

Substitute No. 1

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; defining the consensus
6 revenue estimating group; amending public meetings, public
7 records and administrative procedures provisions in
8 relation to the consensus revenue estimating group;
9 providing for revenue diversions for appropriations
10 purposes; specifying contingency of certain revenue
11 streams; specifying application and a conflict of laws
12 provision; making conforming amendments; and providing for
13 an effective date.

14

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

16

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

3

4 **9-2-1014.2. Budget shortfall measures; expenditure**
5 **reductions; use of contingent appropriations.**

6

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

1 capital construction projects. This subsection shall apply
2 whether the appropriation is to be expended directly by an
3 agency or is made to an agency for distribution to another
4 entity.

5

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

12

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

23

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 expenditure 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 expenditure 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 expenditure reduction or transfer contingent
5 appropriations.

6

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

9

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

17

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

1 and by renumbering (v) as (vi), 9-2-1014 by creating new
2 subsections (d) and (e), 9-4-719(q)(intro) and by creating
3 a new subsection (s), 16-3-101(b)(i), 16-4-203(d) by
4 creating a new paragraph (xvii), 16-4-402(a)(ii) and
5 39-14-801(d)(intro), (e)(intro) and by creating a new
6 subsection (f) are amended to read:

7

8 **9-2-1002. Definitions; powers generally; duties of**
9 **governor; provisions construed; cooperation with**
10 **legislature and judiciary; divisions enumerated.**

11

12 (a) As used in this act:

13

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

1 personnel other than those specifically authorized in the
2 preceding biennial budget. The standard budget shall not
3 include requests for any equipment, any special projects
4 and services nor any requests for special or nonrecurring
5 funding. The limitations regarding authorized personnel and
6 equipment requests in this paragraph shall not apply to the
7 University of Wyoming. The standard budget shall:

8
9 (A) Reflect and identify any reductions to
10 expenditures made pursuant to W.S. 9-2-1014.2 in the
11 previous fiscal biennium;

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

18
19 (xvii) "Budget shortfall" means probable
20 receipts from taxes or other sources of revenue for any
21 fund or account will be less than were anticipated and that
22 those receipts, plus existing revenues in the fund or

1 account which are available, will be less than the amount
2 appropriated;

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

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

16
17 (A) Less than appropriations for the
18 general operations of state government for the
19 corresponding fiscal biennium; or

20
21 (B) Are projected to be less than the
22 expenses of the general operations of state government,
23 assuming the same appropriations for general operations as

1 made in the previous fiscal biennium from traditionally
2 available revenue sources plus any increases for those
3 operations required by existing law.

4
5 (xx) "Traditionally available revenue sources"
6 means those revenues identified in W.S. 9-2-1013(d)(ii)
7 which are estimated to be deposited or credited to a state
8 fund or account in the two (2) year budget period, and
9 excluding revenues excluded under W.S. 9-2-1013(d) and any
10 balances in any account or fund existing prior to the first
11 day of the fiscal period;

12
13 (xxi) "Consensus revenue estimating group" means
14 one (1) or more representatives of the legislative and
15 executive departments of state government, created by
16 agreement of the governor and the legislature to estimate
17 and forecast revenues available to the state for
18 appropriation.

19
20 **9-2-1005. Payment of warrants; budget powers of**
21 **governor; agency budgets; federal funds; new employees.**

22

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

3

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

10

11 (b) Subject to subsection (c) of this section, the
12 governor may:

13

14 (v) Authorize transfer of a contingent
15 appropriation to an account or fund to prevent a budget
16 shortfall for any account or fund in accordance with W.S.
17 9-2-1014.2 and any other condition on the appropriation.

18

19 (o) The governor shall report monthly to the
20 legislature on the use of the flex authority authorized
21 under this section or any legislative appropriation act
22 during each biennium. The report shall specify:

23

1 (i) Appropriations and authorized positions
2 transferred during the biennium, including transfers
3 between expenditure series, programs and agencies with a
4 detailed written description of the transfer;

5
6 (ii) Use of the flex authority or authority
7 under paragraph (b)(v) of this section to expend a
8 contingent appropriation to avoid a reduction of
9 expenditures pursuant to W.S. 9-2-1014.2.

10
11 **9-2-1011. Duties of budget division; preparation of**
12 **standard budget estimates; entities to prepare expanded and**
13 **exception budgets; form; required information; base**
14 **budgets.**

15
16 (b) The information developed in budget documents
17 shall include:

18
19 (vii) Identification of services reduced as a
20 result of reductions to expenditures made pursuant to W.S.
21 9-2-1014.2 in the previous fiscal biennium, and services
22 which would have been reduced without transfer and
23 expenditure of a contingent appropriation pursuant to W.S.

1 9-2-1014.2. Contingent appropriations transferred to each
2 fund or account and expended from each fund or account
3 shall be separately identified.

