

ENROLLED ACT NO. 74, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

AN ACT relating to public funds and administration of government; amending authority, requirements and procedures for the executive department's acceptance and expenditure of federal funds; amending the authority of the executive department and requirements and procedures for the modifications of amounts authorized for expenditure of other funds under emergencies and other circumstances; specifying restrictions on budgeting authority conferred on the executive department; repealing existing emergency expenditure authority; providing a yearly appropriation; providing for legislative review and actions; creating and amending definitions; and providing for an effective date.

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

Section 1. W.S. 9-2-1014.3 is created to read:

9-2-1014.3. Appropriation for public welfare emergencies; notification to legislature; legislative action.

(a) Beginning July 1, 2021, as of the first day of each fiscal year, there is appropriated ten million dollars (\$10,000,000.00) from the legislative stabilization reserve account. The appropriation may be allocated by the governor and shall only be expended as authorized by the governor for public welfare emergencies as defined in W.S. 9-2-1002(a)(xxv). The governor's office shall provide the notice required under W.S. 9-2-1005(b)(ii)(A) and (B) for any expenditure under this section in excess of one hundred thousand dollars (\$100,000.00).

(b) Requests by a state department or agency for the allocation and expenditure of money appropriated pursuant to subsection (a) of this section shall be made by the

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administrative head of the department or agency in writing to the governor specifying the circumstances which are deemed necessary to require the requested allocation and expenditure by the governor.

(c) Expenditures pursuant to this section shall be through a program with an approved budget, but expenditures shall not be limited to the purposes of a program with an approved budget. No amount allocated to be expended pursuant to this section shall increase the standard budget of any program for a subsequent fiscal biennium.

(d) Expenditures pursuant to this section shall not be subject to the provisions of W.S. 9-2-1014.2.

Section 2. W.S. 9-2-1002(a)(ix)(B) and by creating new paragraphs (xxiii) through (xxv), 9-2-1005(a)(iii), (xi), (xiii), (b)(intro), (ii), (iii), by creating a new paragraph (vi), (c)(i), (ii), (g), (o)(ii), (p) and by creating new subsections (q) and (r), 9-2-1006(a), 9-2-1011(b)(vii), 9-2-1013(d)(iii)(C), (D) and (v)(C), 9-2-1014(d)(intro) and (ii) and 9-4-206(b) are amended to read:

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

(a) As used in this act:

(ix) "Standard budget" means a budget enabling an entity to continue to furnish the same level of services during the ensuing biennium and shall reflect the revenue or appropriation necessary to provide the services. The budget shall include all personnel approved in the

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preceding biennial budget, a supportive service category and the amount of revenue generated by the entity during the preceding biennium and estimated revenue for the ensuing biennium regardless of the fund to which the monies were deposited. The standard budget shall not include any personnel other than those specifically authorized in the preceding biennial budget. The standard budget shall not include requests for any equipment, any special projects and services nor any requests for special or nonrecurring funding. The limitations regarding authorized personnel and equipment requests in this paragraph shall not apply to the University of Wyoming. The standard budget shall:

(B) Be reduced by any amount transferred from contingent appropriations pursuant to W.S. 9-2-1014.2 or an appropriation under W.S. 9-2-1014.3 to any fund or account and expended from the fund or account to support services of the standard budget in the previous fiscal biennium.

(xxiii) "Approved budget" means:

(A) An agency's request for an appropriation for a program and for which an appropriation is made in whole or in part;

(B) The governor's recommended appropriation for an agency program developed pursuant to W.S. 9-2-1010 through 9-2-1013 and for which an appropriation is made in whole or in part;

(C) A budget for a program as developed by the state budget department and approved by the governor for appropriations for which no budgeted request was submitted.

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(xxiv) "Program" means a line appropriation within a general appropriation act of the legislature as so designated;

(xxv) "Public welfare emergency" means a sudden financial calamity or other occurrence, either of which:

(A) Was not foreseeable or predictable at the time of preparation and adoption of the budget and the passage of appropriation measures during the general or budget session of the legislature immediately preceding the occurrence of the emergency;

(B) Demands immediate action to insure the proper functioning of state government or to protect the health, safety or welfare or economic well-being of the public or against the loss of essential public services; and

(C) For which other funds are not available for expenditure or insufficient to meet the needs of the emergency.

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 expenditures pursuant to W.S. 9-2-1014.2 and adjustments to appropriations authorized under W.S. 9-2-1014.2 or other law shall be

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applied in determining whether an expenditure exceeds an appropriation or other funds authorized;

(xi) If the expenditure is requested from federal revenues exceeding the amount authorized by a legislative appropriation act except upon notice to the legislature and approval of the governor as provided by paragraph (b)(iii) and subsection ~~(b)~~(g) of this section;

(xiii) If the expenditure or disbursement is in violation of subsection (q) of this section or otherwise in violation of law.

