



SF1004

COVID-19 business relief programs-2.

Sponsored By: Joint Minerals, Business & Economic Development
Interim Committee

AN ACT relating to the emergency expenses of government related to business relief; providing legislative findings; authorizing emergency governmental programs related to economic development and business relief as specified; providing appropriations; providing a sunset date for created emergency programs; providing rulemaking authority; authorizing transfers of appropriations as specified; and providing for an effective date.

5/12/2020 Bill Number Assigned
5/15/2020 S Received for Introduction
5/15/2020 S Introduced and Referred to SCOW
5/15/2020 S COW:Passed

**SF1004S2001.01/ADOPTED [DIVIDED AMENDMENT]
(CORRECTED CORRECTED COPY)**

Page 1-line 7 After "specified;" insert "providing direct compensation to businesses impacted by required closures;".

Page 24-after line 19 Insert:

"Section 7.

(a) As used in this section, "business required to close" means any business ordered to close because of the novel coronavirus or COVID-19 pursuant to an order by the governor or the state health officer that was promulgated between March 13, 2020 and May 15, 2020, provided that the business that closed is a type of business specified in the closure order.

(b) Any business required to close may file an application with the state loan and investment board seeking compensation for losses incurred as a result of the required closure. Any application filed under this subsection shall be in accordance with the rules of the state loan and investment board and the following:

(i) Compensation shall be determined after consideration of the following factors:

(A) The loss of income and revenue as a result of the ordered closures;

(B) The change in the amount of expenses as a result of the ordered closures;

(C) Whether the business received any state or federal funds in support of the business to reduce expenses or costs during the COVID-19 pandemic;

(D) Any other factor established by rule of the state loan and investment board.

(ii) All applications filed under this subsection shall be resolved and paid not later than December 30, 2020;

(iii) No application shall be filed under this section or accepted for consideration on or after December 30, 2020.

(c) Any amount that the state loan and investment board determines is required to be paid shall be paid to the applicant out of the state treasury on the warrant of the state auditor from the appropriation made in subsection (f) of this section for this purpose.

(d) No expenditure of funds shall be made under this section except in accordance with state and federal laws, regulations and orders.

(e) The state loan and investment board shall promulgate any emergency and regular rules necessary to administer the program authorized by this section.

(f) There is appropriated to the office of state lands and investments for expenditure by the state loan and investment board fifty million dollars (\$50,000,000.00) from any federal funds made available for expenditure through the Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. No. 116-136, or from any other available federal funds related to the COVID-19 emergency response. If a COVID-19 relief account or other similarly named account is created for the deposit of COVID-19 related emergency response funds, this appropriation shall be made from that account. This appropriation shall be used only for the compensation payments authorized as provided by this section. This appropriation shall not be transferred or expended for any other purpose. Any unobligated, unexpended funds remaining from this appropriation on December 30, 2020 shall revert as provided by law.

(g) This section is repealed effective December 31, 2020."

Page 24-line 21 Delete "**Section 7.**" and insert "**Section 8.**". STEINMETZ, BITEMAN, DOCKSTADER, DRISKILL, HICKS, HUTCHINGS, KINSKEY, SCOTT

ROLL CALL

Ayes: Senator(s) Agar, Bebout, Biteman, Boner, Bouchard, Dockstader, Hicks, Hutchings, James, Kinskey, Moniz, Pappas, Scott, Steinmetz

Nays: Senator(s) Anderson, Anselmi-Dalton, Coe, Ellis, Gierau, Kost, Landen, Nethercott, Perkins, Rothfuss, Schuler, Von Flatern

Excused: Senator Wasserburger

Conflicts: Senator(s) Baldwin, Case, Driskill

Ayes 14 **Nays** 12 **Excused** 1 **Absent** 0 **Conflicts** 3

SF1004S2001.02/FAILED

[DIVIDED AMENDMENT]

(CORRECTED CORRECTED COPY)

Page 24-after line 19 Insert:

"**Section 7.**

(a) In addition to the findings provided in Section 1 of this act, the legislature finds that:

(i) The fifth amendment to the United States constitution prohibits private property from being taken for public use without just compensation;

(ii) Article 1, section 33 of the Wyoming constitution provides that private property shall not be taken or damaged for public or private use without just compensation;

(iii) Wyoming statute 35-4-103 imposes an obligation on the state of Wyoming to pay for the expenses incurred in maintaining any state quarantine;

(iv) The public health orders issued by the governor and the state health officer required specified businesses to close for a specified time period in order to protect the health, safety and well-being of Wyoming residents;

(v) The adverse impacts on businesses directed to close in the public health orders, including a loss of income and revenue, require the payment of compensation from the state to the affected businesses using funds provided through the CARES Act or any other federal funds made available to the state of Wyoming in response to the COVID-19 pandemic;

(vi) The required closures shall be deemed regulatory takings only for the purposes of this act.

