tax credit;

(G) Workforce development training fund;

(H) Veterans' services;

(J) Vocational rehabilitation;

(K) Disability determination services;

(M) Telecommunications relay services.

(ii) The following programs are transferred from the department of family services to the department of workforce services as type 2 transfers:

(A) Temporary assistance to needy families (TANF) block grant and TANF/work program;

(B) Prosecution recovery investigation, collection and enforcement;

(C) Quality control program;

(D) Food stamp employment and training, including the electronic benefit transfer (EBT)/health passport (HPP) initiative;

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(E) Eligibility determination functions, including eligibility payment information computer systems (EPICS), food stamp eligibility, child care subsidy program eligibility, medicaid eligibility and the child health insurance program eligibility.

(iii) The following programs are transferred from the department of health to the department of workforce services as type 2 transfers:

(A) Commission for national and community service;

(B) Community services block grant;

(C) Senior community service employment program.

(iv) The adult basic education/general education development program is transferred from the Wyoming community college commission to the department of workforce services as a type 2 transfer;

(v) Future realignment consideration shall be given to the transfer of vocational education under the Carl D. Perkins Vocational and Technical Education Act of 1998, including tech-prep education, from the department of education to the department of workforce services as a type 2 transfer, if reauthorized in year 2004;

(vi) The governor shall require the department of employment, department of family services, department of health, department of education, department of corrections, the Wyoming business council and the Wyoming community college commission to enter into memoranda of understanding

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developed by the department of workforce services to coordinate the delivery and enhancement of services promoting training and preparation of Wyoming citizens for employment. The memoranda shall be developed with participation of the state entities specified, community college districts and other entities as determined appropriate by the department of workforce services;

(vii) The director shall exercise all authority provided under W.S. 9-2-1706(c)(i)(A) through (C) and may exercise the authority permitted under W.S. 9-2-1706(c)(ii).

(b) All positions, personnel, appropriations, property, equipment and authority in agencies or programs transferred to the department of workforce services under type 2 transfers as a result of W.S. 9-2-2018 and this act are under the control and are the responsibility of the department of workforce services or its boards and commissions as specified by law. The terms of all persons previously appointed to a board, commission or council within an agency or program which is transferred to the department of workforce services are also transferred under this act. The validity of rules, regulations, contracts, agreements or other obligations of agencies or programs transferred to the department of workforce services under this act is not affected by this act.

Section 2. W.S. 9-2-2601 through 9-2-2607 are created to read:

ARTICLE 26
DEPARTMENT OF WORKFORCE SERVICES

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9-2-2601. Department of workforce services; duties and responsibilities; agreements with other agencies authorized; definition.

(a) The department of workforce services is created. The department is the authority for public assistance in the state which previously existed under the department of family services and for workforce services. The department is the successor agency for public employment and training services which previously existed under the department of employment. The department shall perform all functions previously performed by those programs.

(b) The department may submit a unified plan for the state to the appropriate federal agencies for work activities and programs as authorized under section 501 of the Workforce Investment Act of 1998, and may include, with the approval of the governor and the superintendent of public instruction, activities authorized under the Carl D. Perkins Vocational and Technical Education Act of 1998.

(c) The department shall adopt rules and regulations pursuant to the Wyoming Administrative Procedure Act to implement requirements of the federal Workforce Investment Act.

(d) The department shall administer expenditures from the workforce development training fund as provided in W.S. 9-2-2604.

(e) The department is the designated agency for the state under 29 U.S.C. § 49 et seq. and shall:

(i) Comply with the requirements of and secure benefits for the state under 29 U.S.C. § 49 et seq.;

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(ii) Establish and maintain public employment offices throughout the state; and

(iii) Cooperate with federal agencies under 29 U.S.C. § 49 et seq.

(f) The department may cooperate and enter into agreements with the railroad retirement board, any other federal or state agency or any private nonprofit organization for the provision of public employment offices and services and may accept contributions for this purpose.

