

SENATE FILE NO. SF0068

Budget shortfall measures.

Sponsored by: Joint Appropriations Interim Committee

A BILL

for

1 AN ACT relating to administration of government; providing
2 a process for appropriations, expenditure of funds and
3 other measures to address state budget reductions;
4 providing for contingent appropriations; creating the one
5 percent severance tax account; establishing in law the
6 consensus revenue estimating group; providing for revenue
7 diversions for appropriations purposes; specifying
8 contingency of certain revenue streams; making conforming
9 amendments; and providing for an effective date.

10

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

12

13 **Section 1.** W.S. 9-2-1014.2, 9-2-1014.3 and 9-4-221
14 are created to read:

15

1 **9-2-1014.2. Budget shortfall measures; appropriation**
2 **reductions; use of contingent appropriations.**

3
4 (a) The governor shall periodically review agency
5 budgets and expenditures. If the governor determines during
6 the review that the probable receipts from taxes or other
7 sources of revenue for any fund or account will be less
8 than were anticipated, and if the governor determines that
9 these receipts plus existing revenues in the fund or
10 account which are available will be less than the amount
11 appropriated, the governor, after complying with the
12 provisions of this section, shall give notice to the state
13 agencies concerned and reduce the amount appropriated to
14 prevent a deficit. In making any determination under this
15 subsection the governor may but need not consider statutory
16 authority to transfer appropriated funds or use a
17 contingent appropriation to address revenue shortfalls.
18 This subsection shall apply to all appropriations to state
19 agencies regardless of whether the appropriation is for a
20 specified project or purpose, including but not limited to
21 capital construction projects. This subsection shall apply
22 whether the appropriation is to be expended directly by an

1 agency or is made to an agency for distribution to another
2 entity.

3

4 (b) Before any appropriated amount is reduced
5 pursuant to subsection (a) of this section, or if the
6 governor otherwise determines that a shortfall in
7 appropriated funds is likely at any time in a fiscal
8 biennium prior to the convening of the next regular general
9 or budget session of the legislature, the following actions
10 shall be taken:

11

12 (i) The governor shall notify the chairmen of
13 the joint appropriations committee, the management council
14 of the legislature and the chairmen of the consensus
15 revenue estimating group of any proposed appropriation
16 reduction and any recommended use of a contingent
17 appropriation. The consensus revenue estimating group
18 shall meet as soon as feasible, review its latest official
19 revenue forecast and determine if adjustments should be
20 made to that forecast in light of existing economic
21 conditions;

22

1 (ii) The management council shall forward to the
2 legislature the proposals and recommendations of the
3 governor and assign review of the proposals and
4 recommendations to various standing committees of the
5 legislature as the council deems appropriate;

6

7 (iii) The joint appropriations committee shall
8 determine if it should recommend the use of a contingent
9 appropriation to offset any likely budget shortfall for the
10 remainder of the fiscal biennium. In making this
11 determination and any recommendation the committee shall
12 consider:

13

14 (A) The appropriation reductions that would
15 be required without use of a contingent appropriation and
16 the impact on services provided. The joint appropriations
17 committee shall consider any comments received from any
18 standing committee of the legislature regarding the
19 potential impact on services;

20

21 (B) The period of time any decline in
22 revenues resulting in the budget shortfall is forecasted to
23 last;

1

2 (C) The availability of any other existing
3 or projected funds to offset any predicted shortfall;

4

5 (D) The amount of time before the next
6 regular general or budget legislative session;

7

8 (E) The percentage of the contingent
9 appropriation needed to be used to ensure a budget
10 shortfall will be alleviated until the end of either the
11 fiscal biennium or the convening of a regular legislative
12 session, as the joint appropriations committee deems in the
13 best interests of the state.

