

SENATE FILE NO. SF0152

Overspending budgets-penalty.

Sponsored by: Senator(s) Scott, Driskill, Nicholas, P. and
Ross and Representative(s) Brown and
Harshman

A BILL

for

1 AN ACT relating to offenses by public officials; creating a
2 misdemeanor offense for public officers and public servants
3 overspending or transferring an appropriation as specified;
4 providing a penalty; providing for discharge from
5 employment as specified; providing exceptions; granting
6 rulemaking authority; providing instruction to the
7 department of health if claims exceed appropriations;
8 providing for reports; repealing redundant provisions; and
9 providing for an effective date.

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

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13 **Section 1.** W.S. 6-5-119 is created to read:

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15 **6-5-119. Overspending of appropriation; penalties.**

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1 (a) Any state public officer or state public servant
2 commits an offense if he:

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4 (i) Knowingly expends or encumbers, or causes
5 another to expend or encumber, funds in excess of those
6 lawfully appropriated for that purpose; or

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8 (ii) Knowingly expends or encumbers funds for a
9 purpose other than the purpose for which the funds were
10 appropriated.

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12 (b) Violation of subsection (a) of this section is a
13 misdemeanor punishable by a fine of not more than five
14 thousand dollars (\$5,000.00).

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16 (c) This section shall not apply to:

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18 (i) Expenditure or encumbrance of funds which
19 are transferred or authorized for expenditure by a statute,
20 in a budget bill, in any bill with an appropriation or
21 transfers pursuant to W.S. 9-2-1005(b) or (g);

22

23 (ii) The Medicaid program to the extent funds
24 are expended or encumbered for entitlement requirements of

1 federal law and regulations if the overexpenditure is
2 approved in advance by the governor and the approval is
3 timely provided to the joint appropriations interim
4 committee and joint labor, health and social services
5 interim committee;

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7 (iii) Any over expenditure of an appropriation
8 of state funds related to federal grant funds or other
9 augmenting revenue sources where there is a reasonable
10 anticipation of reimbursement from federal or other funds.

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12 **Section 2.** W.S. 9-2-1022(a)(xi) by creating new
13 subparagraphs (G) and (H), 9-4-102 by creating a new
14 subsection (c) and 42-4-104 by creating a new subsection
15 (f) are amended to read:

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17 **9-2-1022. Duties of department performed through**
18 **human resources division.**

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20 (a) Subject to subsection (b) of this section, the
21 department through the human resources division shall:

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23 (xi) Promulgate reasonable rules:

24

1 (G) Providing conviction of violation of
2 W.S. 6-5-119(a) is sufficient cause for immediate discharge
3 from employment;

4
5 (H) Providing that a state employee may be
6 discharged from employment for cause, regardless of whether
7 a criminal prosecution is filed, if it is shown by a
8 preponderance of the evidence that the state employee has
9 violated or intended to violate W.S. 6-5-119(a).

10
11 **9-4-102. Creation of expense in excess of**
12 **appropriation; liability of officer.**

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14 (c) No person or board shall authorize or create any
15 expense of any kind or character as a charge against the
16 state in excess of the amount appropriated for the expense
17 to be incurred.

18
19 **42-4-104. Powers and duties of department of health;**
20 **state Medicaid agent appointed by governor.**

21
22 (f) No Medicaid claims approved for payment shall be
23 incurred in excess of appropriated funds to comply with the

1 entitlement requirements of federal law and regulations
2 without prior approval of the governor.

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4 **Section 2.** W.S. 9-4-102(b) is repealed.

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6 **Section 3.** The governor may, by executive order,
7 allow for the use of general expense modifications and the
8 BGE90E process. Such orders shall expire on April 1, 2014.
9 In the event that any executive orders are adopted under
10 this section, the joint appropriations interim committee
11 shall hold hearings on and propose any statutory changes
12 necessary to authorize such practices.

13

14 **Section 4.** This act is effective July 1, 2013.

15

16

(END)