Page 24-line 21 Delete "**Section 7.**" and insert "**Section 8.**". STEINMETZ, BITEMAN, DOCKSTADER, DRISKILL, HICKS, HUTCHINGS, KINSKEY, SCOTT

SF1004S2002/WITHDRAWN

SF1004S2003/WITHDRAWN

SF1004S2004/ADOPTED

Delete the Kinskey, et al. second reading amendment (SF1004S2003/A) entirely and further amend as follows:

Page 11-line 7 After "operated;" insert "and".

Page 11-line 10 Delete "; and" and insert ".".

Page 11-lines 12 through 20 Delete entirely and renumber as necessary.

Page 12-lines 1 through 3 Delete entirely.

Page 12-line 5 Delete "(v)" and insert "(iii)".

Page 12-line 13 Delete "loan" and insert "stipend".

Page 12-line 16 Delete "loans" and insert "stipends".

Page 12-line 18 Delete "Loans" and insert "Stipends"; delete "issued" and insert "awarded".

Page 12-line 22 Delete "loan" and insert "stipend".

Page 13-lines 7 through 23 Delete entirely.

Page 14-lines 1 through 17 Delete entirely.

Page 14-line 19 Delete "(v)" and insert "(ii)"; delete "loan" and insert "stipend".

Page 15-line 4 Delete "(vi) Loans made" and insert "(iii) Stipends awarded".

Page 15-lines 8 through 12 Delete entirely and insert:

"(iv) In awarding stipends under this section, the council shall prioritize awarding stipends to those eligible businesses that employ one hundred (100) employees or less;

(v) Stipends shall be made only with funds provided to the state government of Wyoming under the federal CARES Act. No other funds of any kind and from any source shall be expended on the payment of stipends awarded under this section."

Page 15-lines 14 through 22 Delete entirely.

Page 16-lines 1 through 3 Delete entirely.

Page 16-line 13 Delete "or retirement or".

Page 16-line 14 Delete "forgiveness of loans".

Page 16-lines 18 through 23 Delete entirely and renumber as necessary.

Page 17-line 2 Delete "(g)" and insert "(f)".

Page 17-line 3 Delete "loans made" and insert "stipends".

Page 17-lines 7 and 8 Delete entirely.

Page 17-line 10 Delete "(j)" and insert "(g)".

Page 18-after line 3 Insert:

"(h) The program created by this section shall terminate on December 30, 2020."

Page 24-line 14 Delete "3(j)" and insert "3(g)". BITEMAN, BONER, DOCKSTADER, DRISKILL, HICKS, HUTCHINGS, KINSKEY, STEINMETZ

SF1004S2005/FAILED

Page 7-line 9 After "section" insert ". The application shall also require each owner, agent or primary contact of the business completing the application to disclose and certify, under penalty of perjury, whether he holds a position with or has any present, direct business connection to any state, county or municipal officer, employee or instrumentality or has any familial relationship including a spouse, child, sibling or parent residing as a member of the same household in the principal place of residence of any state, county or municipal officer or employee. As used in this

paragraph, "direct business connection" includes employer-employee and co-principal relationships. Information disclosed regarding any direct business connection shall not be the determining factor in determining whether funds are awarded under this section".

Page 13-line 5

After "section" insert ". The application shall also require each owner, agent or primary contact of the business completing the application to disclose and certify, under penalty of perjury, whether he holds a position with or has any present, direct business connection to any state, county or municipal officer, employee or instrumentality or has any familial relationship including a spouse, child, sibling or parent residing as a member of the same household in the principal place of residence of any state, county or municipal officer or employee. As used in this paragraph, "direct business connection" includes employer-employee and co-principal relationships. Information disclosed regarding any direct business connection shall not be the determining factor in determining whether funds are awarded under this section".

Page 20-line 3

After "section" insert ". The application shall also require each owner, agent or primary contact of the business completing the application to disclose and certify, under penalty of perjury, whether he holds a position with or has any present, direct business connection to any state, county or municipal officer, employee or instrumentality or has any familial relationship including a spouse, child, sibling or parent residing as a member of the same household in the principal place of residence of any state, county or municipal officer or employee. As used in this paragraph, "direct business connection" includes employer-employee and co-principal relationships. Information disclosed regarding any direct business connection shall not be the determining factor in determining whether funds are awarded under this section". JAMES

SF1004S2006/ADOPTED

(CORRECTED COPY)

Delete the Kinskey, et al. second reading amendment (SF1004S2003/A) and the Biteman, et al. second reading amendment (SF1004S2004/A) entirely and further amend as follows:

Page 10-lines 16 through 23 Delete entirely.