(b) Subject to ~~subsection~~subsections (c), (g) and (q) of this section, the governor may:

(ii) Authorize revisions, changes, redistributions or increases to amounts authorized for expenditure by legislative appropriation acts from ~~non-general~~fund sources identified in W.S. 9-4-204(t) as special revenue funds, capital project funds, debt service funds or proprietary fund types, and from federal funds as provided under paragraph (iii) of this subsection, subsections (g) and (q) of this section and W.S. 9-4-206, if in his opinion ~~an emergency financial situation~~a public welfare emergency exists, general fund appropriations can be conserved, agency program requirements have significantly changed or unanticipated ~~non-general~~fund revenues from fund sources specified in this paragraph become available and qualify pursuant to W.S. 9-2-1006(a). For any revision, change, redistribution or increase in amounts authorized for expenditure under this paragraph in excess of one hundred thousand dollars (\$100,000.00), the governor's office shall:

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(A) Notify the legislature at least ten (10) days in advance of the exercise of authority; or

(B) Notify the legislature as soon as practicable after the exercise of authority if the governor determines immediate action is necessary to preserve the public health, safety or welfare or to prevent the potential loss of funds; and

(C) In all cases identify in the notice the amount, purpose and non-general-specified fund source of the revision, change, redistribution or increase.

(iii) Subject to subsection (g) subsections (g) and (q) of this section, authorize the receipt and expenditure of federal revenues exceeding the amount authorized by a legislative appropriation act as provided by W.S. 9-4-206(b);

(vi) Authorize the transfer and expenditure of funds to address a public welfare emergency in accordance with W.S. 9-2-1014.3.

(c) The governor shall not:

(i) Authorize an increase in the amount appropriated to any agency from the general fund by any legislative appropriation act excluding except as authorized by law from the following:

(A) Fund types specified in paragraph (b)(ii) of this section;

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(B) Allocations from the ~~governor's~~ emergency-a contingent appropriation under W.S. 9-2-1014.2 or an appropriation under W.S. 9-2-1014.3, if any;

(C) Federal revenues received as provided under paragraph (b)(iii) and subsections (g) and (q) of this section and W.S. 9-4-206.

(ii) Unless authorized by a legislative appropriation act, authorize funds appropriated from the general fund for one (1) program as represented by line appropriations within any legislative appropriation act to be used for another program.

(g) No federal funds in excess of amounts approved by any legislative appropriations act may be accepted or expended until approved by the governor in writing. If the governor disapproves the acceptance or expenditure of federal funds under this subsection and the federal funds are accepted or expended, the state auditor shall not draw any warrant nor shall the state treasurer pay any warrant which would result in the disbursement of funds, directly or indirectly through contracts for services, to the public or private entity involved. For any acceptance or expenditure of federal funds under this paragraph in excess of one million dollars (\$1,000,000.00), the governor's office:~~shall~~

(i) If the funds are restricted by federal or state law for a specified purpose and will be expended as a supplemental addition for a program with an approved budget, shall notify the legislature at least ten (10) days in advance of approving the acceptance or expenditure of federal funds, except as provided in paragraph (iii) of

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this subsection and subject to paragraph (iv) of this subsection;

(ii) If the funds are not restricted by federal or state law for a specified purpose or are restricted by law but will not be expended as a supplemental addition for a program with an approved budget, shall notify the legislature as soon as practicable and proceed as provided in W.S. 9-4-206(b). Except as provided in paragraph (iii) of this subsection, the governor shall not accept federal funds subject to this paragraph until the requirements of W.S. 9-4-206(b) have been met;

~~(ii)(iii) Notify the legislature as soon as practicable after approving the acceptance or expenditure of federal funds~~ May accept federal funds and notify the legislature as soon as practicable, if the governor determines immediate action is necessary to preserve the public health, safety or welfare or to prevent the potential loss of funds subject to paragraph (iv) of this subsection. If the funds meet the provisions of paragraph (ii) or subparagraphs (iv)(A) or (B) of this subsection they shall not be expended until the provisions of paragraph (ii) and W.S. 9-4-206(b) are met, unless the governor notifies the management council that immediate expenditure of the funds is necessary to preserve the public health, safety or welfare or to prevent the potential loss of funds. If such a determination is made, funds not required to be expended immediately shall be subject to the provisions of paragraph (ii) of this subsection and W.S. 9-4-206(b). If the determination under subparagraph (iv)(A) or (B) of this subsection has been made, the governor shall not expend any funds solely to prevent the potential loss of funds until the requirements of W.S. 9-4-206(b) have been met;

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~~(iii)~~(iv) Shall in all cases identify in the notice the amount, intended use and source of the federal funds, whether the state is obligated or is anticipated to expend general or other state funds and whether the state's taxing or appropriation authority is in any manner limited as a result of the acceptance or expenditure of federal funds. The amount and source of the state funds to be expended or estimated to be expended and the effect on the state's taxing or appropriation authority as a result of the acceptance or expenditure of federal funds shall be identified by the governor's office for the fiscal biennium in which the federal funds are accepted and for the next two (2) immediately succeeding fiscal biennia. The governor's office shall notify the legislature as soon as practicable if the office determines that as a result of the acceptance or expenditure of the federal funds:

(A) The state is obligated or is anticipated to expend general or other state funds in excess of ten million dollars (\$10,000,000.00) in any fiscal biennium including, but not limited to, the expenditure of general or other state funds as a result of a state agency's or a political subdivision's obligation to meet any maintenance of effort, maintenance of equity or maintenance of financial support requirement reportable under subparagraph (q)(i)(A) of this section. If so, the governor's office shall proceed as provided in W.S. 9-4-206(b) and shall not accept the federal funds until the requirements of W.S. 9-4-206(b) have been met, except that the governor may accept the federal funds as necessary to preserve health, safety or welfare and in accordance with paragraph (iii) of this subsection; or

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(B) The state's taxing or appropriation authority is in any manner limited. If so, the governor's office shall proceed as provided in W.S. 9-4-206(b) and shall not accept the federal funds until the requirements of W.S. 9-4-206(b) have been met, except that the governor may accept the federal funds as necessary to preserve health, safety or welfare and in accordance with paragraph (iii) of this subsection.

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

(ii) Use of the flex authority or authority under paragraph (b)(v) or (vi) of this section to expend a contingent appropriation to avoid a reduction of expenditures pursuant to W.S. 9-2-1014.2 or to address a public welfare emergency pursuant to W.S. 9-2-1014.3.

(p) The governor shall make available monthly for public inspection information on the exercise of his authority under ~~paragraph~~ paragraphs (b)(~~i~~), (ii), (~~iii~~), (v) and (vi) and subsection (g) of this section and under W.S. 9-2-1014.2 and 9-2-1014.3 for the immediately preceding month. The information shall be made available on the Wyoming public finance and expenditure of funds website created by W.S. 9-2-1036(a).

(q) Prior to accepting any federal funds in excess of the amount authorized by a legislative appropriation act, whether pursuant to the authority under this section or any other provision of law, a state agency which receives an appropriation from the legislature shall:

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(i) Report to the governor's office if, as a result of accepting or expending the funds:

(A) The state or any political subdivision of the state would be obligated to meet any maintenance of effort, maintenance of equity or maintenance of financial support requirement that is increased or did not exist at the time of enactment of the state legislative act authorizing acceptance of, or providing the initial appropriation of, the federal funds; or

(B) The state's taxing or appropriation authority is in any manner limited.

(ii) Include in the report required by paragraph (i) of this subsection, for the fiscal biennium in which the federal funds are accepted and for the next two (2) immediately succeeding fiscal biennia:

(A) Both the dollar amount of any anticipated expenditure of nonfederal funds and the percentage increase in any maintenance of effort, maintenance of equity or maintenance of financial support requirement over the requirement existing at the time of the enactment of the state legislative act;

(B) The specific limitation on the state's taxing or appropriation authority.

(iii) Not accept or expend the funds whether directly or by disbursement to other entities until approved by the governor in writing.

(r) The governor's approval under subsection (q) of this section shall be subject to and in accordance with the

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requirements of subsection (q) of this section. The reporting and approval requirements of subsection (q) of this section are in addition to other requirements imposed by law. The requirements of subsection (q) of this section shall not be applicable to federal funds authorized by a federal enactment which is specifically identified by a state legislative act explicitly appropriating the federal funds or explicitly approving the acceptance or expenditure of the federal funds.

9-2-1006. Revenues or income of state agencies not part of appropriation or budget; exception; additions to appropriation or budget; reports concerning enterprise fund accounts.

(a) Revenues or income from any source collected, received or accruing to any agency shall not become a part of its appropriation or budget unless such revenues or income is specified by law to be used for such purpose and is approved by the governor after notice is provided to the legislature pursuant to W.S. 9-2-1005(b) and the applicable provisions of W.S. 9-2-1005 and 9-4-206 have been complied with. Any amount added to its appropriation or budget constitutes the entire appropriation for the full fiscal period.