(g) The department shall take appropriate steps to:

(i) Reduce and prevent unemployment and provide supportive services that are necessary to assist individuals to take part in activities leading to self-sufficiency;

(ii) Encourage and assist in the adoption of practical methods of vocational training, retraining and guidance;

(iii) Investigate, recommend, advise and assist in the establishment and operation of public works reserves by the state and its political subdivisions to be used in times of business depression and unemployment;

(iv) Promote alternative reemployment of unemployed workers throughout the state; and

(v) Conduct and publish results of investigations and research studies;

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(vi) Assist the Wyoming workforce development council and the state youth council in pursuing their missions and goals.

(h) In any civil action to enforce this act, the department may be represented by the attorney general at the request of the department.

(j) As used in this article unless the context requires otherwise, "department" means the department of workforce services.

9-2-2602. Director of department; appointment; removal; duties.

(a) With the advice and consent of the senate the governor shall appoint a director for the department who shall serve under the direction of the governor and who may be removed by the governor as provided in W.S. 9-1-202. Appointments and terms under this section shall be in accordance with W.S. 28-12-101 through 28-12-103.

(b) The director shall:

(i) Disburse and administer all federal funds or other monies allotted to the department;

(ii) Prescribe by rule, order or regulation the conditions under which these monies shall be disbursed and administered. Any audit performed shall comply with the requirements of W.S. 9-1-507;

(iii) Enter into agreements, not inconsistent with the laws of the state, required as conditions precedent to receiving funds or other assistance. Funds appropriated by the legislature for operation of the

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department shall be used for the specified purposes only, and the director, in accepting funds from any other source, shall not consent to impairment of the department's statutory responsibilities;

(iv) Hold hearings, administer oaths, subpoena witnesses and take testimony as provided by the Wyoming Administrative Procedure Act in all matters relating to the exercise and performance of the powers and duties vested in the department;

(v) With the assistance of the attorney general bring actions in the courts of the state in the name of the department for the enforcement of public welfare laws;

(vi) Promulgate reasonable rules and regulations in compliance with the Wyoming Administrative Procedure Act, for the implementation of all state and federal welfare laws; and

(vii) Appoint a separate administrator for each of the divisions of the department of workforce services and may discharge the administrators as provided in W.S. 9-2-1706(c)(ii).

(c) In order that there may be established and maintained in the state of Wyoming a system of public employment offices, in conformity with an act of congress approved June 6, 1933, providing for the establishment of a national employment system and for cooperation with the states of the promotion of the system and for other purposes, the state of Wyoming accepts the provisions of the act of congress and designates the director of the department of workforce services as its agent in whom is vested all powers necessary to cooperate with the United States department of labor in the establishment and

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maintenance in Wyoming of a system of employment offices under the control of the United States secretary of labor and to do all things which are necessary under the federal act to obtain the benefits which are available to the state under the provisions of the federal act.

9-2-2603. Department designation as the single state agency for public assistance.

The governor may, after consultation with the director of the department designate the department as the single state agency for the administration of the state plan for public assistance to administer upon terms directed by the governor.

9-2-2604. Workforce development training fund established.

(a) There is established the Wyoming workforce development training fund. The state treasurer shall invest available revenues in the fund in accordance with law, and earnings from those investments shall be credited to the fund. The revenues in the fund are continuously appropriated to the department of workforce services to be expended as provided in this section.

(b) Revenues in the Wyoming workforce development training fund may be expended for the following:

(i) For all administrative costs incurred by:

(A) The department of employment associated with establishing, assessing, collecting and maintaining the state unemployment insurance trust fund and assessing and collecting the Wyoming workforce development training fund; and

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(B) The department of workforce services associated with maintaining the Wyoming workforce development training fund.

(ii) To fund workforce development programs in the department of workforce services with the approval of the governor;

(iii) To provide workforce development programs designed to train, retrain or upgrade work skills for existing Wyoming workers; and

(iv) To provide training for skills necessary for specific economic development initiatives.

(c) Expenditures from the workforce development training fund for purposes authorized in subsection (b) of this section shall be approved by the director of the department of workforce services based on procedures, criteria and performance measures established by regulations. Notification of expenditures approved under paragraphs (b)(iii) and (iv) of this section and a copy of the training fund application shall be provided to the Wyoming business council. The director of the department of workforce services shall report annually to the governor and the legislature on the expenditures made from the training fund in the preceding fiscal year and the results of the activities funded by the training fund.

9-2-2605. Sale of office publications; exception.

The department of workforce services may sell any publication or other duplicated or printed material, other than the biennial report, which it prepares and which the public may desire to purchase.

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9-2-2606. Sale of office publications; limitation on charges.

The charges made by the department of workforce services for publications or other duplicated or printed materials, other than the biennial report, which it prepares shall not exceed the cost of materials, printing, duplication, packaging and postage.

9-2-2607. Confidentiality of information; disclosure; reimbursement.

(a) Except as otherwise provided, information maintained pursuant to this article shall not be disclosed in a manner which reveals the identity of the employing unit or the individual. The confidentiality limitations of this section do not apply to transfers of information between the divisions of the department of workforce services so long as the transfer of information is not restricted by federal law, rule or contract. Any employee of the requesting department or agency who discloses information outside of the department in violation of federal or state law may be terminated without progressive discipline.

(b) The department may, upon request, disclose any information obtained under this article to a director or agency head, or his designee or agent, in the executive branch of federal or state government to be used by the public official only for official business in connection with the administration of a law or in the enforcement of a law by that public official. The requesting agency shall reimburse the department for the cost of furnishing this information unless the cost is insignificant. Any employee of the requesting department or agency who discloses

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information outside of the department in violation of federal or state law may be terminated without progressive discipline.

Section 3. W.S. 9-1-204(a)(i), 9-2-109(a)(i), 9-2-2101(a), 9-2-2103, 14-2-313(a)(iv), 16-9-201(a)(iv), 20-2-310(d), 27-3-204(a), 27-3-205(a), 27-3-209(a) and (c), 27-3-211(b)(iv), 27-3-306(a)(i)(intro) and (e), 27-3-307(a)(i), 27-3-321(c), (d) and (f), 27-14-102(a)(viii)(H), 27-14-802(c), 35-25-103(c) and (f), 35-25-105(a)(ii), 35-27-102(g), 37-2-302, 42-1-101(a)(intro) and (ii) and 42-3-101 by creating a new subsection (c) are amended to read:

9-1-204. Human services agencies.

(a) As used in this section:

(i) "Human services agency" means any division, institution and program within the department of health, the department of workforce services or the state department of family services and all institutions, boards and programs administering, planning and providing for state human services under the supervision of the director of the department of health, the director of the department of workforce services or the director of the department of family services;

9-2-109. Vocational rehabilitation; definitions.

(a) As used in W.S. 9-2-109 through 9-2-115:

(i) "Division" means the staff within the department of ~~employment~~ workforce services who administer vocational rehabilitation programs and provide vocational rehabilitation services;

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9-2-2101. Department of family services; duties and responsibilities; state grants; authority to contract for shelters; definitions; youth programs.

(a) The department of family services is created. The department of family services is the state youth services authority and the authority for ~~public assistance and~~ social services.

9-2-2103. Allocation, transfer and abolition of powers, duties and functions within department.

The governor may, after consultation with the director of the department and the departmental advisory council designate the department as the single state agency for the administration of the state ~~plans—plan~~ for ~~public assistance and~~ social assistance to administer upon ~~such~~ terms ~~as directed by~~ the governor. ~~directs.~~

14-2-313. Service of petition.

(a) The petition shall be served on the following persons:

(iv) The department of family services if the child is or has been supported by public assistance funds. The department of family services shall notify the department of workforce services if the petition involves a child who is or has been supported by public assistance funds.

16-9-201. Definitions.

(a) As used in this act, unless the context requires otherwise, the following definitions apply:

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(iv) "Division" means the division of vocational rehabilitation within the department of employment workforce services;

20-2-310. Enforcement of child support.

(d) If an able-bodied obligor is unemployed and otherwise unable to fulfill his court-ordered child support obligation, the court may order the obligor to participate in the personal opportunities with employment responsibilities (POWER) work program administered by the department of family—workforce services, excluding the benefit portion of that program, without regard to the program eligibility requirements under title 42 or the department rules and regulations promulgated thereunder.

27-3-204. Withdrawal funds credited to federal unemployment trust fund.