Pages 11 through 17 Delete entirely including the James second reading amendment (SF1004S2005/A) to these pages.

Page 18-lines 1 through 3 Delete entirely and insert:

"Section 3.

(a) As used in this section:

(i) "Council" means the Wyoming business council;

(ii) "Eligible business" means a business that:

(A) Was established on or before the date of enactment of any order issued by the state or any local government of Wyoming that required closures of businesses in response to the COVID-19 pandemic;

(B) Is independently owned and operated;

(C) Is headquartered in Wyoming or has its principal operations located in Wyoming; and

(D) On March 31, 2020, had employed one hundred (100) full-time employees or less.

(iii) "Required closure" means the closure of a business that was ordered by the state or any local government of Wyoming in an order issued or in effect beginning March 15, 2020 in response to the COVID-19 pandemic. "Required closure" shall also include the interruption of a business's normal business as a result of any closures or public health orders.

(b) The coronavirus business relief stipend program is hereby created. The Wyoming business council shall establish and administer this temporary program for the purpose of providing stipends to eligible businesses adversely impacted by the COVID-19 pandemic or by required closures. Stipends shall be awarded under this section in accordance with the following:

(i) Any eligible business may apply to the council for a stipend under this section. The application shall require the applicant to certify that it is an eligible business as defined by this section. The application shall also provide that knowingly making a false statement to the council on the application is prohibited and may result in the applicant being required to repay all funds awarded under this section;

(ii) The council may contract with financial institutions and other businesses to carry out the program created by this section and distribute stipends awarded under this section;

(iii) No stipend shall be awarded under this section without the applicant first submitting an expenditure plan on a simple form provided by the council. The council may request that the applicant provide any additional information necessary to determine the adequacy of the applicant's submitted plan;

(iv) Stipends awarded under this section shall be used by the eligible business for the following expenditures and expenses associated with the COVID-19 pandemic:

(A) Payroll costs;

(B) Business supplies;

(C) Business equipment including equipment necessary to resuming normal business operations and equipment necessary to modify business operations in response to the COVID-19 pandemic or to public health guidelines;

(D) Other business expenses, including but not limited to rent or mortgage payments, utilities and other operational costs;

(E) Any other expenditure or expense related to business interruption due to the COVID-19 pandemic.

(v) Before making a stipend under this section, the applicant shall demonstrate to the council's satisfaction the actual losses that the eligible business has incurred as a result of the COVID-19 pandemic or as a result of business interruptions due to a required closure or a public health order;

(vi) Stipends awarded under this section shall not exceed three hundred thousand dollars (\$300,000.00) for each eligible business;

(vii) Stipends shall be made only with funds provided to the state government of Wyoming under the federal CARES Act. No other funds of any kind and from any source shall be expended on the stipends awarded under this section;

(viii) Subject to federal law, stipends awarded under this section shall be conditioned upon the eligible business agreeing to:

(A) Continue to maintain a meaningful nexus to the state of Wyoming for not less than three (3) years after receiving a stipend under this section;

(B) Provide a report to the council not later than December 30, 2020 that describes how the funds were expended as authorized by paragraph (iv) of this subsection in response to the COVID-19 public health crisis;

(C) Repay all funds provided under this section plus interest at the rate of two percent (2%) per annum if the eligible business uses stipend funds for expenses not authorized by this section.

(ix) In awarding stipends under this section, the council shall take into consideration any funds received through the program created by Section 2 of this act, the federal paycheck protection program and any other funding available through the CARES Act and other state and federal programs in response to the COVID-19 pandemic.

(c) The council shall promulgate any emergency and regular rules necessary to administer the program authorized by this section.

(d) The attorney general shall review in writing the legality of the program and any rules established for the program authorized by this section.

(e) No expenditure of funds shall be made under this section except in accordance with state and federal laws, regulations and orders.

(f) The council may conduct and contract for random audits of eligible businesses receiving stipends awarded under this section to ensure funds are expended in compliance with state and federal law.

(g) There is appropriated to the Wyoming business council one hundred seventy-five million dollars (\$175,000,000.00) from any funds appropriated in 2020 House Bill 1001, Section 2(b) and as authorized and made available for expenditure in Section 2(c)(i), or 2020 Senate File 1001, Section 2(b) and as authorized and made available for expenditure in Section 2(c)(i), if enacted into law. If a COVID-19 relief account or other similarly named account is created for the deposit of COVID-19 related emergency response funds, this appropriation shall be made from that account. This appropriation shall be used only for the establishment and operation of the program authorized by this section. Except as provided in Section 5 of this act, this appropriation shall not be transferred or expended for any other purpose. Any unobligated, unexpended funds remaining from this appropriation on December 30, 2020 shall revert as provided by law.

(h) The program created by this section shall terminate on December 30, 2020."