14

15 (c) The joint appropriations committee shall submit
16 its recommendations to the governor not more than thirty
17 (30) days after receiving notification under this section.
18 After receiving the recommendation the governor may
19 authorize the transfer of any contingent appropriation,
20 subject to any condition placed on the contingent
21 appropriation in the law making the appropriation, to any
22 account or fund as he deems appropriate and to prevent a
23 budget shortfall. The governor shall report all

1 appropriation reductions and uses of contingent
2 appropriations to the joint appropriations committee not
3 later than ten (10) days after his action to implement the
4 reduction or transfer contingent appropriations.

5

6 **9-2-1014.3. Consensus revenue estimating group.**

7

8 The governor and the management council of the legislature
9 shall each appoint a cochairman of the consensus revenue
10 estimating group. The cochairman shall, subject to
11 approval of the governor and the management council,
12 jointly agree on the remaining members of the consensus
13 revenue estimating group, who shall be state of Wyoming
14 employees. The members of the group shall serve without
15 additional compensation but shall suffer no loss of wages
16 for the time devoted to the duties of the group. The group
17 shall estimate and forecast revenues available to the state
18 for appropriation and provide its estimates and forecast to
19 the governor and the legislature. The group is not an
20 agency or the governing body of an agency and not subject
21 to the provisions of W.S. 16-4-401 through 16-4-408. Any
22 record of the group that discloses information considered
23 by, or deliberations or tentative decisions of, the group

1 is not a public record under the Wyoming Public Records
2 Act, W.S. 16-4-201 through 16-4-205. Any official report
3 and any revision of an official report shall be a public
4 record.

5

6 **9-4-221. One percent severance tax account created;**
7 **purposes.**

8

9 The one percent severance tax account is hereby created.
10 Funds shall be directed to the account as provided by the
11 legislature. Funds within the account shall only be
12 expended by legislative appropriation. All funds within
13 the account shall be invested by the state treasurer and
14 all investment earnings from the account shall be credited
15 to the general fund.

16

17 **Section 2.** W.S. 9-2-1002(a)(ix) and by creating new
18 paragraphs (xvii) through (xx), 9-2-1005(a)(iii), (b) by
19 creating a new paragraph (v) and (o), 9-2-1011(b) by
20 creating a new paragraph (vii), 9-2-1012(e),
21 9-2-1013(d)(ii), (iii)(intro), (A), by creating new
22 subparagraphs (C) and (D), by creating a new paragraph (v)
23 and by renumbering (v) as (vi), 9-2-1014 by creating new

1 subsections (d) and (e), 9-4-719(q) (intro) and by creating
2 a new subsection (s) and 39-14-801(b) (intro) are amended to
3 read:

4

5 **9-2-1002. Definitions; powers generally; duties of**
6 **governor; provisions construed; cooperation with**
7 **legislature and judiciary; divisions enumerated.**

8

9 (a) As used in this act:

10

11 (ix) "Standard budget" means a budget enabling
12 an entity to continue to furnish the same level of services
13 during the ensuing biennium and shall reflect the revenue
14 or appropriation necessary to provide the services. The
15 budget shall include all personnel approved in the
16 preceding biennial budget, a supportive service category
17 and the amount of revenue generated by the entity during
18 the preceding biennium and estimated revenue for the
19 ensuing biennium regardless of the fund to which the monies
20 were deposited. The standard budget shall not include any
21 personnel other than those specifically authorized in the
22 preceding biennial budget. The standard budget shall not
23 include requests for any equipment, any special projects

1 and services nor any requests for special or nonrecurring
2 funding. The limitations regarding authorized personnel and
3 equipment requests in this paragraph shall not apply to the
4 University of Wyoming. ‡ The standard budget shall:

5
6 (A) Reflect and identify any reductions to
7 appropriations made pursuant to W.S. 9-2-1014.2 in the
8 previous fiscal biennium;

9
10 (B) Be reduced by any amount transferred
11 from contingent appropriations pursuant to W.S. 9-2-1014.2
12 to any fund or account and expended from the fund or
13 account to support services of the standard budget in the
14 previous fiscal biennium.