(a) Funds credited to Wyoming's account in the unemployment trust fund pursuant to 42 U.S.C. § 1103 may be withdrawn only for the payment of benefits and expenses for the administration of this act and of public employment offices pursuant to this section except as provided by W.S. 27-3-208 and for the payment of expenses for the administration of public employment offices administered by the department of workforce services pursuant to W.S. 9-2-2601(e).

27-3-205. Employment security administration account.

(a) The employment security administration account is established within the earmarked revenue fund and shall be administered by the state treasurer. The treasurer may deposit funds within the account separate from other state

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funds in an approved public depository in accordance with W.S. 9-4-801 through 9-4-815. Funds deposited into the account are available to the department for expenditure in accordance with this act and shall not be transferred to any other account. Account expenditures, except funds received pursuant to W.S. 27-3-204, shall be only for the payment of necessary administrative expenses of this act as determined by the United States secretary of labor and for the establishment and maintenance of ~~free~~ public employment offices pursuant to W.S. ~~27-3-605~~ 9-2-2601(e). All funds deposited into the account pursuant to W.S. 27-3-204 shall remain a part of the unemployment compensation fund and shall be used in accordance with W.S. 27-3-204.

27-3-209. State unemployment insurance trust fund established.

(a) There is established the state unemployment insurance trust fund. All state unemployment insurance contributions collected under W.S. 27-3-503 through 27-3-505, less refunds, shall be deposited into the fund and held in trust for the sole and exclusive use of payment on unemployment insurance benefits. The state treasurer shall invest available revenues in the fund in accordance with law, and earnings from those investments shall be credited to the workforce development training fund established in W.S. ~~27-3-210~~ 9-2-2604.

(c) If the state unemployment insurance trust fund is dissolved, all money then in that fund, less earnings, shall be immediately transferred to the credit of the state's account in the unemployment compensation fund, regardless of other provisions of law. Earnings from the state unemployment insurance trust fund shall be credited to the workforce development training fund established in W.S. 9-2-2604. The governor may dissolve the state

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unemployment insurance trust fund if he finds it to be unnecessary based upon the solvency of the unemployment compensation fund and need for training for Wyoming workers.

27-3-211. Employment support fund established.

(b) Monies from the employment support fund shall be expended only upon appropriation by the legislature and shall be withdrawn solely for unemployment compensation benefits or administrative expenses to:

(iv) Support employment office programs administered by the department of workforce services.

27-3-306. Eligibility requirements; waiver or amendment authorized; unemployed waiting period; registration and referral for suitable work.

(a) An unemployed individual is eligible for benefits under this article for any week if he:

(i) Registers for work, actively seeks work and continues to report to a department of workforce services office in accordance with regulations of the commission, unless he will be recalled to full-time work:

(e) The ~~employment service division~~ department of workforce services shall register and refer eligible benefit claimants under this article to suitable work meeting criteria prescribed by W.S. 27-3-312 for regular benefits and by W.S. 27-3-317(e) for extended benefits.

27-3-307. Eligibility when enrolled in approved training program; standards for training program approval.

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(a) Notwithstanding W.S. 27-3-306(a)(iii) or 27-3-311(a)(ii) and (iii) or any federal law relating to availability for, active search for, failure to apply for or refusal to accept suitable work, an otherwise eligible individual is eligible for benefits for any week if he is:

(i) Enrolled in a training program approved by the department of employment and the department of workforce services pursuant to subsection (b) of this section; or

27-3-321. Disclosure of food stamp overissuance required; notification; amount withheld; payment; applicability of provisions.

(c) Any amount deducted and withheld under this section shall be paid by the department to the department of family-workforce services.

(d) Any amount deducted and withheld under subsection (b) of this section shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the department of family-workforce services as repayment of the individual's uncollected overissuance.

(f) This section applies only if arrangements have been made for reimbursement by the department of family-workforce services for the administrative costs incurred by the department under this section which are attributable to the repayment of uncollected overissuances to the department of family-workforce services.

27-14-102. Definitions.

(a) As used in this act:

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(viii) "Employer" means any person or entity employing an employee engaged in any extrahazardous occupation or electing coverage under W.S. 27-14-108(j) and at least one (1) of whose employees is described in W.S. 27-14-301. "Employer" includes:

(H) Any employer otherwise qualifying under this paragraph as an employer and participating in a school-to-work program approved by the department of ~~employment~~ workforce services, any local school district board of trustees, community college district board of trustees or the department of education, and the employer previously elected coverage in writing pursuant to W.S. 27-14-108(m).