Page 21-line 14 Delete "loans made" and insert "stipends".

Page 22-line 6 After "section." insert "Except as provided in Section 5 of this act,".

Page 24-line 14 Delete "3(j)" and insert "3(g)". ROTHFUSS, ANDERSON, GIERAU, KOST, LANDEN, NETHERCOTT, VON FLATERN

SF1004S2007/WITHDRAWN

SF1004S2008/ADOPTED

Page 7-line 16 Delete "fifteen thousand dollars (\$15,000.00)" and insert "twenty thousand dollars (\$20,000.00)". BALDWIN

5/15/2020 S 2nd Reading:Passed

SF1004S3001/FAILED

Page 5-line 16 After "means a" insert "for-profit".

Page 18-lines 1 through 3 In the Rothfuss, et al. second reading amendment (SF1004S2006/AC) to these lines, in paragraph 3(a)(ii)(intro) created by that amendment, after "means a" insert "for-profit".

Page 19-line 4 After "means a" insert "for-profit". ANDERSON

ROLL CALL

Ayes: Senator(s) Agar, Anderson, Anselmi-Dalton, Bebout, Biteman, Bouchard, Dockstader, Gierau, Hicks, James, Kinskey, Moniz, Perkins, Steinmetz

Nays: Senator(s) Baldwin, Boner, Case, Coe, Driskill, Ellis, Hutchings, Kost, Landen, Nethercott, Pappas, Rothfuss, Schuler, Scott, Von Flatern

Excused: Senator Wasserburger

Ayes 14 **Nays** 15 **Excused** 1 **Absent** 0 **Conflicts** 0

SF1004S3002/ADOPTED

Page 6-line 14 After "orders" insert "or as a result of the public health crisis with respect to COVID-19".

Pages 18-lines 1 through 3 In the Rothfuss, et al. second reading amendment (SF1004S2006/AC) to these lines, in paragraph 3(a)(iii) created by that amendment, after "public health orders" insert "or as a result of the public health crisis with respect to COVID-19". KINSKEY

SF1004S3003/ADOPTED

Page 24-after line 19 In the Steinmetz, et al. second reading amendment (SF1004S2001.01/AC) to this line, after subsection (a) created by that amendment, insert and renumber as necessary:

"(b) In addition to the program created by Section 2 of this act, the expedited closure reimbursement program is hereby created. The purpose of this program is to reimburse and compensate businesses required to close for the adverse effects of the required closure. Compensation shall be awarded as provided by this section.". STEINMETZ

SF1004S3004/ADOPTED

Page 18-lines 1 through 3 In the Rothfuss, et al. second reading amendment (SF1004S2006/AC) to these lines, delete entirely subparagraphs 3(a)(ii)(A) through (D) created by that amendment and insert:

"(A) Was established on or before the date of enactment of any order issued by the state or any local government of Wyoming that required closures of businesses in response to the COVID-19 pandemic;

(B) Is independently owned and operated; and

(C) Is headquartered in Wyoming or has its principal operations located in Wyoming.". BITEMAN

SF1004S3005/FAILED

Page 18-lines 1 through 3 In the Rothfuss, et al. second reading amendment (SF1004S2006/AC) to these lines, delete entirely paragraph 3(b)(iii) created by that amendment and renumber as necessary. BITEMAN

SF1004S3006/FAILED

Page 18-lines 1 through 3 In the Rothfuss, et al. second reading amendment (SF1004S2006/AC) to these lines: delete entirely paragraph 3(b)(iv) created by that amendment and renumber as necessary; and in subparagraph 3(b)(viii)(B) created by that amendment, delete "as authorized by paragraph (iv) of this subsection". BITEMAN

SF1004S3007/WITHDRAWN

5/16/2020 S 3rd Reading:Passed 26-0-1-0-3

ROLL CALL

Ayes: Senator(s) Agar, Anderson, Anselmi-Dalton, Bebout, Biteman, Boner, Bouchard, Coe, Dockstader, Ellis, Gierau, Hicks, Hutchings, James, Kinskey, Kost, Landen, Moniz, Nethercott, Pappas, Perkins, Rothfuss, Schuler, Scott, Steinmetz, Von Flatern

Excused: Senator Wasserburger

Conflicts: Senator(s) Baldwin, Case, Driskill

Ayes 26 **Nays** 0 **Excused** 1 **Absent** 0 **Conflicts** 3

5/16/2020 H Received for Introduction

5/16/2020 House:Pursuant to JR 23-1 (h) referred directly to 3rd Reading

5/16/2020 H Appointed JCC01 Members

Representative(s) Greear, Burkhart, Duncan

5/16/2020 S Appointed JCC01 Members

Senator(s) Anderson, Bebout, Rothfuss

5/16/2020 S See Mirror Bill HB1004