

HOUSE BILL NO. HB0150

State budgeting and expenditure authority.

Sponsored by: Joint Appropriations Committee

A BILL

for

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

13

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

15

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

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

5

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

16

17 (b) Requests by a state department or agency for the
18 allocation and expenditure of money appropriated pursuant
19 to subsection (a) of this section shall be made by the
20 administrative head of the department or agency in writing
21 to the governor specifying the circumstances which are
22 deemed necessary to require the requested allocation and
23 expenditure by the governor.

1

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

8

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

11

12 **Section 2.** W.S. 9-2-1002(a)(ix)(B) and by creating
13 new paragraphs (xxiii) through (xxv), 9-2-1005(a)(iii),
14 (xi), (b)(intro), (ii), by creating a new paragraph (vi),
15 (c)(i), (ii), (g), (o)(ii), (p) and by creating a new
16 subsection (q), 9-2-1006(a), 9-2-1011(b)(vii),
17 9-2-1013(d)(iii)(C), (D) and (v)(C), 9-2-1014(d)(intro) and
18 (ii) and 9-4-206(b) are amended to read:

19

20 **9-2-1002. Definitions; powers generally; duties of**
21 **governor; provisions construed; cooperation with**
22 **legislature and judiciary; divisions enumerated.**

23

1 (a) As used in this act:

2

3 (ix) "Standard budget" means a budget enabling
4 an entity to continue to furnish the same level of services
5 during the ensuing biennium and shall reflect the revenue
6 or appropriation necessary to provide the services. The
7 budget shall include all personnel approved in the
8 preceding biennial budget, a supportive service category
9 and the amount of revenue generated by the entity during
10 the preceding biennium and estimated revenue for the
11 ensuing biennium regardless of the fund to which the monies
12 were deposited. The standard budget shall not include any
13 personnel other than those specifically authorized in the
14 preceding biennial budget. The standard budget shall not
15 include requests for any equipment, any special projects
16 and services nor any requests for special or nonrecurring
17 funding. The limitations regarding authorized personnel and
18 equipment requests in this paragraph shall not apply to the
19 University of Wyoming. The standard budget shall:

20

21 (B) Be reduced by any amount transferred
22 from contingent appropriations pursuant to W.S. 9-2-1014.2
23 or an appropriation under W.S. 9-2-1014.3 to any fund or

1 account and expended from the fund or account to support
2 services of the standard budget in the previous fiscal
3 biennium.

4

5 (xxiii) "Approved budget" means:

6

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

10

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

15

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

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

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(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.

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 and adjustments to appropriations
8 authorized under W.S. 9-2-1014.2 or other law shall be
9 applied in determining whether an expenditure exceeds an
10 appropriation or other funds authorized;

11

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

17

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

20

21 (ii) Authorize revisions, changes,
22 redistributions or increases to amounts authorized for
23 expenditure by legislative appropriation acts from

1 ~~non-general~~ fund sources identified in W.S. 9-4-204(t) as
2 special revenue funds, capital project funds, debt service
3 funds or proprietary fund types if in his opinion ~~an~~
4 ~~emergency financial situation~~ a public welfare emergency
5 exists, general fund appropriations can be conserved,
6 agency program requirements have significantly changed or
7 unanticipated ~~non-general fund~~ revenues from fund sources
8 specified in this paragraph become available and qualify
9 pursuant to W.S. 9-2-1006(a). For any revision, change,
10 redistribution or increase in amounts authorized for
11 expenditure under this paragraph in excess of one hundred
12 thousand dollars (\$100,000.00), the governor's office
13 shall:

14

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

17

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

23

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

4
5 (vi) Authorize the transfer and expenditure of
6 funds to address a public welfare emergency in accordance
7 with W.S. 9-2-1014.3.

8
9 (c) The governor shall not:

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

15
16 (A) Fund types specified in paragraph
17 (b)(ii) of this section;

18
19 (B) Allocations from the ~~governor's~~
20 ~~emergency~~ a contingent appropriation under W.S. 9-2-1014.2
21 or an appropriation under W.S. 9-2-1014.3, if any;

22

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

4
5 (ii) Unless authorized by a legislative
6 appropriation act, authorize funds appropriated from the
7 general fund for one (1) program as represented by line
8 appropriations within any legislative appropriation act to
9 be used for another program.

10
11 (g) No federal funds in excess of amounts approved by
12 any legislative appropriations act may be accepted or
13 expended until approved by the governor in writing. If the
14 governor disapproves the acceptance or expenditure of
15 federal funds under this subsection and the federal funds
16 are accepted or expended, the state auditor shall not draw
17 any warrant nor shall the state treasurer pay any warrant
18 which would result in the disbursement of funds, directly
19 or indirectly through contracts for services, to the public
20 or private entity involved. For any acceptance or
21 expenditure of federal funds under this paragraph in excess
22 of one million dollars (\$1,000,000.00), the governor's
23 office ~~:-shall:-~~

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

9

10 (ii) If the funds are not restricted by federal
11 or state law for a specified purpose or are restricted by
12 law but will not be expended as a supplemental addition for
13 a program with an approved budget, shall notify the
14 legislature as soon as practicable and request the
15 management council to request the joint appropriations
16 committee to meet, receive information from the governor's
17 office and provide its recommendation to the governor or
18 take other action as provided in W.S. 9-4-206(b). Except as
19 provided in paragraph (iii) of this subsection, the
20 governor shall not accept federal funds subject to this
21 paragraph until the requirements of W.S. 9-4-206(b) have
22 been met;

23

1 ~~(ii)(iii)~~ Notify the legislature as soon as
2 practicable after approving the acceptance or expenditure
3 of federal funds May accept federal funds and notify the
4 legislature as soon as practicable, if the governor
5 determines immediate action is necessary to preserve the
6 public health, safety or welfare or to prevent the
7 potential loss of funds. If the funds meet the provisions
8 of paragraph (ii) of this subsection they shall not be
9 expended until the provisions of paragraph (ii) are met,
10 unless the governor notifies the management council that
11 immediate expenditure of the funds is necessary to preserve
12 the public health, safety or welfare or to prevent the
13 potential loss of funds. If such a determination is made,
14 funds not required to be expended immediately shall be
15 subject to the provisions of paragraph (ii) of this
16 subsection;

17
18 ~~(iii)(iv)~~ Shall in all cases identify in the
19 notice the amount, intended use and source of the federal
20 funds and whether the state is obligated or is anticipated
21 to expend general or other state funds as a result of the
22 acceptance or expenditure of federal funds. The amount and
23 source of the state funds to be expended or estimated to be

1 expended as a result of the acceptance or expenditure of
2 federal funds shall be identified by the governor's office
3 for the fiscal biennium in which the federal funds are
4 accepted and for the next two (2) immediately succeeding
5 fiscal biennia.

6

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

11

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

17

18 (p) The governor shall make available monthly for
19 public inspection information on the exercise of his
20 authority under ~~paragraph~~ ~~paragraphs~~ (b)(i), (ii), (iii),
21 (v) and (vi) and subsection (g) of this section and under
22 W.S. 9-2-1014.2 and 9-2-1014.3 for the immediately
23 preceding month. The information shall be made available

1 on the Wyoming public finance and expenditure of funds
2 website created by W.S. 9-2-1036(a).

3

4 (q) Except as provided in this subsection, no
5 increase or other modification to an approved budget
6 resulting from actions taken under subsection (b) of this
7 section shall be used to increase the salary or other
8 compensation of any employee funded in whole or in part
9 with funds appropriated by the legislature. This subsection
10 shall not prohibit lawful provision of overtime
11 compensation or hazard pay or the increase or modification
12 to an approved budget in order to match compensation or
13 benefits generally provided to executive department
14 employees.

15

16 **9-2-1006. Revenues or income of state agencies not**
17 **part of appropriation or budget; exception; additions to**
18 **appropriation or budget; reports concerning enterprise fund**
19 **accounts.**

20

21 (a) Revenues or income from any source collected,
22 received or accruing to any agency shall not become a part
23 of its appropriation or budget unless such revenues or

1 income is specified by law to be used for such purpose and
2 is approved by the governor after notice is provided to the
3 legislature pursuant to W.S. 9-2-1005(b) and the applicable
4 provisions of W.S. 9-2-1005 and 9-4-206 have been complied
5 with. Any amount added to its appropriation or budget
6 constitutes the entire appropriation for the full fiscal
7 period.

8

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

13

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

16

17 (vii) Identification of services reduced as a
18 result of reductions to expenditures made pursuant to W.S.
19 9-2-1014.2 in the previous fiscal biennium, and services
20 which would have been reduced without transfer and
21 expenditure of a contingent appropriation pursuant to W.S.
22 9-2-1014.2 or an appropriation under W.S. 9-2-1014.3.

23 Contingent appropriations transferred to each fund or

1 account and expended from each fund or account shall be
2 separately identified.

3

4 **9-2-1013. State budget; distribution of copies to**
5 **legislators; copies and reports of authorizations;**
6 **interfund loans.**

7

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

15

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

18

19 (C) An appropriation from the legislative
20 stabilization reserve account, to the extent the
21 recommended appropriation together with any appropriation
22 under W.S. 9-2-1014.3, other recommended contingent
23 appropriation or other recommended appropriation from the

1 legislative stabilization reserve account would exceed in
2 any fiscal year five percent (5%) of the balance of that
3 account as of the first day of the fiscal year in which the
4 recommendation is made;

5
6 (D) The transfer of funds from any
7 contingent appropriation shall not be included, unless
8 those funds previously had been authorized to be expended
9 within the fiscal period covering the budget period of the
10 recommendation by law other than W.S. 9-2-1014.2 and
11 9-2-1014.3 and remain unexpended, unencumbered and
12 unobligated. Unencumbered, unobligated funds from a
13 contingent appropriation authorized for one (1) fiscal year
14 under W.S. 9-2-1014.2 or from an appropriation under W.S.
15 9-2-1014.3 shall lapse at the end of the fiscal year and
16 shall not be included in the recommended appropriations for
17 any subsequent fiscal year.

18
19 (v) For each submitted budget the governor
20 shall:

21
22 (C) Include recommendations for the amount
23 of contingent appropriations which should be made or

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

10

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

14

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

1

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

12

13 **9-4-206. Disposition of revenue; cash accounts;**
14 **investment of monies held by state institutions.**

15

16 (b) Supplemental additions to approved budgets for
17 acceptance and expenditure of federal funds authorized for
18 acceptance by the governor after notice is provided to the
19 legislature pursuant to W.S. ~~9-2-1005(b)~~9-2-1005(g) and,
20 if applicable, the additional requirements of W.S.
21 9-2-1005(g) have been met, shall be in writing, signed by
22 the governor or his designated representative with copies
23 to the state auditor and department of administration and

1 information. Upon approval by the governor, federal revenue
2 that is accepted and which will result in a saving or
3 replacement of state monies to accomplish a budgeted
4 activity or function shall be transferred to the general
5 fund with appropriate explanation. If the provisions of
6 W.S. 9-2-1005(g)(ii) are applicable, the management council
7 shall request the joint appropriations committee meet as
8 soon as feasible and in all events not less than ten (10)
9 days after the council has received the request from the
10 governor. After receiving information from the governor's
11 office the committee shall vote:

12

13 (i) To recommend the acceptance and expenditure
14 of federal funds as suggested by the governor;

15

16 (ii) To recommend a modification to the
17 acceptance or expenditure of federal funds as suggested by
18 the governor;

19

20 (iii) To recommend that the acceptance or
21 expenditure not occur until a legislative session has been
22 convened. If the committee makes a recommendation in
23 accordance with this subparagraph the governor shall not

1 accept or expend the federal funds nor authorize the
2 acceptance or expenditure until at least forty (40) days
3 after he submitted his request to the management council.

4

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

6

7 **Section 4.** This act is effective July 1, 2021.

8

9

(END)