

ENROLLED ACT NO. 58, SENATE

SIXTY-THIRD LEGISLATURE OF THE STATE OF WYOMING
2016 BUDGET SESSION

AN ACT relating to administration of government; providing a process for appropriations, expenditure of funds and other measures to address state budget reductions; requiring public reports on the use of the governor's exercise of specified budget powers; providing for contingent appropriations; defining the consensus revenue estimating group; amending public meetings, public records and administrative procedures provisions in relation to the consensus revenue estimating group; providing for revenue diversions for appropriations purposes; specifying contingency of certain revenue streams; specifying application and a conflict of laws provision; making conforming amendments; and providing for an effective date.

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

Section 1. W.S. 9-2-1014.2 is created to read:

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

(a) The governor shall periodically review agency budgets and expenditures. If the governor determines during the review that the probable receipts from taxes or other sources of revenue for any fund or account will be less than were anticipated, and if the governor determines that these receipts plus existing revenues in the fund or account which are available will be less than the amount appropriated, the governor, after complying with the provisions of this section, shall give notice to the state agencies concerned and reduce the amount expended to prevent a deficit. In making any determination under this subsection the governor may but need not consider statutory authority to transfer appropriated funds or use a contingent appropriation to address revenue shortfalls.

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This subsection shall apply to all appropriations to state agencies regardless of whether the appropriation is for a specified project or purpose, including but not limited to capital construction projects. This subsection shall apply whether the appropriation is to be expended directly by an agency or is made to an agency for distribution to another entity.

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

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

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

(iii) The joint appropriations committee shall determine if it should recommend the use of a contingent appropriation to offset any likely budget shortfall for the

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remainder of the fiscal biennium. In making this determination and any recommendation the committee shall consider:

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

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

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

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

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

(c) The joint appropriations committee shall submit its recommendations to the governor not more than thirty (30) days after receiving notification under this section. After receiving the recommendation the governor may authorize the transfer of any contingent appropriation, subject to any condition placed on the contingent appropriation in the law making the appropriation, to any

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account or fund as he deems appropriate and to prevent a budget shortfall. The governor shall report all expenditure reductions and uses of contingent appropriations to the joint appropriations committee not later than ten (10) days after his action to implement the expenditure reduction or transfer contingent appropriations.

Section 2. W.S. 9-2-1002(a)(ix) and by creating new paragraphs (xvii) through (xxi), 9-2-1005(a)(iii), (b) by creating a new paragraph (v), (o) and by creating a new subsection (p), 9-2-1011(b) by creating a new paragraph (vii), 9-2-1012(e), 9-2-1013(d)(ii), (iii)(intro), (A), by creating new subparagraphs (C) and (D), by creating a new paragraph (v) and by renumbering (v) as (vi), 9-2-1014 by creating new subsections (d) and (e), 9-4-719(q)(intro) and by creating a new subsection (s), 16-3-101(b)(i), 16-4-203(d) by creating a new paragraph (xvii), 16-4-402(a)(ii) and 39-14-801(d)(intro), (e)(intro) and by creating a new subsection (f) 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 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

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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:

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

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

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

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

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

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

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

(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;

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

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

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

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

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

(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:

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

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

(p) The governor shall make available monthly for public inspection information on the exercise of his

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authority under paragraph (b)(ii), (v) and subsection (g) of this section and under W.S. 9-2-1014.2 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).

9-2-1011. Duties of budget division; 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:

(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. Contingent appropriations transferred to each fund or account and expended from each fund or account shall be separately identified.

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

(e) In preparing the overall state budget for distribution to the legislature, including any supplemental, budget shortfall or other emergency changes to the budget, the governor shall recommend to the legislature that not less than five percent (5%) of

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estimated general fund receipts for the next biennial budget period shall be appropriated from the general fund to the budget reserve account within the earmarked fund. This appropriation shall be in addition to any fund balance within the budget reserve account. At the end of each biennial budget period, general fund appropriations for the biennium in excess of expenditures including encumbrances during the biennium, as identified by the state auditor in accordance with the provisions of W.S. 9-2-1008 and 9-4-207, shall be transferred into the budget reserve account. All funds in the budget reserve account shall be invested by the state treasurer and earnings therefrom shall be credited into the general fund. Appropriations to the account shall not lapse at the end of any fiscal period. Expenditures from the budget reserve account shall be by legislative appropriation only.

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

(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:

(ii) The total recommended appropriations under this subsection for any two (2) fiscal year budget period shall not exceed the total estimated revenues for that two (2) year period. The total estimated revenues computed under this paragraph shall not include increases in existing revenue sources which would be available to the state only after enactment of legislation in addition to

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existing law, but shall include the unencumbered balances in all other accounts in all other expendable funds subject to this section, and as further provided herein, as those funds are identified in accordance with standards promulgated by the governmental accounting standards board, but specifically excluding pension funds, nonexpendable trust funds, debt service funds and intragovernmental funds, that would be available for that budget period. Funds within the permanent Wyoming mineral trust fund reserve account created under W.S. 9-4-719(b), the common school permanent fund reserve account created under W.S. 9-4-719(f) funds within the legislative stabilization reserve account in excess of the limitation under subparagraph (iii)(C) of this section, or funds within five percent (5%) of estimated general fund receipts for the next biennium to be appropriated to the budget reserve account as required by W.S. 9-2-1012(e) shall not be included in total estimated revenues computed under this paragraph. Funds from a contingent appropriation shall not be included as an estimated source of revenue or funds available unless those funds previously had been authorized to be expended within the fiscal period covering the budget period of the recommendation;

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

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

(C) An appropriation from the legislative stabilization reserve account, to the extent the recommended appropriation together with any other recommended contingent appropriation or other recommended

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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;

(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 and remain unexpended, unencumbered and unobligated.

(v) For each submitted budget the governor shall:

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

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

(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 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.

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

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 by the committee for the periods specified in 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:

(i) Specific or general budget reductions;

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

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

(iv) Temporary redistribution of revenue streams.

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

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

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

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

(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.**

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(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 appropriations to maintain services as determined by the legislature.

16-3-101. Short title; definitions.

(b) As used in this act:

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

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

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

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

16-4-402. Definitions.

(a) As used in this act:

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

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

(d) After making distributions ~~under~~ pursuant to subsections (b) and ~~(c)~~ and (f) of this section, distributions under subsection (e) of this section shall be made from the severance tax distribution account. The amount of distributions under subsection (e) of this section shall not exceed one hundred fifty-five million dollars (\$155,000,000.00) in any fiscal year. To the extent that distributions under subsection (e) of this section would exceed that amount in any fiscal year, the excess shall be credited:

(e) Deposits into the account created by subsection (a) of this section shall be distributed as follows,

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subject to subsections (b) through (d) and (f) of this section:

(f) Funds subject to subsection (b) of this section shall be deposited in accordance with that subsection unless specified otherwise by enactment of 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 appropriations to maintain services as determined by the legislature.

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

ORIGINAL SENATE
FILE NO. SF0068

ENGROSSED

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

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk