

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; establishing in law the
6 consensus revenue estimating group; providing for revenue
7 diversions for appropriations purposes; specifying
8 contingency of certain revenue streams; making conforming
9 amendments; and 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. 9-2-1014.2, 9-2-1014.3 and 9-4-221
14 are created to read:

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1 **9-2-1014.2. Budget shortfall measures; appropriation**
2 **reductions; use of contingent appropriations.**

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

1 agency or is made to an agency for distribution to another
2 entity.

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

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

22

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 appropriation 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;

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

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

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(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.

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(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
account or fund as he deems appropriate and to prevent a
budget shortfall. The governor shall report all

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1 appropriation 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 reduction or transfer contingent appropriations.

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6 **9-2-1014.3. Consensus revenue estimating group.**

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8 The governor and the management council of the legislature
9 shall each appoint a cochairman of the consensus revenue
10 estimating group. The cochairman shall, subject to
11 approval of the governor and the management council,
12 jointly agree on the remaining members of the consensus
13 revenue estimating group, who shall be state of Wyoming
14 employees. The members of the group shall serve without
15 additional compensation but shall suffer no loss of wages
16 for the time devoted to the duties of the group. The group
17 shall estimate and forecast revenues available to the state
18 for appropriation and provide its estimates and forecast to
19 the governor and the legislature.

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21 **9-4-221. One percent severance tax account created;**
22 **purposes.**

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1 The one percent severance tax account is hereby created.
2 Funds shall be directed to the account as provided by the
3 legislature. Funds within the account shall only be
4 expended by legislative appropriation. All funds within
5 the account shall be invested by the state treasurer and
6 all investment earnings from the account shall be credited
7 to the general fund.

8
9 **Section 2.** W.S. 9-2-1002(a)(ix) and by creating new
10 paragraphs (xvii) through (xx), 9-2-1005(a)(iii), (b) by
11 creating a new paragraph (v) and (o), 9-2-1011(b) by
12 creating a new paragraph (vii), 9-2-1012(e),
13 9-2-1013(d)(ii), (iii)(intro), (A), by creating a new
14 subparagraph (C), by creating a new paragraph (v) and by
15 renumbering (v) as (vi), 9-2-1014 by creating new
16 subsections (d) and (e), 9-4-719(q)(intro) and by creating
17 a new subsection (s) and 39-14-801(b)(intro) are amended to
18 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:

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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:

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

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(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;

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

4
5 (A) Less than appropriations for the
6 general operations of state government for the
7 corresponding fiscal biennium; or

8
9 (B) Are projected to be less than the
10 expenses of the general operations of state government,
11 assuming the same appropriations for general operations as
12 made in the previous fiscal biennium from traditionally
13 available revenue sources plus any increases for those
14 operations required by existing law.

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16 (xx) "Traditionally available revenue sources"
17 means those revenues identified in W.S. 9-2-1013(d)(ii)
18 which are estimated to be deposited or credited to a state
19 fund or account in the two (2) year budget period, and
20 excluding revenues excluded under W.S. 9-2-1013(d) and any
21 balances in any account or fund existing prior to the first
22 day of the fiscal period.

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1 **9-2-1005. Payment of warrants; budget powers of**
2 **governor; agency budgets; federal funds; new employees.**

3
4 (a) No warrant shall be drawn by the auditor or paid
5 by the treasurer:

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

13
14 (b) Subject to subsection (c) of this section, the
15 governor may:

16
17 (v) Authorize transfer of a contingent
18 appropriation to an account or fund to prevent a budget
19 shortfall for any account or fund in accordance with W.S.
20 9-2-1014.2 and any other condition on the appropriation.

21
22 (o) The governor shall report monthly to the
23 legislature on the use of the flex authority authorized

1 under this section or any legislative appropriation act
2 during each biennium. The report shall specify:

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

8
9 (ii) Use of the flex authority or authority
10 under paragraph (b)(v) of this section to expend a
11 contingent appropriation to avoid a reduction of
12 appropriations pursuant to W.S. 9-2-1014.2.

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

18
19 (b) The information developed in budget documents
20 shall include:

21
22 (vii) Identification of services reduced as a
23 result of reductions to appropriations made pursuant to

1 W.S. 9-2-1014.2 in the previous fiscal biennium, and
2 services which would have been reduced without transfer and
3 expenditure of a contingent appropriation pursuant to W.S.
4 9-2-1014.2. Contingent appropriations transferred to each
5 fund or account and expended from each fund or account
6 shall be separately identified.

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

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

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

13

14 **9-2-1013. State budget; distribution of copies to**
15 **legislators; copies and reports of authorizations.**

16

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

1

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

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

7

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

10

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

14

15 (C) The transfer of funds from any
16 contingent appropriation shall not be included, unless
17 those funds previously had been authorized to be expended
18 within the fiscal period covering the budget period of the
19 recommendation and remain unexpended, unencumbered and
20 unobligated.

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22 (v) For each submitted budget the governor
23 shall:

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(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.

~~(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.

1 (d) For each submitted budget the joint
2 appropriations committee shall review any budget shortfall
3 or structural budget deficit identified by the governor or
4 by the committee for the periods specified in
5 9-2-1013(d)(v). The committee shall report to the
6 legislature the governor's recommendations regarding any
7 budget shortfall or structural budget deficit and the
8 committee's recommendations to the legislature to address a
9 shortfall or deficit. The recommendations shall include:

10

11 (i) Specific or general budget reductions;

12

13 (ii) Immediate contingent appropriations;

14

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

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19 (iv) Temporary redistribution of revenue
20 streams.

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

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(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;

(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:

1 (A) Prudent short and long term savings
2 policies for state government; and

3
4 (B) The state's revenue structure.

5
6 **9-4-719. Investment earnings spending policy**
7 **permanent funds.**

8
9 (q) The earnings from the permanent Wyoming mineral
10 trust fund under W.S. 9-4-204(u)(iii) during each fiscal
11 year beginning July 1, 2016, which are less than the
12 spending policy established in subsection (d) of this
13 section are appropriated from the general fund subject to
14 subsection (s) of this section and the following:

15
16 (s) In any fiscal year or fiscal biennium funds to be
17 deposited to an account under subsection (q) of this
18 section may be deposited to a different fund or account as
19 specified by a general appropriations bill for state
20 government as determined by the legislature to be necessary
21 to alleviate a budget shortfall or structural budget
22 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 **39-14-801. Severance tax distributions; distribution**
5 **account created; formula.**

6
7 (b) Before making distributions from the severance
8 tax distribution account under subsections (c) through (e)
9 of this section, an amount equal to two-thirds (2/3) of the
10 amount of tax collected under W.S. 39-14-104(a)(i) and
11 (b)(i) and 39-14-204(a)(i) for the same period shall be
12 deposited into the permanent Wyoming mineral trust fund,
13 except that ~~for the~~ in any fiscal year ~~2010~~ these funds
14 ~~shall~~ may be deposited as ~~follows:~~ specified by a general
15 appropriations bill for state government as determined by
16 the legislature to be necessary to alleviate a budget
17 shortfall or structural budget deficit as defined by W.S.
18 9-2-1002, or to provide appropriations to maintain services
19 as determined by the legislature.

20
21 **Section 3.** W.S. 39-14-801(b)(i) and (ii) is repealed.

22

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

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(END)