4
5 **9-2-1012. Duties of budget division; transmittal of**
6 **standard budget and manual; return of completed exception**
7 **and expanded budgets; submission to governor; disposition**
8 **of excess general fund appropriations; submission of**
9 **selected budget information to joint appropriations interim**
10 **committee.**

11
12 (e) In preparing the overall state budget for
13 distribution to the legislature, including any
14 supplemental, budget shortfall or other emergency changes
15 to the budget, the governor shall recommend to the
16 legislature that not less than five percent (5%) of
17 estimated general fund receipts for the next biennial
18 budget period shall be appropriated from the general fund
19 to the budget reserve account within the earmarked fund.
20 This appropriation shall be in addition to any fund balance
21 within the budget reserve account. At the end of each
22 biennial budget period, general fund appropriations for the
23 biennium in excess of expenditures including encumbrances

1 during the biennium, as identified by the state auditor in
2 accordance with the provisions of W.S. 9-2-1008 and
3 9-4-207, shall be transferred into the budget reserve
4 account. All funds in the budget reserve account shall be
5 invested by the state treasurer and earnings therefrom
6 shall be credited into the general fund. Appropriations to
7 the account shall not lapse at the end of any fiscal
8 period. Expenditures from the budget reserve account shall
9 be by legislative appropriation only.

10
11 **9-2-1013. State budget; distribution of copies to**
12 **legislators; copies and reports of authorizations.**

13
14 (d) In addition to the items contained in subsection
15 (a) of this section and notwithstanding any other
16 recommendations made by the governor, the state budget
17 shall also include the governor's recommendations for
18 appropriations for the ensuing two (2) years, or if a
19 supplemental budget request, the remainder of the budget
20 period, subject to the following:

21
22 (ii) The total recommended appropriations under
23 this subsection for any two (2) fiscal year budget period

1 shall not exceed the total estimated revenues for that two
2 (2) year period. The total estimated revenues computed
3 under this paragraph shall not include increases in
4 existing revenue sources which would be available to the
5 state only after enactment of legislation in addition to
6 existing law, but shall include the unencumbered balances
7 in all other accounts in all other expendable funds subject
8 to this section, and as further provided herein, as those
9 funds are identified in accordance with standards
10 promulgated by the governmental accounting standards board,
11 but specifically excluding pension funds, nonexpendable
12 trust funds, debt service funds and intragovernmental
13 funds, that would be available for that budget period.
14 Funds within the permanent Wyoming mineral trust fund
15 reserve account created under W.S. 9-4-719(b), the common
16 school permanent fund reserve account created under W.S.
17 9-4-719(f) funds within the legislative stabilization
18 reserve account in excess of the limitation under
19 subparagraph (iii)(C) of this section, or funds within five
20 percent (5%) of estimated general fund receipts for the
21 next biennium to be appropriated to the budget reserve
22 account as required by W.S. 9-2-1012(e) shall not be
23 included in total estimated revenues computed under this

1 paragraph. Funds from a contingent appropriation shall not
2 be included as an estimated source of revenue or funds
3 available unless those funds previously had been authorized
4 to be expended within the fiscal period covering the budget
5 period of the recommendation;

6
7 (iii) The total recommended appropriations under
8 this subsection shall not include any of the following:

9
10 (A) The diversion of any existing revenue
11 sources which diversion would require enactment of
12 legislation in addition to existing law; ~~and~~

13
14 (C) An appropriation from the legislative
15 stabilization reserve account, to the extent the
16 recommended appropriation together with any other
17 recommended contingent appropriation or other recommended
18 appropriation from the legislative stabilization reserve
19 account would exceed in any fiscal year five percent (5%)
20 of the balance of that account as of the first day of the
21 fiscal year in which the recommendation is made;

22

1 (D) The transfer of funds from any
2 contingent appropriation shall not be included, unless
3 those funds previously had been authorized to be expended
4 within the fiscal period covering the budget period of the
5 recommendation and remain unexpended, unencumbered and
6 unobligated.

7
8 (v) For each submitted budget the governor
9 shall:

10
11 (A) Specify the exercise of any authority
12 under W.S. 9-2-1014.2 in the current fiscal biennium;

13
14 (B) Identify any structural budget deficit
15 or budget shortfall he believes exists within the fiscal
16 biennium for which the budget is submitted or will exist
17 within the immediately succeeding fiscal biennium;

18
19 (C) Include recommendations for the amount
20 of contingent appropriations which should be made or
21 supplemented for the existing fiscal biennium and each of
22 the two (2) immediately succeeding fiscal biennia. The
23 governor shall not recommend a contingent appropriation

1 from the legislative reserve account which would result in
2 the total of all contingent appropriations in any fiscal
3 year exceeding five percent (5%) of the balance of that
4 account as of the first day of the fiscal year in which the
5 recommendation is made.

6
7 ~~(v)~~ (vi) Nothing in this subsection prevents the
8 governor from recommending an additional, alternative
9 budget without the limitations specified in this
10 subsection.