9-2-1011. Duties of budget department; preparation of standard budget estimates; entities to prepare expanded and exception budgets; form; required information; base budgets.

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

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(vii) Identification of services reduced as a result of reductions to expenditures made pursuant to W.S. 9-2-1014.2 in the previous fiscal biennium, and services which would have been reduced without transfer and expenditure of a contingent appropriation pursuant to W.S. 9-2-1014.2 or an appropriation under W.S. 9-2-1014.3. Contingent appropriations transferred to each fund or account and expended from each fund or account shall be separately identified.

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

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

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

(C) An appropriation from the legislative stabilization reserve account, to the extent the recommended appropriation together with any appropriation under W.S. 9-2-1014.3, other recommended contingent appropriation or other recommended appropriation from the legislative stabilization reserve account would exceed in any fiscal year five percent (5%) of the balance of that account as of the first day of the fiscal year in which the recommendation is made;

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(D) The transfer of funds from any contingent appropriation shall not be included, unless those funds previously had been authorized to be expended within the fiscal period covering the budget period of the recommendation by law other than W.S. 9-2-1014.2 and 9-2-1014.3 and remain unexpended, unencumbered and unobligated. Unencumbered, unobligated funds from a contingent appropriation authorized for one (1) fiscal year under W.S. 9-2-1014.2 or from an appropriation under W.S. 9-2-1014.3 shall lapse at the end of the fiscal year and shall not be included in the recommended appropriations for any subsequent fiscal year.

(v) For each submitted budget the governor shall:

(C) Include recommendations for the amount of contingent appropriations which should be made or supplemented for the existing fiscal biennium and each of the two (2) immediately succeeding fiscal biennia. The governor shall not recommend a contingent appropriation from the legislative reserve account which would result in the total of all ~~contingent~~-appropriations, including any appropriation under W.S. 9-2-1014.3, in any fiscal year exceeding five percent (5%) of the balance of that account as of the first day of the fiscal year in which the recommendation is made.

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

(d) For each submitted budget the joint appropriations committee shall review any budget shortfall or structural budget deficit identified by the governor or

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by the committee for the periods specified in W.S. 9-2-1013(d)(v). The committee shall report to the legislature the governor's recommendations regarding any budget shortfall or structural budget deficit and the committee's recommendations to the legislature to address a shortfall or deficit. The recommendations shall include:

(ii) Immediate contingent appropriations. Any recommendation for a contingent appropriation from the legislative stabilization reserve account shall be limited so that the total of all such contingent appropriations, together with any appropriation under W.S. 9-2-1014.3, in any fiscal year does not exceed the lesser of one hundred eight million seven hundred thousand dollars (\$108,700,000.00) or five percent (5%) of the balance of the account as of the first day of the fiscal year in which the recommendation is made;

9-4-206. Disposition of revenue; cash accounts; investment of monies held by state institutions.

(b) Supplemental additions to approved budgets for acceptance and expenditure of federal funds authorized for acceptance by the governor after notice is provided to the legislature pursuant to W.S. 9-2-1005(b)–9-2-1005(g) and, if applicable, the additional requirements of W.S. 9-2-1005(g) have been met, shall be in writing, signed by the governor or his designated representative with copies to the state auditor and department of administration and information. Upon approval by the governor, federal revenue that is accepted and which will result in a saving or replacement of state monies to accomplish a budgeted activity or function shall be transferred to the general fund with appropriate explanation. If the provisions of W.S. 9-2-1005(g)(ii) or (iv)(A) or (B) are applicable, the

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joint appropriations committee shall meet as soon as feasible and in all events not less than ten (10) days after the legislature has received the request from the governor. The committee shall vote whether to recommend the legislature should meet in special session pursuant to Wyoming Constitution Article 3, Section 7 to consider the acceptance or expenditure of the federal funds. Upon receipt of the committee's recommendation, the presiding officers of each house shall initiate a poll of the members of the legislature in accordance with rules of the legislature for calling itself into special session. The governor may not accept or expend the funds until the earlier of:

(i) Certification by either the president of the senate or the speaker of the house to the governor's office that a majority of the elected members of the Senate or House have not elected to call their body into special session;

(ii) Forty (40) days after the governor submitted his request to the legislature under W.S. 9-2-1005(g).

Section 3. W.S. 9-2-1005(e) and 9-4-209 are repealed.

ORIGINAL HOUSE
BILL NO. HB0150

ENGROSSED

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Section 4. This act is 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