15
16 (xvii) "Budget shortfall" means probable
17 receipts from taxes or other sources of revenue for any
18 fund or account will be less than were anticipated and that
19 those receipts, plus existing revenues in the fund or
20 account which are available, will be less than the amount
21 appropriated;

22

1 (xviii) "Contingent appropriation" means an
2 appropriation of funds from the legislative stabilization
3 reserve account which specifically identifies W.S.
4 9-2-1014.2 in the provision of law making the
5 appropriation. The law providing the contingent
6 appropriation may provide additional conditions on the
7 expenditure of the appropriation, beyond those otherwise
8 provided by law;

9
10 (xix) "Structural budget deficit" means that
11 anticipated taxes and other revenues for a fiscal biennium
12 from traditionally available revenues sources are:

13
14 (A) Less than appropriations for the
15 general operations of state government for the
16 corresponding fiscal biennium; or

17
18 (B) Are projected to be less than the
19 expenses of the general operations of state government,
20 assuming the same appropriations for general operations as
21 made in the previous fiscal biennium from traditionally
22 available revenue sources plus any increases for those
23 operations required by existing law.

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(xx) "Traditionally available revenue sources"
means those revenues identified in W.S. 9-2-1013(d)(ii)
which are estimated to be deposited or credited to a state
fund or account in the two (2) year budget period, and
excluding revenues excluded under W.S. 9-2-1013(d) and any
balances in any account or fund existing prior to the first
day of the fiscal period.

**9-2-1005. Payment of warrants; budget powers of
governor; agency budgets; federal funds; new employees.**

(a) No warrant shall be drawn by the auditor or paid
by the treasurer:

(iii) If the amount sought to be expended would
exceed the appropriation or other funds authorized for its
use by law. Reductions imposed upon appropriations pursuant
to W.S. 9-2-1014.2 shall be applied in determining whether
an expenditure exceeds an appropriation or other funds
authorized;

1 (b) Subject to subsection (c) of this section, the
2 governor may:

3
4 (v) Authorize transfer of a contingent
5 appropriation to an account or fund to prevent a budget
6 shortfall for any account or fund in accordance with W.S.
7 9-2-1014.2 and any other condition on the appropriation.

8
9 (o) The governor shall report monthly to the
10 legislature on the use of the flex authority authorized
11 under this section or any legislative appropriation act
12 during each biennium. The report shall specify:

13
14 (i) Appropriations and authorized positions
15 transferred during the biennium, including transfers
16 between expenditure series, programs and agencies with a
17 detailed written description of the transfer;

18
19 (ii) Use of the flex authority or authority
20 under paragraph (b)(v) of this section to expend a
21 contingent appropriation to avoid a reduction of
22 appropriations pursuant to W.S. 9-2-1014.2.

23

1 **9-2-1011. Duties of budget division; preparation of**
2 **standard budget estimates; entities to prepare expanded and**
3 **exception budgets; form; required information; base**
4 **budgets.**

5
6 (b) The information developed in budget documents
7 shall include:

8
9 (vii) Identification of services reduced as a
10 result of reductions to appropriations made pursuant to
11 W.S. 9-2-1014.2 in the previous fiscal biennium, and
12 services which would have been reduced without transfer and
13 expenditure of a contingent appropriation pursuant to W.S.
14 9-2-1014.2. Contingent appropriations transferred to each
15 fund or account and expended from each fund or account
16 shall be separately identified.

17
18 **9-2-1012. Duties of budget division; transmittal of**
19 **standard budget and manual; return of completed exception**
20 **and expanded budgets; submission to governor; disposition**
21 **of excess general fund appropriations; submission of**
22 **selected budget information to joint appropriations interim**
23 **committee.**

1

2 (e) In preparing the overall state budget for
3 distribution to the legislature, including any
4 supplemental, budget shortfall or other emergency changes
5 to the budget, the governor shall recommend to the
6 legislature that not less than five percent (5%) of
7 estimated general fund receipts for the next biennial
8 budget period shall be appropriated from the general fund
9 to the budget reserve account within the earmarked fund.
10 This appropriation shall be in addition to any fund balance
11 within the budget reserve account. At the end of each
12 biennial budget period, general fund appropriations for the
13 biennium in excess of expenditures including encumbrances
14 during the biennium, as identified by the state auditor in
15 accordance with the provisions of W.S. 9-2-1008 and
16 9-4-207, shall be transferred into the budget reserve
17 account. All funds in the budget reserve account shall be
18 invested by the state treasurer and earnings therefrom
19 shall be credited into the general fund. Appropriations to
20 the account shall not lapse at the end of any fiscal
21 period. Expenditures from the budget reserve account shall
22 be by legislative appropriation only.

23

1 **9-2-1013. State budget; distribution of copies to**
2 **legislators; copies and reports of authorizations.**

3
4 (d) In addition to the items contained in subsection
5 (a) of this section and notwithstanding any other
6 recommendations made by the governor, the state budget
7 shall also include the governor's recommendations for
8 appropriations for the ensuing two (2) years, or if a
9 supplemental budget request, the remainder of the budget
10 period, subject to the following:

11
12 (ii) The total recommended appropriations under
13 this subsection for any two (2) fiscal year budget period
14 shall not exceed the total estimated revenues for that two
15 (2) year period. The total estimated revenues computed
16 under this paragraph shall not include increases in
17 existing revenue sources which would be available to the
18 state only after enactment of legislation in addition to
19 existing law, but shall include the unencumbered balances
20 in all other accounts in all other expendable funds subject
21 to this section, and as further provided herein, as those
22 funds are identified in accordance with standards
23 promulgated by the governmental accounting standards board,

1 but specifically excluding pension funds, nonexpendable
2 trust funds, debt service funds and intragovernmental
3 funds, that would be available for that budget period.
4 Funds within the permanent Wyoming mineral trust fund
5 reserve account created under W.S. 9-4-719(b), the common
6 school permanent fund reserve account created under W.S.
7 9-4-719(f) funds within the legislative stabilization
8 reserve account in excess of the limitation under
9 subparagraph (iii)(C) of this section, or funds within five
10 percent (5%) of estimated general fund receipts for the
11 next biennium to be appropriated to the budget reserve
12 account as required by W.S. 9-2-1012(e) shall not be
13 included in total estimated revenues computed under this
14 paragraph. Funds from a contingent appropriation shall not
15 be included as an estimated source of revenue or funds
16 available unless those funds previously had been authorized
17 to be expended within the fiscal period covering the budget
18 period of the recommendation;

19

20 (iii) The total recommended appropriations under
21 this subsection shall not include any of the following:

22

1 (A) The diversion of any existing revenue
2 sources which diversion would require enactment of
3 legislation in addition to existing law; ~~and~~

4
5 (C) An appropriation from the legislative
6 stabilization reserve account, to the extent the
7 recommended appropriation together with any other
8 recommended contingent appropriation or other recommended
9 appropriation from the legislative stabilization reserve
10 account would exceed one hundred eight million seven
11 hundred thousand dollars (\$108,700,000.00) in any fiscal
12 year;

13
14 (D) The transfer of funds from any
15 contingent appropriation shall not be included, unless
16 those funds previously had been authorized to be expended
17 within the fiscal period covering the budget period of the
18 recommendation and remain unexpended, unencumbered and
19 unobligated.

20
21 (v) For each submitted budget the governor
22 shall:

23

1 (A) Specify the exercise of any authority
2 under W.S. 9-2-1014.2 in the current fiscal biennium;

3
4 (B) Identify any structural budget deficit
5 or budget shortfall he believes exists within the fiscal
6 biennium for which the budget is submitted or will exist
7 within the immediately succeeding fiscal biennium;

8
9 (C) Include recommendations for the amount
10 of contingent appropriations which should be made or
11 supplemented for the existing fiscal biennium and each of
12 the two (2) immediately succeeding fiscal biennia. The
13 governor shall not recommend a contingent appropriation
14 from the legislative reserve account which would result in
15 the total of all contingent appropriations in any fiscal
16 year to exceed one hundred eight million seven hundred
17 thousand dollars (\$108,700,000.00).

18
19 ~~(v)~~ (vi) Nothing in this subsection prevents the
20 governor from recommending an additional, alternative
21 budget without the limitations specified in this
22 subsection.

23

1 **9-2-1014. Report required with budget request; format**
2 **and contents of report; compilation of compendium of agency**
3 **reports; distribution of copies.**

4
5 (d) For each submitted budget the joint
6 appropriations committee shall review any budget shortfall
7 or structural budget deficit identified by the governor or
8 by the committee for the periods specified in
9 9-2-1013(d)(v). The committee shall report to the
10 legislature the governor's recommendations regarding any
11 budget shortfall or structural budget deficit and the
12 committee's recommendations to the legislature to address a
13 shortfall or deficit. The recommendations shall include:

14
15 (i) Specific or general budget reductions;

16
17 (ii) Immediate contingent appropriations. Any
18 recommendation for a contingent appropriation from the
19 legislative reserve account shall be limited so that the
20 total of all such contingent appropriations in any fiscal
21 year does not exceed one hundred eight million seven
22 hundred thousand dollars (\$108,700,000.00);

23

1 (iii) Recommended expenditure of funds from the
2 legislative stabilization reserve account and other
3 expendable funds; and

4
5 (iv) Temporary redistribution of revenue
6 streams.

7
8 (e) In making its recommendations, the committee
9 shall consider:

10
11 (i) The forecasted length and amount of the
12 shortfall or deficit;

13
14 (ii) The amount of funds available within the
15 legislative stabilization reserve account and other
16 expendable funds, and limitations on recommended contingent
17 appropriations from the legislative stabilization account
18 under this section and W.S. 9-2-1013(d) (v);

19
20 (iii) Services which would be affected by the
21 budget shortfall or deficit, including any constitutional
22 requirement or lack of a constitutional requirement to
23 provide the services;

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(iv) The ability to restructure programs and available revenues to address the budget shortfall or deficit;

(v) Current and forecasted short term and long term economic conditions of the state;

(vi) Recommended depletion rates of expendable funds based upon:

(A) Prudent short and long term savings policies for state government; and

(B) The state's revenue structure.

9-4-719. Investment earnings spending policy permanent funds.

(q) The earnings from the permanent Wyoming mineral trust fund under W.S. 9-4-204(u)(iii) during each fiscal year beginning July 1, 2016, which are less than the spending policy established in subsection (d) of this

1 section are appropriated from the general fund subject to
2 subsection (s) of this section and the following:

3
4 (s) In any fiscal year or fiscal biennium funds to be
5 deposited to an account under subsection (q) of this
6 section may be deposited to a different fund or account as
7 specified by a general appropriations bill for state
8 government as determined by the legislature to be necessary
9 to alleviate a budget shortfall or structural budget
10 deficit as defined by W.S. 9-2-1002, or to provide
11 appropriations to maintain services as determined by the
12 legislature.

13
14 **39-14-801. Severance tax distributions; distribution**
15 **account created; formula.**

16
17 (b) Before making distributions from the severance
18 tax distribution account under subsections (c) through (e)
19 of this section, an amount equal to two-thirds (2/3) of the
20 amount of tax collected under W.S. 39-14-104(a)(i) and
21 (b)(i) and 39-14-204(a)(i) for the same period shall be
22 deposited into the permanent Wyoming mineral trust fund,
23 except that ~~for the~~ in any fiscal year ~~2010~~ these funds

1 ~~shall~~may be deposited as ~~follows:~~specified by a general
2 appropriations bill for state government as determined by
3 the legislature to be necessary to alleviate a budget
4 shortfall or structural budget deficit as defined by W.S.
5 9-2-1002, or to provide appropriations to maintain services
6 as determined by the legislature.

7

8 **Section 3.** W.S. 39-14-801(b) (i) and (ii) is repealed.

9

10 **Section 4.** This act is effective July 1, 2016.

11

12

(END)