11
12 **9-2-1014. Report required with budget request; format**
13 **and contents of report; compilation of compendium of agency**
14 **reports; distribution of copies.**

15
16 (d) For each submitted budget the joint
17 appropriations committee shall review any budget shortfall
18 or structural budget deficit identified by the governor or
19 by the committee for the periods specified in
20 9-2-1013(d) (v). The committee shall report to the
21 legislature the governor's recommendations regarding any
22 budget shortfall or structural budget deficit and the

1 committee's recommendations to the legislature to address a
2 shortfall or deficit. The recommendations shall include:

3
4 (i) Specific or general budget reductions;

5
6 (ii) Immediate contingent appropriations. Any
7 recommendation for a contingent appropriation from the
8 legislative reserve account shall be limited so that the
9 total of all such contingent appropriations in any fiscal
10 year does not exceed one hundred eight million seven
11 hundred thousand dollars (\$108,700,000.00);

12
13 (iii) Recommended expenditure of funds from the
14 legislative stabilization reserve account and other
15 expendable funds; and

16
17 (iv) Temporary redistribution of revenue
18 streams.

19
20 (e) In making its recommendations, the committee
21 shall consider:

22

1 (i) The forecasted length and amount of the
2 shortfall or deficit;

3
4 (ii) The amount of funds available within the
5 legislative stabilization reserve account and other
6 expendable funds, and limitations on recommended contingent
7 appropriations from the legislative stabilization account
8 under this section and W.S. 9-2-1013(d)(v);

9
10 (iii) Services which would be affected by the
11 budget shortfall or deficit, including any constitutional
12 requirement or lack of a constitutional requirement to
13 provide the services;

14
15 (iv) The ability to restructure programs and
16 available revenues to address the budget shortfall or
17 deficit;

18
19 (v) Current and forecasted short term and long
20 term economic conditions of the state;

21
22 (vi) Recommended depletion rates of expendable
23 funds based upon:

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

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

1 appropriations to maintain services as determined by the
2 legislature.

3
4 **16-3-101. Short title; definitions.**

5
6 (b) As used in this act:

7
8 (i) "Agency" means any authority, bureau, board,
9 commission, department, division, officer or employee of
10 the state, a county, city or town or other political
11 subdivision of the state, except the governing body of a
12 city or town, the state legislature, the University of
13 Wyoming, ~~and~~ the judiciary and the consensus revenue
14 estimating group as defined in W.S. 9-2-1002;

15
16 **16-4-203. Right of inspection; grounds for denial;**
17 **access of news media; order permitting or restricting**
18 **disclosure; exceptions.**

19
20 (d) The custodian shall deny the right of inspection
21 of the following records, unless otherwise provided by law:

22

1 (xvii) Any records of the consensus revenue
2 estimating group as defined in W.S. 9-2-1002, that
3 discloses information considered by, or deliberations or
4 tentative decisions of, the group.

5
6 **16-4-402. Definitions.**

7
8 (a) As used in this act:

9
10 (ii) "Agency" means any authority, bureau,
11 board, commission, committee, or subagency of the state, a
12 county, a municipality or other political subdivision which
13 is created by or pursuant to the Wyoming constitution,
14 statute or ordinance, other than the state legislature, ~~and~~
15 the judiciary and the consensus revenue estimating group as
16 defined in W.S. 9-2-1002;

17
18 **39-14-801. Severance tax distributions; distribution**
19 **account created; formula.**

20
21 (d) After making distributions ~~under~~ pursuant to
22 subsections (b), ~~and~~ (c) and (f) of this section,
23 distributions under subsection (e) of this section shall be

1 made from the severance tax distribution account. The
2 amount of distributions under subsection (e) of this
3 section shall not exceed one hundred fifty-five million
4 dollars (\$155,000,000.00) in any fiscal year. To the extent
5 that distributions under subsection (e) of this section
6 would exceed that amount in any fiscal year, the excess
7 shall be credited:

8

9 (e) Deposits into the account created by subsection
10 (a) of this section shall be distributed as follows,
11 subject to subsections (b) through (d) and (f) of this
12 section:

13

14 (f) Funds subject to subsection (b) of this section
15 shall be deposited in accordance with that subsection
16 unless specified otherwise by enactment of a general
17 appropriations bill for state government as determined by
18 the legislature to be necessary to alleviate a budget
19 shortfall or structural budget deficit as defined by W.S.
20 9-2-1002, or to provide appropriations to maintain services
21 as determined by the legislature.

22

1 **Section 3.** To the extent any provision of this act
2 conflicts with any provision of 2016 Senate File 0001, as
3 enacted into law, the provisions of Senate File 0001 shall
4 control for the fiscal biennium commencing July 1, 2016 and
5 ending June 30, 2018. This section shall not be interpreted
6 to relieve the governor, legislature or any committee of
7 the legislature from taking any action required in this
8 act. The governor may exercise authority granted under
9 2016 Senate File 0001 or this act in order to avoid a
10 budget shortfall as defined in W.S. 9-2-1002 for the fiscal
11 biennium commencing July 1, 2016 and ending June 30, 2018.

12

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

14

15

(END)