27-14-802. Rulemaking power; fees; state's average wages; vocational rehabilitation; contracts with clerks of district court.

(c) The division, together with the division of vocational rehabilitation within the department of ~~employment~~ workforce services, shall jointly establish consistent rules and regulations for the implementation of W.S. 27-14-408.

35-25-103. Child health insurance program description, eligibility and duties.

(c) A child who is determined eligible to receive benefits under this act shall remain eligible for twelve (12) months as long as the child resides in the state of Wyoming and has not yet attained nineteen (19) years of age. A child must be redetermined eligible to receive benefits under this act on an annual basis. A simplified application process, which includes minimum eligibility

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requirements, will be provided throughout the state at various public and private establishments approved by the department of health to include options such as, health care providers, physician's offices, hospitals, health clinics, public health offices, women, infant and children program offices, department of ~~employment~~workforce services and department of family services offices, schools, Head Start programs and child care providers and other appropriate locations. Eligibility shall be determined according to the criteria established by this act.

(f) Eligibility determinations for services provided under paragraph (a)(i) of this section shall be made by the department of ~~family~~workforce services.

35-25-105. Health benefits plan committee; benchmark benefit package.

(a) A health benefits plan committee shall be established no later than April 15, 1999. The committee shall be composed of ten (10) members, which include:

(ii) The director of the Wyoming department of ~~family~~workforce services or his designee;

35-27-102. Public health nursing infant home visitation subprogram created; eligibility.

(g) The public health nurses responsible for each county shall jointly for that county develop a list of programs, resources and providers to whom referrals may be made and the types of referrals that may be made to each entity. The lists shall be reviewed at least annually with the county health officer, the manager of the department of family services field office serving the county, the

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manager of the department of workforce services field office serving the county, the preschool developmental disability program serving the county and the county or municipal human services agency or coordinator, if any.

37-2-302. Eligibility; certification.

(a) The telephone assistance program shall only be used to provide for a single resident line at the principal residence of subscribers certified by the department of ~~family~~workforce services, its successor agency or the equivalent tribal authority, to the commission pursuant to W.S. 42-2-303(b) that the subscriber is eligible to receive services under either article 1 or 2 of chapter 2 or under chapter 4, title 42 of the Wyoming statutes.

(b) At least annually providers of residential regulated local exchange services shall submit the names of persons receiving program assistance to the department of ~~family~~workforce services, its successor agency or the equivalent tribal authority, for recertification that the persons receiving assistance are still eligible.

42-1-101. Definitions; generally.

(a) As used in chapters 1 and 2 of this title:

(ii) "Department" means the department of ~~family~~workforce services;

42-3-101. Creation; deposits.

(c) For purposes of this chapter, "department" means the department of family services created by W.S. 9-2-2006.

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Section 4. W.S. 9-2-2002(c)(iv), (vii), (d)(ii) through (iv), 9-2-2006(c)(i), 9-2-2104(a)(vi) and (vii), (b) and (c), 27-2-104(b), 27-2-111, 27-3-210 and 27-3-605(b) and (c) are repealed.

Section 5. Subject to appropriation by the legislature, the department of workforce services may enter into leases, purchase necessary computer hardware and software, train staff who will be transferred to the department of workforce services from other state agencies and perform other duties necessary to implement the duties of the department as specified in this act.

Section 6.

(a) There is appropriated from the general fund to the department of workforce services four hundred forty-six thousand nine hundred five dollars (\$446,905.00) for the period beginning April 1, 2002 through June 30, 2003. This appropriation shall be used to pay expenses incurred by the department of workforce services for administrative, training and other start-up costs for the period beginning April 1, 2002 through June 30, 2003.

(b) The governor shall transfer seven (7) full-time equivalent positions where appropriate and provide adequate funding to the department of workforce services under the B-11 process beginning April 1, 2002 to assist in implementing transfers to the department under section 1 of this act.

Section 7.

(a) Except as provided in subsection (b) of this section, this act is effective April 1, 2002.

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(b) Sections 5 and 6 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____
DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk