

Wyoming's Interim Budget Process to Modify Legislatively Appropriated Funds

November 27, 2013

Management Audit Committee

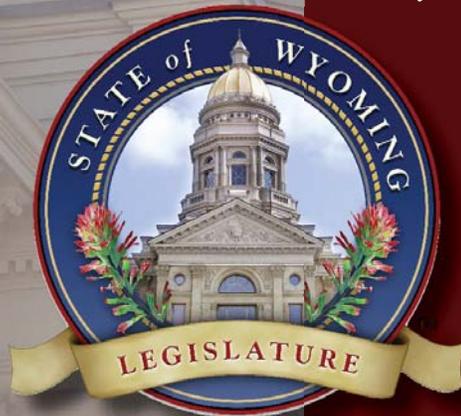
*Representative David Miller, Chairman
Senator John Schiffer, Vice Chairman*

*Senator Tony Ross
Senator Phil Nicholas
Senator Stan Cooper
Senator Floyd A. Esquibel
Senator Wayne Johnson*

*Representative Michael K. Madden
Representative Cathy Connolly
Representative Thomas Lockhart
Representative Sue Wallis*

Prepared by

*Gerald W. Hoppmann, Program Evaluation Manager
Joy Hill, Program Evaluator
Elizabeth Forslund, Associate Program Evaluator
Samantha Mills, Associate Program Evaluator
Kathy Misener, Associate Program Evaluator
Tamara Rivale, Associate Program Evaluator
Anthony Sara, Technical Assistance and Graphics*







Wyoming Legislative Service Office

EXECUTIVE SUMMARY

Wyoming Interim Budget Process

Program Evaluation Section

November 27, 2013

Purpose

The Management Audit Committee requested an audit of Wyoming's interim budget process to modify legislatively appropriated funds (Interim Budget Process), also commonly referred to as the B-11 process.

The B-11 is the form by which agencies request changes to existing appropriations, request new federal or other funds, or request increases to existing expenditure authorities.

The Budget Division also requires the use of a New and Adjusted Funds Request (NAFR) when applying for new monies. Once a NAFR is approved, the B-11 request for the new or adjusted funds can be processed.

Generally, the Committee requested that evaluators review the process for transparency and accountability to ensure the appropriate use of delegated authority for making changes to legislative appropriations during the interim.

Background

The Legislature grants the Governor the authority to revise, change, redistribute, or increase expenditure authorities (appropriations) related to General Fund and non-General Fund sources through various provisions in Wyoming statutes and language in the budget bill.

These statutes and language in the budget bill work in tandem to establish the parameters of the interim budget process, although this

authority is not clearly annotated by a separate title or chapter.

Wyoming Statutes 9-2-1005(b) and (c) and Section 300 in each biennial budget bill (currently 309 in the 2012 budget bill), establish the parameters of the Governor's authority to authorize changes to legislatively appropriated budgets during the interim.

W.S. 9-2-1005(b)(ii and iii) authorize the Governor to make changes to existing non-General Fund appropriations under certain conditions: *"after notifying the legislature that in his opinion 1) an emergency financial situation exists, 2) general fund appropriations can be conserved, 3) agency program requirements have significantly changed or 4) unanticipated non-general fund revenues become available."*

W.S. 9-2-1005(b)(i) authorizes the Governor to make changes with respect to General Fund budgets.

While W.S. 9-2-1005(a) and (c) prohibits certain movements of funds, language contained in the budget bill *"notwithstanding"* the statutory provisions allowing the Governor flexibility with respect to total appropriations within programs in an agency (10%) or outside of an agency (5%). Programs are defined in W.S. 9-2-1005(e)(ii) as *"a line appropriation within a general appropriation act of the legislature as so designated."*

Other language in the budget bill also impacts the interim budget process. For example, at-will-employee position movement is addressed by 2012 Session Laws, Chapter 26, Section 309(d) and Section 313 requiring reporting through the B-11 process.

The Budget Division of the Department of Administration and Information is the entity responsible for receipting, reviewing and recommending initial approval or denial of B-11 and NAFR requests. Final approval or denial rests with the Governor.

Results in Brief

Chapter 2: Processing of the B-11 and NAFR documents is generally occurring within the provisions of Wyoming statute and language in the budget bill. However, broadly based statutes and budget bill language have allowed inefficient practices and other uses of the process to develop over time, including documenting previously appropriated funds, repeated position movement, and carry-forward of funds.

Language within the budget bill (Section 313 for 2012) requires the B-11 process to be used to document and report the number of B-11s used to create or renew “*At-Will Employment Contract*,” or AWEC, positions within a two-year period. Interestingly, student intern positions filled as AWECs are not reported through the B-11 process as required by language in the budget bill.

Although not explicitly prohibited, B-11s are also being used to reauthorize the same positions for subsequent biennia, and have been used to transfer non-legislatively appropriated agency positions to legislatively appropriated agencies.

With respect to reporting actions related to positions, the Budget and Human Resource Divisions work together to account for positions changed as a result of an approved B-11 or NAFR. However, information

concerning positions may not be maintained in a manner that allows for quick and easy reporting between the two Divisions.

Chapter 3: The Budget Division should be commended for maintaining B-11 request data in a usable database; however, limited functionality prevents complete and accurate reporting to the Legislature and creates opportunities for errors to occur related to data input and other mistakes.

The database is lacking functional elements, such as relational links to associated fields, primary keys that prevent duplication of data input, and a data auditing component to validate data.

The lack of these elements prevent the Division from reporting new or increased federal or other monies separate from previously appropriated figures, as well as the ability to track and report on positions with respect to purpose and seasonal employment.

Further, the Division is not using the database to track NAFR requests similarly to B-11 requests.

Although discussions are ongoing related to fully automating the interim budget process, the inability to tie an automated process to the database creates challenges when processing B-11 and NAFR requests.

Chapter 4: The Division does not maintain formalized policies, procedures, or rules to provide clear guidance for agencies and Division staff regarding the interim budget process. Rather, the process has evolved alongside broadly stated statute and budget bill language.

Without formalized policies or rules in place, clear expectations are not established related to using the interim budget process to document previously authorized appropriations, as well as recurring approval

of certain positions, and requirements for supporting documentation.

Agencies are generally satisfied with the guidance provided by the Division, but development of a policy manual outlining expectations related to the submission of B-11 and NAFR requests will provide an opportunity for more efficient interaction between the Budget Division and requesting agencies.

Chapter 5: For BFY 2011, 16 or 2% of total B-11s were denied. Eight (8) or less than 1% of B-11s for the same biennium were amended. Although the Budget Division's database does not track NAFR information, the Division identified eight (8) denied NAFRs and 24 amended NAFRs.

Several instances occurred in which the Division and the Governor's Office disagreed on recommendations to approve or deny NAFR and B-11 requests.

For example, there were several examples in which the NAFRs were denied by the Division but approved by the Governor's Office; these instances were related to late submission of the request and were often submitted by the same agencies. Although these instances declined after the Governor's May 18, 2011 letter explaining NAFR requirements, late submissions, and subsequent approvals continue.

Chapter 6: Review of carry-forward B-11s precipitated a review of the State's general accounting encumbrance (GAE) policy in order to determine when funds should be encumbered versus when they should be carried over through the interim budget process.

Overall, evaluators noted Wyoming has a lenient encumbrance accounting policy, causing hundreds of millions of dollars in encumbrances. According to the State Auditor's Office (SAO), agencies are

responsible for establishing proper internal controls to ensure GAE requests do not violate reversion statutes. The SAO also agreed formal policies should be in place to ensure reversion statutes are not violated.

During a review of comparator states' encumbrance policies, it was discovered their policies are less lenient than those in Wyoming. Unlike encumbrance policy in Wyoming, most comparator states placed time limitations on encumbrances, typically two years or less.

Evaluators also noted there are no audit requirements related to the B-11 and NAFR process, although W.S. 9-2-1005(d) requires the SAO, State Treasurer's Office and the Department of Audit to assist the Governor upon request "*...in carrying out legislative appropriations acts with respect to the audit, record keeping and control of budgets approved thereunder.*" This type of request has only occurred one time, according to the Wyoming Department of Audit.

In addition, W.S. 9-2-2906(d)(i and ii) requires the Office of Chief Information Officer (OCIO) to review certain technology related purchases. However, similar requirements do not exist related to the approvals of information technology B-11 or NAFR requests.

Chapter 7: In comparator states, only Montana and North Dakota develop biennial budgets similar to Wyoming. In addition, all comparator states allow transfer of funds within a single program and within a single agency; however, only two comparator states allow the transfer of funds between agencies.

Comparator states, also similar to Wyoming, have executive branch mechanisms in place to receive additional federal and other funds. In terms of FTE approval, only two have legislatively authorized positions like Wyoming.

Unlike Wyoming, all comparator states have legislative or legislative-executive committees that review interim budget requests, and encumbrances are reviewed regularly and are time-limited.

Agency Comments

The Division agrees with six (6) recommendations and partially agrees with six (6) recommendations. The Governor's Office incorporated the Division's responses as part of its own response, but fully agrees with Recommendations 6.1 and 6.2. The SAO provided comments related to Chapter 2 and Chapter 6 recommendations.

Copies of the full report are available from the Wyoming Legislative Service Office. If you would like to receive the full report, please fill out the enclosed response card or phone 307-777-7881. The report is also available on the Wyoming Legislature's website at <http://legisweb.state.wy.us>

Recommendation Locator

Chapter Number	Recommendation Number	Recommendation Summary	Page Number	Party Addressed	Agency Response
2	2.1	The Division and the Wyoming State Auditor's Office should work together to develop a separate tracking and reporting related to the movement of previously appropriated monies. This new process should include a differentiation between non-Flex and Flex B-11s, and include a manner in which to report amounts outside of the CAFR.	35	Budget Division and State Auditor's Office	Partially Agrees
2	2.2	The Division and the Wyoming State Auditor's Office should work together to develop separate tracking and reporting related to the carry forward of previously authorized monies. This new process should include a differentiation between non-Flex and Flex B-11s, and include a manner in which to report amounts outside of the CAFR.	46	Budget Division and State Auditor's Office	Partially Agrees
2	2.3	The Budget and Human Resource Divisions should develop policies with respect to more formal interaction as part of the interim budget process. Focus should be place on clear documentation and reporting of position impact as a result of the approved B-11s and NAFRs.	52	Budget and Human Resource Divisions	Partially Agrees
2	2.1 (MFLC)	The Legislature may wish to consider statutory and session law changes to provide more specificity with respect to defining the interim budget process. The following could be considered: <ul style="list-style-type: none"> Create a specific chapter within Wyoming Statute, Title 9 to clearly define the allowable and prohibited action in the interim 	52	Matter for Legislative Consideration	N/A

Chapter Number	Recommendation Number	Recommendation Summary	Page Number	Party Addressed	Agency Response
		<p>budget process. The chapter could also serve to bring together current statutory language discussing the interim budget process, specifically: Non-Flex and related topics as illustrated in Appendix A-1;</p> <ul style="list-style-type: none"> • Review and amendment if necessary to W.S. 9-2-1005 (a) and (c) to clearly define allowable actions with respect to non-Flex authority; • Review and amend W.S. 9-2-1005 (a) and (c) to clearly define allowable actions with respect to non-flex authority; • Create boiler plate language for the Joint Appropriations Committee to consider for inclusion in budget bills for Executive Flex Authority to clearly detail disallowable actions contemplated in this report; • Review language within Section 300 of the budget bill with respect to using the interim budget process as a reporting tool related to the creation or renewal of AWECs; • Review W.S. 9-4-207 (a) and (c) with respect to additional exceptions to reversion; and • Require the Budget Division to create rules with respect to the interim budget process. 			
3	3.1	The Division should work to enable the information within the current database to allow for improved data analysis and reporting in an efficient and effective manner.	65	Budget Division	Agrees
3	3.2	The Division should create a system to track, record and report NAFR information similar to the B-11 database. Corresponding NAFR and B-11 numbers should be referentially linked.	65	Budget Division	Agrees

Chapter Number	Recommendation Number	Recommendation Summary	Page Number	Party Addressed	Agency Response
3	3.3	The Division should work with the OCIO to identify an appropriate automated system to process B-11 and NAFR requests. Issues identified in Chapter 4 with respect to workflow, should also be considered.	71	Budget Division and Chief Information Officer	Agrees
4	4.1	The Budget Division should formalize current practices into policies and procedures. If legislative changes are made as a result of this report, the Division should move forward with the promulgation of rules as well.	78	Budget Division	Partially Agrees
5	5.1	The Division should record withdrawn B-11 requests to improve maintenance of public records.	101	Budget Division	Agrees
5	5.2	Tracking of NAFR data as recommended in Recommendation 3.2 should include recording and tracking of denied and withdrawn NAFR data as well as a system to link NAFRs for common funding sources.	101	Budget Division	Agrees
6	6.1	The State Auditor's Office, Governor's Office, and Budget Division should: 1) Develop a plan of action to liquidate unnecessary encumbrances outside of the most recent previous biennium; 2) Develop a process to review and approve GAE requests to ensure encumbrances are only approved under legitimate circumstances; and 3) Discuss options to include the Budget Division as part of the WOLFS workflow for GAE requests or other options to clarify A&I's role with respect to W.S. 9-2-1008.	111	State Auditor's Office, Governor's Office, and Budget Division	Partially Agrees
6	6.2	The State Auditor's Office should include a definition of a "valid obligation" in its budget manuals, with respect to the processing and approval of GAE requests.	111	State Auditor's Office	Partially Agrees

Chapter Number	Recommendation Number	Recommendation Summary	Page Number	Party Addressed	Agency Response
6	6.1 (MFLC)	The Legislature may wish to consider enacting legislation or amending W.S. 9-4-207(a-c) to allow agencies to request a re-appropriation of a certain percentage of unused appropriations for subsequent biennia.	111	Matter for Legislative Consideration	N/A
6	6.2 (MFLC)	The Legislature may wish to consider enacting legislation or amending W.S. 9-2-1005(d) to require periodic audits of agency internal controls with respect to the processing of encumbrances, as well as sampling approved GAEs to ensure reversion statutes have not been violated.	111	Matter for Legislative Consideration	N/A
6	6.3 (MFLC)	The Legislature may wish to consider enacting legislation or amending W.S. 9-2-1005 (d) to require periodic audits of approved B-11 and NAFR requests. It may also wish to consider amending W.S. 9-2-2906(d)(i-ii) with respect to requiring approval by the OCIO with respect to IT related B-11 or NAFR requests.	115	Matter for Legislative Consideration	N/A
7	7.1	The Budget Division should review other states' practices as it moves forward to make changes to its automated and other processes.	130	Division	Agrees

Source: Legislative Service Office.

TABLE OF CONTENTS:

Wyoming's Interim Budget Process

Introduction: Objective and Scope, Methodology	1
Chapter 1: Background	7
Chapter 2: B-11 and NAFR documents are generally processed and approved within provisions of Wyoming statutes and session laws.	29
Chapter 3: Limited Functionality in the Budget Division's database and processes to approve B-11 and NAFR requests	55
Chapter 4: Lack of Formalized Policies and Customer Service	73
Chapter 5: Denied and Amended B-11 and New/Adjusted Fund Requests (NAFR)	87
Chapter 6: Limited Review of General Accounting Encumbrances and Lack of Auditing of the Interim Budget Process	103
Chapter 7: Other States Provide Alternative Processes	117
Conclusion:	131
Agency Response	133
<i>Appendices</i>	
(A) <i>Constitutional, Statutory and Session Law Criteria</i>	A-1 and A-2
(B) <i>B-11 Data (BFY2005 through BFY2013)</i>	B-1
(C) <i>Position Movement (funded positions-all B-11 types)</i>	C-1
(D) <i>Denied B-11 and NAFRs in Violation of 9-1-208</i>	D-1 and D-2
(E) <i>B-11 and NAFR File Reviews</i>	E-1 and E-2
(F) <i>Other States Information</i>	F-1
(G) <i>Agency Survey Results</i>	G-1



List of Acronyms and Definitions

Wyoming's Interim Budget Process

A&I	Department of Administration and Information
AWEC	At-Will Employment Contract
B-11	Formal interim budget modification action request
Carry-over or Carry-forward	Moving appropriated funds into a future biennia
CAFR	Comprehensive Annual Financial Report
Division	Budget Division of A&I
Flex B-11	Interim budget modification related to the Governor's Flex Authority
FF	Federal Funds
GAE	General Accounting Encumbrance
GF	General Fund
HRD	Human Resource Division of A&I
Inter-agency Flex	Flex Authority to move funds between agencies
Intra-agency Flex	Flex Authority to move funds between programs in one agency
NAFR	Newly/Adjusted Funds Request
Non-Flex	Statutory interim budget modification provisions not related to Flex Authority
OCIO	Office of Chief Information Officer
OF	Other Funds
PFT	Authorized Permanent Full-Time position
PPT	Authorized Permanent Part-Time position

SAO..... Wyoming State Auditor’s Office

TFT..... Authorized Temporary Full-Time position

TPT..... Authorized Temporary Part-Time position

WOLFS.....Wyoming Online Financial System

INTRODUCTION

Objective, Scope, and Methodology

Introduction

The Management Audit Committee requested an audit of Wyoming's interim budget process, commonly referred to as the B-11 process.

The B-11 is the form by which agencies request changes to existing appropriations, request new federal and other funds, or request increases to existing expenditure authorities.

The Budget Division also requires the use of a New and Adjusted Funds Request (NAFR) when applying for new monies. Once a NAFR is approved, the B-11 request for the new or adjusted funds can be processed.

Generally, the Committee requested that evaluators review the process for transparency and accountability to ensure the appropriate use of delegated authority for making changes to legislative appropriations during the interim.

Objective

W.S. 28-8-107(b) authorizes the Legislative Service Office to conduct program evaluations, performance audits, and analyses of policy alternatives. Generally, the purpose of such research is to provide a base of knowledge from which policymakers can make informed decisions.

The audit report addresses the following issues approved by the Management Audit Committee:

1. Determine whether the processes discussed in the scoping paper are adequate to ensure transparency, accountability, effectiveness, and efficiency.
2. Determine whether more formal criteria are needed through the promulgation of rules, to ensure public and other feedback with respect to the B-11 processes in the following areas: request process; approval process; and oversight.
3. Determine whether additional oversight is needed related to the development of pre-audit procedures of B-11 requests prior to approval and post-audit procedures of B-11 appropriations to ensure dollars are being expended as appropriated.
4. Determine whether it is appropriate to require a tracking system to record interaction between the State Auditor's Office, the Budget Division, and the Governor's Office.
5. Survey demographically similar states to identify interim budget processes and related oversight.

The Committee also requested that evaluators track B-11 requests through the process, examine full time equivalent (FTE) movement related to volume and seasonal trends, and review B-11s that moved appropriations into future biennia (carry-forward).

Finally, as an outgrowth of analysis related to B-11 carry-forward, General Accounting Encumbrances (GAE) and the state's encumbrance accounting policy were also reviewed and analyzed.

The time period related to audit work is BFY 2011 with occasional review of information and data from BFY 2013.

Scope and Methodology

This audit was conducted according to statutory requirements and professional standards and methods for governmental audits. Audit fieldwork was performed from June 2013 through September 2013. The general time frame for information included in this report is BFY 2011.

Pursuant to W.S. 9-2-1005(b) and subject to W.S. 9-2-1005(c), the Governor has the authority to “*authorize revisions, changes or redistributions to approved budgets*” as long as changes are limited to “*funds appropriated from the general fund for one (1) program as represented by line appropriations...*” It should be noted that W.S. 9-2-1005(e)(ii) defines program as “*a line appropriation within a general appropriation act of the legislature as so designated.*”

Since these changes occur outside of the B-11 process, this area was scoped out of the audit plan.

Changes to programmatic budgets based on this statutory language occur through the Wyoming Online Financial System (WOLFS). Agencies submit changes through WOLFS for the Department of Administration and Information's (A&I) Budget Division's approval.

Research methods included:

Interviews

- 1) Interviewed officials and personnel from A&I and its Budget and Human Resources Divisions to identify and discuss various processes.
- 2) Interviewed officials from the Wyoming State Auditor's Office (SAO) and Wyoming Department of Audit to identify and discuss various processes.
- 3) Interviewed Wyoming's Chief Information Officer (CIO) to identify and discuss various processes.
- 4) Corresponded with the Wyoming Governor's Office to discuss processes within the Governor's Office compared to those of the Budget Division.
- 5) Interviewed budgeting and accounting officials from the states of North Dakota, South Dakota, Montana, Alaska, and Vermont to learn about other states' interim budget processes,

laws, and policies. Evaluators also reviewed various policies, procedures, and statutory criteria. These states were selected for review because of their low populations and rural characteristics.

Surveys

- 6) Developed and sent surveys to Wyoming agency budget directors to gauge customer satisfaction with services provided by the Budget Division, as well as to determine understanding of Wyoming statutes and session laws. A total of 36 surveys were sent to agency budget directors. Of that total, 32 completed surveys were received. The overall response rate of return was 89%.

Research and Analysis

- 7) Reviewed various sources of information such as B-11 and NAFR instructions developed by the Division, as well as the state's Comprehensive Annual Financial Report (CAFR).
- 8) Reviewed the Wyoming Constitution and W.S. 9-2-100 (b) and (c) with respect to the Governor's authority to make changes related to General Fund and non-General Fund resources. Also, reviewed language in the budget bill and W.S. 9-2-1005(a) related to the Governor's Flex authority to move monies within an agency (intra-Flex) and across different agencies (inter-Flex).
- 9) Reviewed various Wyoming Title 9 provisions and Wyoming session laws with respect to reversion and carryover of appropriated monies, as well as reporting requirements related to the creation and movement of staff positions. It should be noted that in this report, "*session law*" and "*budget bill language*" are used interchangeably.

- 10) Reviewed accounting and other financial data from WOLFS; InfoAdvantage; the Wyoming Internet Budget and Analysis Reporting System (IBARS); and agency budget requests.
- 11) Copied the Division's Access B-11 database and performed the following steps to query and analyze data for the audit.
 - a) Reviewed database to identify queries, tables, reports, and forms that could be used for auditing purposes.
 - b) Using queries, extracted information from Access to Excel in order to illustrate basic B-11 data for BFY 2011 and BFY 2013 (CY June, 2013).
 - c) Data was broken out by "type" of B-11: Type 1 (non-Flex); Type 2 (combination of inter-Flex and intra-Flex); Type 3 (intra-Flex); Type 4 (inter-Flex); Type 5 (ARRA); Type 6 (Affordable Care Act); and Type 7 (carry-forward).
 - d) Identified a unique identifier or B-11 number for analysis.
 - e) Broke out data by number and percentages of B-11s by type, dollar amount and percentages.
 - f) Printed out 807 individual B-11 reports for further review and analysis.
 - g) Reconciled numbers, dollars, and percentages with the Budget Division.
- 12) Reviewed each of the 807 individual B-11 reports against an LSO created checklist to identify aggregate amounts, count of actions, mismarked B-11s, accounting offsets, funded and non-funded position movement, fund type, and identification of construction related purposes, documentation, errors, IT purposes, and other comments.
- 13) Reviewed and analyzed denied and amended B-11 and NAFR requests.
- 14) Reviewed Budget Division files of B-11s and NAFRs related to documentation of the request and approval processes.

15) Reviewed the Budget Division's "*Grow Your Own*" Access database used for comparing expenditures against estimated revenues. **Note:** This database was reviewed generally to determine the mechanism by which the Budget Division carries out its responsibilities under language in the budget bill to periodically compare revenues with expenditures.

16) Reviewed and analyzed encumbrance data provided by the SAO for BFY2011.

Acknowledgements

The Legislative Service Office expresses appreciation to the Department of Administration and Information and Budget Division staff for their continued cooperation throughout this audit, as well as unrestricted access to their databases.

We also appreciate the cooperation and feedback provided by the following entities: Office of the Governor; Office of the Chief Information Officer; the Wyoming State Auditor's Office, the Department of Audit, as well as budget directors of Wyoming agencies.

CHAPTER 1

Background

Interim Budget Process Authority

The Legislature grants the Governor the authority to revise, change, redistribute, or increase expenditure authorities (appropriations) related to General Fund and non-General Fund sources through various provisions in Wyoming statutes and session law language. These statutes and session laws work in tandem to establish the parameters of the interim budget process, although this authority is not clearly annotated by a separate title or chapter.

The following table illustrates the primary statutory cites and session law language discussed in this chapter to describe various processes. Additional citations and session law language that complement the interim budget process can be found in Appendix A.

Table 1.1
General Citations
Interim Budget Process

Citation	Description	Process
W.S. 9-2-1005 (b)(i)	<i>Subject to subsection (c) the Governor may: "Authorize revisions, changes or redistributions to approved budgets."</i>	Non-Flex (GF)
W.S. 9-2-1005 (b)(ii)	<i>Subject to subsection (c) the Governor may: "Authorize revisions, changes, redistributions or increases to amounts authorized for expenditure by legislative appropriation acts from non-general fund sources after notifying the legislature that in his opinion an emergency financial situation exists, general fund appropriations can be conserved, agency program requirements have significantly changed or unanticipated non-general fund revenues become available and qualify pursuant to W.S. 9-2-1006(a)."</i>	Non-Flex (Non-GF)

Citation	Description	Process
W.S. 9-2-1005 (b)(iii)	Subject to subsection (c) the Governor may: <i>“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).”</i>	Non-Flex (federal funds)
W.S. 9-2-1005(c)	<p><i>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 allocations from the governor’s emergency appropriation, if any.”</i></p> <p><i>The Governor shall not: “(ii) Authorize funds appropriated from the general fund for one (1) program as represented by line appropriation within any legislative appropriation act to be used for another program.”</i></p>	Limitations
W.S. 9-2-1005 (b)(iii)	<p><i>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 with a copy to the joint appropriations interim committee. 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.”</i></p>	Non-Flex (federal funds)
Budget Bill Language (Session Laws, 2012, Chapter 26, Section 309)	<p><i>“(a) Notwithstanding W.S. 9-2-1005(a) and (c), the governor is authorized to transfer:</i></p> <p style="padding-left: 40px;"><i>(i) Between programs within any executive branch agency, excluding the university of Wyoming, ten percent (10%) of the total appropriation for the agency;</i></p> <p style="padding-left: 40px;"><i>(ii) Between executive branch agencies, excluding the university of Wyoming, five percent (5%) of the total appropriation for the agency from which the funds are</i></p>	

Citation	Description	Process
	<p style="text-align: center;"><i>transferred.</i></p> <p><i>(b) All transfers authorized under this section shall be approved by the governor and reported to the joint appropriations committee through the B-11 process as authorize by W.S. 9-2-1005(b)(ii).</i></p> <p><i>(c) The authority granted under this section is effective for the period beginning July 1, 2012 and ending June 30, 2014.</i></p> <p><i>(d) Any provision of this act or any other legislation enacted which specifies that an appropriation shall not be transferred or expended for any other purpose, or containing language of like effect, shall prevail over this section and no such funds so appropriated shall be subject to subsection (a) of this section.</i></p>	

Source: Wyoming Legislative Service Office.

The processes by which interim budget changes occur utilize the B-11 and the New and Adjusted Funds Request (NAFR) request documents. The Department of Administration & Information's (A&I) Budget Division (Budget Division), the Governor's Office, and the Wyoming State Auditor's Office (SAO) all play a role in processing requests.

The Budget Division is the primary entity that has responsibility for processing the initial B-11 and NAFR requests. For BFY 2013, the Budget Division consists of eight (8) FTE positions. The Governor's recommendation for the Division's BFY 2013 budget was \$2,175,788.

Access database. The Budget Division maintains an Access database for tracking and reporting monetary and position count changes to already appropriated budgets that occur after B-11 requests have been approved. It does not, however, use a similar database for tracking and reporting NAFRs.

Additionally, the B-11 Access database does not cross-reference NAFRS with approved B-11s. B-11s that request new or adjusted funds typically have a corresponding NAFR, which is approved

first. NAFRs are discussed on the following pages related to non-General Fund requests.

The Governor's Office considers recommendations from the Budget Division with respect to approval or denial of the B-11 and NAFR requests. The SAO reviews approved B-11 requests, then makes necessary adjustments to expenditure authorities within the Wyoming Online Financial System (WOLFS).

It should be noted that statutory or session law wording does not envision active auditing of the interim budget process. Although W.S. 9-2-1005(d) mentions the Department of Audit as a source the Governor can use for requesting assistance or auditing, actual audits of the process do not occur.

Two Categories of B-11 Requests Exist

Non-Flex B-11 requests W.S. 9-2-1005(b) grants authority to the Governor to make changes to existing appropriations via non-Flex B-11 requests. "*Non-Flex*" denotes changes that result under the Governor's authority related to this statute. This authority allows the Governor to modify budgets within a single appropriation line for a program. It is important to note that this statute does not grant authority to the Governor to make changes across programs or agencies.

Non-Flex B-11 requests apply to either non-General Fund sources or General Fund sources.

Non-General Fund sources. The Governor's authority to make changes to existing non-General Fund appropriations is regulated via W.S. 9-2-1005(b)(ii and iii). These changes may occur "*after notifying the legislature that in his opinion 1) an emergency financial situation exists, 2) general fund appropriations can be conserved, 3) agency program requirements have significantly changed or 4) unanticipated non-general fund revenues become available.*"

Federal funds are specifically referenced in W.S. 9-2-1005(b)(iii), which authorizes the Governor to approve "*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).*" This statute also requires that such increases authorized by the Governor shall "*be in writing, signed by the governor or his*

designated representative...”

W.S. 9-2-1005(g) provides further clarification to the process for receiving and expending new federal funds. It states that “*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 with a copy to the joint appropriations interim committee.*”

It should also be noted that any actions taken to expend new or increased federal or other funds must have prior approval by the Governor pursuant to W.S. 9-1-208(a)(i). The statute states that “*no state department, board, commission or agency whose director, board or commission members are appointed by the governor shall, without prior approval of the governor apply for federal funds or private endowment funds.*” The Budget Division uses the NAFR request form to fulfill this specific requirement.

Of note is the Governor's May 18, 2011 letter to agency directors, which was also copied to Senate and House leadership referring to the above statute. This correspondence indicates the Governor's desire to focus on statutory requirements related to the interim budget process. Specifically, the letter states the Governor's intent to “*familiarize you (Agency Directors) with the process (NAFR); to alert you to problems we have had with timeliness and discretion in submission these requests; to reinforce the Governor's commitment to strict adherence to the requirements of the statutes and to the principles discussed with you and incorporated in your commitments as agency directors; and to provide reference to materials that will guide your administrative processes for compliance with this law*”

It is clear from statutory language that the Legislature's intent is for the Governor to provide consistent, frequent updates related to authorizing new or increased federal or other funds. The May 18, 2011 letter to agency directors indicates that the Governor understands the importance of these requirements.

General Fund sources. W.S. 9-2-1005(b) grants authority to the Governor to “*authorize revisions, changes or redistributions to approved budgets.*”

At first glance, subsection (b) seems to give the governor carte-blanche authority to alter agency budgets; however, this authority

is severely curtailed by subsection (c). Subsection (c) consists of those actions which are prohibited to the governor.

Within this subsection, subparagraph (i) prevents the governor from increasing *General Funds* appropriated to an agency, with the exclusion of any emergency appropriation that occurs. Additionally, (ii) prohibits the movement of *General Funds* between programs within an approved budget. In other words, the latter restricts the governor's authority granted in subsection (b) only within one program "*as represented by line appropriations within any legislative appropriation act to be used for another program*" (emphasis added).

With the exception of emergency appropriations, changes to programmatic budgets based on statutory definition pursuant to W.S. 9-2-1005(e)(ii) occur solely through the Wyoming Online Financial System (WOLFS). Statute defines program as "*a line appropriation within a general appropriation act of the legislature as so designated.*" Agencies submit changes through WOLFS for the Budget Division's approval; therefore, these transactions are not within the scope of this audit.

Flex B-11 requests The Legislature grants authority to the Governor to move appropriated monies between programs and agencies during the interim. This authority is granted primarily through language in the budget bills (Wyoming Session Laws).

Budget bill language "notwithstanding" general conditions for warrants and payments. W.S. 9-2-1005(a) and (c) work in conjunction with Wyoming Session Law to further define and clarify the authority granted to the governor. For example, 2012 Session Law, Chapter 26, Section 309 establishes the Flex Executive power. Essentially this Section states that from July 1, 2012 through June 30, 2014, general conditions listed in W.S. 9-2-1005(a) and (c) do not restrict the Governor's Flex Authority.

Furthermore, W.S. 9-2-1005(a) specifically outlines thirteen conditions that must be satisfied wherein warrants will be drawn by the State Auditor or paid by the Treasurer to State agencies.

The following table outlines the conditions under which warrants are authorized to be drawn and payments made. As discussed above, however, the Governor's Flex Authority exempts these normal conditions.

Table 1.2
W.S. 9-2-1005 (a) Conditions

Subsection (a)	No warrant shall be drawn by the auditor or paid by the treasurer
(a)(i)	Unless funds have been previously appropriated or otherwise authorized by law for that purpose
(a)(ii)	When it has been certified by the department that a state agency is in nonconformance with its approved budget Note: According to the SAO, it has never been informed by the Budget Division that such an instance has occurred.
(a)(iii)	If the amount sought to be expended would exceed the appropriation or other funds authorized for its use by law
(a)(iv)	If the expenditure is in nonconformance with the amounts, programs and approved budget authorized by legislative appropriation acts except upon approval of the governor as provided by subsection (b) of this section
(a)(v)	If the agency for which the expenditure was authorized is in noncompliance with a provision of a legislative appropriation act relating to the expenditure
(a)(vi)	If the expenditure relates to a capital improvement project for which total appropriations and authorizations for the project are insufficient except as otherwise authorized by law
(a)(vii)	If the expenditure is for salaries for employees exceeding the maximum number of employees for the agency authorized by a legislative appropriation act except upon approval of the governor as provided by subsection (b) of this section
(a)(viii)	If the expenditure of general fund monies is requested for a program other than the program for which the expenditure was authorized by the legislature
(a)(ix)	If the expenditure of nonfederal monies appropriated for the personal services budget by a legislative appropriation act is requested for any other purpose
(a)(x)	If the expenditure was authorized for capital improvements but sought to be expended for any other purpose
(a)(xi)	If the expenditure is requested from federal revenues exceeding the amount authorized by a legislative appropriation act except upon approval of the governor as provided by subsection (b) of this section
(a)(xii)	If the expenditure is for data processing hardware, software, consultants or training and exceeds the small purchase amount established by the

Subsection (a)	No warrant shall be drawn by the auditor or paid by the treasurer
	<p>department of enterprise technology services, unless specifically approved by one (1) of the following:</p> <p>(A) President of the University of Wyoming for the University of Wyoming;</p> <p>(B) The state chief information officer. A purchase shall not be approved pursuant to this subparagraph if it fails to conform with the criteria developed pursuant to W.S. 9-2-2906(b)(iii);</p> <p>(C) Chief justice of the supreme court for the judicial branch;</p> <p>(D) Director of the legislative service office for the legislative branch; or</p> <p>(E) President of each community college for his respective community college.</p>
(a)(xiii)	If the expenditure is otherwise in violation of law.

Source: Legislative Service Office.

The overall theme related to W.S. 9-2-1005(a) is that agencies must remain in compliance with their legislatively approved budgets. If agencies attempt to overspend, shift approved monies to different programs, re-allocate monies, hire or expend salaries at a higher than approved amount, request additional monies from federal revenues that have not been approved, or otherwise alter the approved budgets, this subsection provides the State Auditor and the Treasurer the authority to refuse payment for the agency. These provisions must be read in conjunction with the Flex provisions within the budget bill, since they specifically authorize the Governor to make changes to legislatively appropriated budgets.

The Governor's Flex Authority is further restricted in the total dollar amount the Governor may transfer between programs within an agency (except for the University of Wyoming). Session law language states that the total amount transferred may not exceed 10% of the total appropriation within a single agency. Additionally, the Governor may transfer monies between agencies, as long as the total amount transferred does not exceed 5% of the total appropriation of the agency providing the funds.

Of note when considering budget bill language in conjunction with W.S. 9-2-1005 are several points. First, it is important to note that the language in the budget bill is created with the clear

intent to both provide latitude to the governor within the 10% and 5% budget adjustment maximums as well as limit this Flex Authority to the biennial period.

This limitation allows the Legislature to have ultimate control over the Executive Flex Authority in order to insure that an abuse of this authority does not occur. Furthermore, the Flex Authority enables the Governor to address changes and fluctuations that inevitably occur within agency budget needs in a more timely and flexible format than the Legislature is likely to be able to achieve. Finally, this language also requires the Governor to report "*transfers authorized under this section*" to the Joint Appropriations Committee.

Gradual limitations to the Governor's Flex Authority. Over the past two decades, there has been a gradual limitation placed on the Flex Authority of the Governor via Wyoming Session Law language. The more specific and limited transfer authority began establishing itself in the Session Laws of 1994. From 1992 to 1996, the Governor could move any portion of an agency's budget between programs and 20% of an agency's budget could be moved to another agency.

In the 1996 Session Laws, 50% of an agency's appropriation could be moved between programs and 10% of the agency's appropriation could be moved between agencies. In 2000, the authority was lowered again to 20% of an agency's appropriation allowed to be transferred between programs, and 10% between agencies. Finally, in 2002 the totals allowable lowered to 10% between programs and 5% between agencies, and that amount has remained consistent through 2012 Session Laws.

In 1998, Session Law language was vetoed by the Governor that would have established a Flex Equity Account in the governor's budget. The account would have contained funds for the governor to move via Flex Authority. However, in the same year, \$1.5 million was approved to implement the Flex Authority.

Also of note in this Session Law is subsection (b). Although there is no explicit authority granted within this Session Law or W.S. 9-2-1005 for the authorization of position movement, subsection (b) states that "*all transfers authorized under this section shall be approved by the governor and reported to the joint appropriations committee through the B-11 process as authorized by W.S. 9-2-*

1005(b)(ii).”

Therefore, although the Session Law does not explicitly state that the governor may transfer positions, the authority may be implied in the assumption that transfers may occur under this subsection.

Exceptions to “notwithstanding language.” Subsection (d) states, “*any provision of this act or any other legislation enacted which specifies that an appropriation shall not be transferred or expended for any other purpose, or containing language of like effect, shall prevail over this section and no such funds so appropriated shall be subject to subsection (a) of this section.*”

This language broadly serves as a check to prevent future confusion related to potential conflicts in statute or session law related to the use of funds. In other words, the subsection specifically exempts the notwithstanding language in Section 309 (a), as (d) references (a) specifically. This language first appears in 2008, which clarifies any future conflicts that might arise in statutes and session laws.

Other Statutory and Session Law Language Impacts Interim Budget Process

As stated previously, there are no title or section headings within Wyoming statutes or session laws that annotate the specifics of the interim budget process. In tandem with the statutory and session law language discussed above, other language compliments the interim budget process.

Although statute and session law language also include multiple provisions and exceptions related to the Governor’s budgeting authority, two specific areas provided additional focus for this audit: **1)** Position movement and **2)** Carry-forward of funds from one biennium to another.

Position movement There is no explicit authority granted within Wyoming statutes or session law authorizing the movement of positions as part of the interim budget process (Flex or non-Flex).

As discussed above, however, 2012 Wyoming Session Laws, Chapter 26, Section 309(d) states that “*all transfers authorized under this section shall be approved by the governor and reported*

to the joint appropriations committee through the B-11 process as authorized by W.S. 9-2-1005(b)(ii).” Therefore, position movement can occur as a result of the Governor’s Flex Authority.

It is important to note that Chapter 26 also discusses vacant positions and the creation of at-will employee contracts (AWEC) outside of the Flex Authority discussed under Section 309. For example, Section 312 states that no General Fund monies should be used to hire new employees from July 1, 2012 through June 30, 2014, except to fill vacant positions. The Governor may authorize additional positions outside of the previously appropriated numbers; however, this action can only be taken upon termination of the same number of positions in other agencies.

Section 313 discusses the creation of AWEC positions. The statute prohibits the creation of new positions “*unless specifically authorized through legislation enacted during or after the 2012 budget session or approved by the Governor.*” This language seems to grant the Governor authority to create positions through the interim budget process. In fact, subsequent language states “*any such position so authorized by the legislature or approved by the governor shall be reported to the joint appropriations committee through the B-11 process as authorized by W.S. 9-2-1005 (b)(ii).*”

Wyoming statute may also imply that the interim budget process could impact position movement. For example, in 2003 W.S. 9-2-1005(b) allowed the governor only to “*increase or revise amounts*”; however, this statute was revised to grant authority to the Governor to “*authorize revisions, changes, redistributions, and increases (non-general funds)*” to approved budgets. This broad language appears to grant authority to change dollar amounts as well as position movement as part of the overall budget.

One additional point to consider with respect to statutory changes in 2003 discussing position movement is the broadness in current wording compared to previous language that annotated specific instances by which the Governor could transfer positions. In other words, the Legislature provided specific instances when it was appropriate to transfer positions.

For example, prior language restricted the Governor's authority to transfer positions only for the following reasons:

- (i) *“For an agency from which funds are to be transferred, that through management practices or other changed circumstances, the agency will be able to perform its statutory programs, duties and responsibilities during the biennium without expending its entire appropriation; and*

- (ii) *For an agency to which funds are to be transferred, the expenditure is necessary to satisfy any of the following criteria:*
 - a. *The continuance of the proper functioning of state government when the legislature is not in session; or*
 - b. *The continuance of essential state services when the legislature is not in session; or*
 - c. *Contingencies, emergencies or requirements which were not foreseeable or predictable at the time of the preparation and adoption of the budget and the passage of appropriations measures during the session of the legislature immediately preceding the occurrence of the contingency, emergency or requirement; or*
 - d. *Needs for which other money is unavailable or is insufficient.”*

As seen from the discussion above, although not explicitly stated, current statute and session law language could be interpreted to grant authority to the Governor with respect to position movement as part of the interim budget authority (Flex and non-Flex).

Interaction with the Human Resources Division. According to the Budget Division, non-AWEC positions are created and terminated pursuant to 2012 Wyoming Session Laws, Chapter 26, Section 312 related to Flex and non-Flex B-11 requests. More specifically, approved B-11 requests are forwarded to A&I's Human Resources Division. Once received, the Division reviews approved B-11s and notifies the Budget Division of created and

terminated positions.

The process is similar with respect to the creation and renewal of AWEC positions pursuant to 2012 Wyoming Session Laws, Chapter 26, Section 313 and W.S. 9-2-1005(b)(i through iii), as well as transfers of FTEs, PTEs, and AWECs with respect to 2012 Wyoming Session Laws, Chapter 26, Section 309(b).

The Budget Division is not actively involved with the implementation of personnel classification and compensation plans pursuant to W.S. 9-2-1005(b)(iv), with the exception of legislative appropriations for compensation which occur through the SAO, or other legislative changes resulting from changes to personnel classification and compensation plans that occur through B-11s.

Other exceptions. According to the Budget and Human Resources Divisions, only recently and in a limited manner have B-11 requests sought to move previously created positions from non-legislatively appropriated budgets such as WYDOT or the Department of Game and Fish. The most recent example, according to the Budget Division related to B-11 #13005 involving WYDOT, *“was authorized by budget footnote and involved two positions, both of which were funded with highway funds.”*

According to the Budget Division, another exception with respect to reporting requirements relates to the creation of AWEC positions for interns through the Human Resources Division of the Department of Administration and Information.

According to the Budget Division, *“These positions have historically been created based on an appropriation for this purpose within that Division. Furthermore, additional intern positions have recently been created based on the receipt of federal funds authorized by B-11. Finally, in one instance in 2012, the Budget Division was directed to prepare a B-11 to create two full-time, time-limited positions at the School Facilities Commission to facilitate the significant school construction workload at that agency. It was the Division’s understanding that the Governor’s Office had coordinated such an approach with legislative leadership.”* Even though intern positions are funded through a separate appropriation, the creation of subsequent AWEC positions should be reported pursuant to language within

the budget bill.

Carry-forward of unused appropriations

With the exception of federal fund sources, statutory or session law language does not generally allow the Governor to carry forward appropriated funds across biennia. Rather, statutory language focuses on the notion of required reversions of unused General Fund appropriations or non-appropriated revenues.

W.S. 9-2-1008 generally discusses requirements for unexpended funds. It requires that if appropriations or other revenue has not been expended during a biennium, *“it shall lapse or be carried over as provided by W.S. 9-4-207.”* Statute also requires that the Wyoming State Auditor’s Office, after consultation with the Department of Administration and Information, take appropriate action with respect to the section.

General Funds. W.S. 9-4-207(a) is very specific in its requirements related to the reversion of General Fund monies. The statute states that *“all unexpended general fund appropriations shall lapse as of the end of the fiscal period excluding appropriations for capital outlays and except as otherwise authorized by law.”*

Other funds. W.S. 9-4-207(c) is also very specific in its requirements related to reversion of other funding sources. It states that *“unexpended appropriations from any funds created by this act not specified in subsection (a) or (b) of this section shall lapse at the end of the fiscal period and be accounted for as unappropriated surplus within the fund or account if applicable except as otherwise provided by the legislature.”*

Federal funds. W.S. 9-4-207(b) provides greater discretion with respect to reversion or carryover of federal funds. It states *“all unexpended federal funds appropriations and budget authorizations to accept and expend federal funds as provided by W.S. 9-4-206(b) shall be reviewed by the department of administration and information at the end of the fiscal period. The department may authorize amounts to be carried forward into the next fiscal period which are necessary to complete activities or functions in progress or for activities or functions not then started. Federal funds not carried forward shall revert to the general fund unless federal requirements provide otherwise or unless otherwise provided by the legislature. The department of administration and information shall report to the governor the amount and nature of*

the funds carried forward, reverted to the general fund, or returned to the federal government.”

Unlike the broad authority granted to the Governor related to position movement as part of the authority during the interim to modify or increase appropriations, statutory language related to reversion and carry-forward of funds is prescriptive in nature. It is therefore important to ensure that actions taken by the Governor with respect to interim budget authority is not contrary to explicitly worded reversion statutes.

Interim Budget Process

There are distinct processes performed by the Budget Division, the Governor's Office, and the State Auditor's Office with respect to process B-11 and NAFR requests. For the most part, these processes have not substantially changed over time, with a few exceptions that will be discussed in this section of the report.

For purposes of this section, the steps by which B-11s are processed are the same for Flex and non-Flex B-11 requests. Also, although there may be some exceptions, approved NAFR requests relate to non-Flex B-11 requests.

Process by Which B-11 Requests are Processed and Approved

The process by which B-11 requests are approved is largely a manual process and has remained historically consistent.

Agencies begin the process by submitting the initial request to the Budget Division. After receipt of the B-11 request, the Division processes the request for approval by the Governor's Office. Once approved, the B-11 request is sent to the Wyoming State Auditor's Office for review and action to adjust agency appropriation's tables.

The following table provides additional information related to the request process.

Table 1.3
***B-11 and NAFR Request Process**

Action	Responsible Party	Disposition
1. Preparation of initial B-11 request and packet	Requesting agency	Requesting agency downloads the form from the Division's website, completes the form, and sends the completed form to the Budget Division
2. Receipt and date stamp of B-11 request	Budget Division	Creates a file for the B-11 request
3. Logs B-11 request information into an Access database	Budget Division	Assignment tracking number is created and information is entered into the Access database
4. **Review of documents to ensure compliance with state statute, budget bill, and federal regulations	Budget Division	Budget Division uses information for continued processing
5. Notification of the Legislature re: W.S. 9-2-1005(b) (ii) bullet list re: non-GF sources; emergency financial situation; GF appropriations can be conserved; changes in agency program requirements; and identification of unanticipated non-GF fund revenues	Budget Division	According to the Budget Division, " <i>The Budget Division is unaware of an historical process whereby the determination required under this subsection is made or the legislature is notified in advance of B-11s in which the expenditure of other funds is authorized.</i> "
6. Contact of state agencies for additional information or documentation	Budget Division	Email or other communications with the requesting agency and/or the Wyoming State Auditor's Office
7. Preparation of the official B-11 request for the Governor's Office	Budget Division	Official B-11 recommendation is prepared using the Division's Access database and forwarded to the Governor's Office for approval. For NAFRs, a formal letter of recommendation is approved, since the Division's Access database does not track NAFR information.

Action	Responsible Party	Disposition
8. Review of Division's recommendation by the Governor's Office	***Chief of Staff	The same information reviewed by the Budget Division in steps #4 and #6 is reviewed by the Governor's Office.
9. Approval or denial of the Division's recommendation	Chief of Staff with support of the Budget Division	Routed back to the Budget Division
10. Final distribution to requesting agency and State Auditor's Office for review	Budget Division	All information reviewed by the Budget Division and the Governor's Office is routed to the Auditor's Office for review
11. Review of approved B-11 requests by the State Auditor's Office	CAFR Group	<p>Reviews the approved B-11 request to ensure that accounting information is accurate or other concerns are addressed related to WOLFS coding information for adjustments to Level 1 of an agency's appropriation table.</p> <p>If errors are found, SAO requires the Budget Office to either correct an existing B-11, or prepare a formal amended B-11, depending on the significance of the error. Errors may occur in the following areas: budget fiscal year, agency number, fund number, division number, appropriation unit, revenue source code, and dollar amount.</p>
12. State Auditor's Office makes adjustments to an agency's Level 1 table to reflect various events related to expense budgets, budget lines, and expected revenue	CAFR Group	<p>SAO will only process an approved B-11 that comes directly from the Budget Division, not from the agency. Once the approved B-11 is received by SAO, the Level 1 budget adjustment is processed in WOLFS. SAO requires a second authorization from another SAO employee to review and verify document in order for the Level 1 adjustment to go final in WOLFS.</p> <p>It should be noted, if a budget is being decreased on the B-11, agencies are required to submit their Level 2 through 4 decreases as soon as possible after the B-11 request is approved by the Governor's Office. Requests for changes within Levels 2 through 4 are</p>

Action	Responsible Party	Disposition
		approved by the Budget Division.

Source: Legislative Service Office from information provided by the Budget Division.

*It should be noted that NAFR requests that occur prior to a B-11 request are generally handled in the same manner as B-11 requests.

**Information reviewed includes the following: supporting documents, accounting information, information related to position movements, reasons for requests, and appropriate filing of NAFR documents related to non-Flex B-11s.

***It should be noted that prior to September 2012, the Governor's Office relied on the Budget Advisor to review recommendations from the Budget Division. However, that individual left the position in September 2012, causing a repurposing of the position. Currently, NAFR and B-11 recommendations are routed to the Chief of Staff for review. An assigned employee from the Budget Division is responsible to serve as a collection point for recommendations, which are scheduled for review on a weekly basis by the Chief of Staff.

B-11 and NAFR Instructions

Although the Budget Division does not have formal policies related to the processing of B-11 and NAFR requests, it maintains a thorough set of written instructions and downloadable forms on its webpage.

During the entrance conference with the Budget Division, the Budget Administrator stated that the Governor had expressed a need to streamline the B-11 process to make it more transparent. As a first step towards streamlining, the Division redesigned both the NAFR and B-11 forms.

Related to B-11 requests (Flex and non-Flex), instructions provide information on the following areas: **1) Background**; **2) Statutory authority**; **3) Procedural steps for B-11 processing**; and **4) WOLFS information, requirements, and procedural steps**. The webpage also includes a downloadable B-11 request form, which can be completed and printed.

For NAFR requests, instructions provide general steps for processing requests, statutory and other authority, as well as a policy statement discussing when NAFRs are required.

The policy statement discusses three instances when NAFRs are required: **1) New or "unappropriated" federal and private or other endowment program funding**; **2) Significant dollar increases for an existing program/grant**; and **3) Programs/grants that require additional state employee positions as a condition of receiving the grant**. It should be noted, however, that the policy statement is silent on whether new NAFRs should be completed if an agency is applying for the same grant in subsequent biennia.

Division's Access Database

The Division's Access database provides a sound basis for storing, analyzing, and reporting movements related to approved B-11 requests. According to the Budget Division, it was initially a FOXPRO application that was developed in the 1990s by the Legislative Service Office for tracking interim budget movements.

According to the Budget Division, when data transferred to them in 1999, that data was "*migrated to a new Access database.*" The initial production database, however, began with 2001 B-11 requests.

The database includes various data fields related to three primary tables: 1) Appropriation; 2) Expenditure; and 3) B-11 basic data. Within each table, various fields of information are tracked.

Although the Access database is well-established and accomplishes basic analysis and reporting of B-11 data within three primary tables, there are also some limitations that restrict the Division's ability to analyze and report B-11 and NAFR. The following table provides additional information.

Table 1.4
Access Database Table Fields

Appropriation Fields	Expenditure Fields	B-11 Basic Data Fields	Overall Limitations
B-11 Number	B-11 Number	B-11 number	Lack of primary key restrictions for isolating information related to individual B-11 requests
FY	FY	Comments	No separate tracking of NAFR information
Agency	Agency	Flex	Inconsistent use of Type 2 through Type 4 flex tabs
Division	Division	Flex Type	Incorrect use of the Type 1 tab for recording carryovers
ORGN	ORGN	ARRA NAFR Number	Inability to break out new or increased federal or other funds in a consistent manner
Fund Type	Fund Code	Health Care NAFR Number	Lack of FTE, PTE, and AWEC tracking with

Appropriation Fields	Expenditure Fields	B-11 Basic Data Fields	Overall Limitations
			respect to purposes and seasonal employment of tracked positions to identify trends (AWEC, PFT, PPT, TFT, and TPT)
Fund Code	Appropriation Code	Budget Approval	Use of Type 1 tab to record B-11s for documenting movement of previously appropriated monies, corrections, and transfer funds from agency to agency related to service agreements
Appropriation Code	Object Series Code	Budget Amended	Lack of relational connection between the primary tables
Revenue Code	Amount (net total of expenditures)	Budget Disapproval	
Amount		Governor Approval	
PFT		Governor Disapproval	
PPT		Final Date	
TFT		OCIO Approval	
TPT		OCIO Disapproval	
AWEC		Cash Balance	
		Federal Funds Direct Recipient	
		Federal Funds Pass Through	
		Cash Balance Another Fund	
		Other	

Source: Legislative Service Office from information provided by the Budget Division.

Future database plans. The Division is interested in modifying its current database to provide more online interaction with the Governor's Office, SAO, and requesting agencies.

From the Division's perspective, the ideal database would include electronic routing of B-11 and NAFR requests *"through all steps of the process, including the transmittal of submittal information from the originating agency to the Budget Division, the transfer of this information as well as the Budget Division's review of information and recommendation from the Budget Division to the*

Governor's Office, the approval/denial decision from the Governor's Office to the Budget Division and the transmittal of all information following a decision from the Budget Division to the originating agency."

The system would also include transmittal information related to B-11 requests to the Chief Information Officer (CIO) when appropriate, with ultimate reporting to the CAFR Group within the State Auditor's Office. Finally, the database should include reporting capacity *"to extract data that meets the needs of the Governor's Office, the Legislature, the agencies and the public."* Currently, the Budget Division is discussing these ideas with the CIO.

According to the SAO, interaction between requesting and approving agencies is important, not only with respect to the processing of B-11 and NAFR requests, but also related to establishing the first level of appropriation's authority in WOLFS after passage of the appropriations bill. More specifically, the SAO is concerned that WOLFS does not interact with the State's budgeting software (Internet Budgeting Analysis and Reporting System or IBARS) to accurately reflect the intent of the Legislature with respect to funding state agencies.

B-11 Data and Total Dollars Impacted

Table 1.5 provides specific information with respect to total dollars amounts moved during BFY 2011 via the interim budget process. It should be noted that dollar figures include amounts that zero out because of transfer from one appropriation unit to another.

Because of limitations on the Budget Division's Access database, evaluators were not able to break out new or increased federal or other fund amounts in a consistent manner.

As a result, evaluators requested that the Budget Division review IBARS, WOLFS, and Access database information to provide a more detailed breakout of the figures.

Table 1.6 provides this additional information as context for the total numbers seen in Table 1.5.

Table 1.5
B-11 Numbers and Total Dollars Impacted
BFY2011

B-11 Type	Number of Approved B-11s	Percentage of B-11 Number	Dollar Amount of Approved B-11s	Percentage of Dollar Amount
Type 1: Non-Flex	646	80.05%	\$2,167,536,146.83	91.61%
*Type 2: Flex	N/A	N/A	N/A	N/A
Type 3: Intra Flex	46	5.70%	\$47,473,929.53	2.01%
Type 4: Inter Flex	70	8.67%	\$85,741,882.00	3.62%
Type 5: ARRA	18	2.23%	\$57,226,855.00	2.42%
Type 6: ACA	13	1.61%	\$3,448,870.00	0.15%
Type 7: Carryover	14	1.73%	\$4,614,214.94	0.20%
Total	807	100%	\$2,366,041,898.30	100%

Source: Legislative Service Office from information provided in the Budget Division's Access database.

*This category was not analyzed, as it is not currently used by the Budget Division.

***Table 1.6**
B-11 Numbers and Total Dollars (new or increased federal or other funds)
BFY2011

Type 1 Category	Number of Approved B-11s	Dollar Amount
Newly Appropriated Federal Dollars (NAFR)	102	\$19,338,275.00
Increased Appropriation (Federal Dollars through NAFRs)	66	\$117,300,156.00
**Newly Appropriated Other Dollars (NAFR)	194	\$1,384,698,612.33
Previously Appropriated Dollars (Documentation)	2	\$12,652,217.00
Increased Funds Appropriation	113	\$110,008,026.40
Total	477	\$1,643,997,286.73

Source: Legislative Service Office from information provided by the Budget Division.

*Information was not audited by the Legislative Service Office.

**Includes a single B-11 request for \$1,268,540,500 from the Department of Revenue to facilitate biennial tax revenue distributions.

CHAPTER 2

B-11 and New/Adjusted Fund Request (NAFR) documents are generally processed and approved within provisions of Wyoming statutes and session laws

Finding 2.1: The Budget Division is generally processing B-11 and NAFR documents within the provisions of Wyoming statutes and session laws.

As part of the interim budget process, the Department of Administration and Information's (A&I) Budget Division (Budget Division) generally processes B-11 and New/Adjusted Fund Request (NAFR) documents within the broadly written provisions of Wyoming statute and language included in budget bill. These provisions provide the Governor with the discretion to authorize revisions, changes, or redistributions to legislatively appropriated budgets.

As a result of the breadth of this authority, however, some current practices may be noteworthy for Legislative consideration. Although not contrary to existing statutes and session laws, the practice of utilizing B-11s for documentation purposes, B-11s used for position movement, and carry-forward of unused appropriations through a B-11 request may raise questions about the current interim budget process.

Practices Resulting from Broadly Based Statutes and Session Laws

After reviewing and analyzing the Division's database, evaluators were able to identify noteworthy categories of B-11s. The following categories of B-11s may deserve further discussion by the Legislature to ensure that the delegation of interim budget authority is consistent with Legislative intent: **1)** B-11s documenting previously authorized appropriations; **2)** B-11s dealing with position movement; and **3)** B-11s related to carry-forward of unused appropriations

Interim budget process is used to document previously authorized appropriations

Documentation B-11s. B-11s that are used to document authorized appropriations through statutory provisions or other legislative directives are defined as “*documentation B-11s.*”

Currently the Budget Division and the State Auditor’s Office (SAO) document specific actions with respect to fund movement via the B-11 process. As noted by the Governor’s office, “*there have been numerous instances where the B-11 process has been utilized to document spending authority transfers required under session law or separate legislation... This is done in the interest of documenting the specific movement of spending authority, not for the purpose of providing the authority for such movement.*”

Likewise, the SAO uses the B-11 as one of multiple “*triggers*” to adjust appropriation and expenditure tables in the statewide accounting system, even though legislative authorizations have already occurred.

Out of 807 B-11s in BFY 2011, evaluators observed 84 B-11 requests with an aggregate total of \$137,616,538.19 that may have been unnecessary to perform the requested action. The number of documentation B-11s represents close to 11% of all B-11s reviewed and 6% of the total dollar amount for all B-11s reviewed.

Table 2.1
Total Documentation B-11 Requests

B-11 Type	B-11 Requests	Percentage	Dollar amount	Percentage
Non-Flex	66	79%	\$ 97,552,588.19	71%
Intra-Flex	6	7%	\$ 17,558,594.00	13%
Inter-Flex	12	14%	\$ 22,505,356.00	16%
Total	84	100%	\$ 137,616,538.19	100%

Source: Legislative Service Office from information in the Budget Division’s B-11 database.

Within the sample population, the majority of documentation B-11s relate to the movement of General Fund and Other Fund dollars. The following tables provide additional information.

Table 2.2
Total Count of Documentation within the Population for BFY2011

Type	B-11 Count	Aggregate B-11 Amount	Federal Funds Subtotal	%	General Funds Subtotal	%	Other Funds Subtotal	%
Non-Flex	66	\$97,552,588.19	\$2,393,175	3%	\$39,090,401.31	40%	\$56,069,011.88	57%
Intra-Flex	6	17,558,594	2,915,541.00	17%	5,419,258	31%	9,223,795	52%
Inter-Flex	12	22,505,356	0	0%	8,251,808.00	37%	14,253,548	63%
Total	84	\$137,616,538.19	\$5,308,716.00	4%	\$52,761,467.31	38%	\$79,546,354.88	58%

Source: Legislative Service Office from the Budget Division's Access database.

The risk with using the interim budget process to document a previously authorized appropriation is that the process becomes convoluted for the agencies submitting the B-11 request, the Budget Division, and particularly within required reporting. Because transparency and accuracy within the process is important, it is appropriate for the Budget Division to document the transaction of business, especially between agencies when involving public funds; however, the interim budget process may not be the appropriate mechanism for that documentation. For example, using the current process makes it difficult for the Budget Division to consistently report new federal or other funds or increased federal or other funds outside of other actions.

It should be noted that the CAFR uses Column 1 to report originally appropriated dollars of an agency (by fund) and Column 2 to report any changes as a result of supplemental appropriations as well as B-11s within the *Schedule of Revenues & Expenditures (Budget and Actual)*. Although the purpose of the CAFR process is to "represent the state as a reporting entity as a whole based on

fund level,” illustration of B-11 amounts within the CAFR is beneficial.

There is a slight risk that supplemental budgets can be loaded into WOLFS incorrectly; however, SAO staff indicated it has an internal control process to prevent duplicative reporting of B-11 amounts within the CAFR. It also stated that internal controls have been strengthened with respect to external audits that occur on an annual basis.

According to SAO staff, *“when CAFR receives a request to process a budget document based on footnotes in Section 2, or ‘Other’ bills, CAFR first checks the budget tables in WOLFS and checks against a spreadsheet log to verify that this transaction has not been entered yet. This process is followed during the year.”*

Although SAO staff do not believe a separate B-11 column should be used in CAFR reporting, staff also stated that it could, *“if needed, create some other type of reporting process for a more detailed report outside of CAFR.”* SAO staff further commented that such a process could be developed collaboratively between the SAO and the Budget Division to enhance current reporting mechanisms used by the Budget Division.

A third and ancillary risk associated specifically with the B-11s that utilize the Executive Flex Authority is that using B-11 requests to document the Flex process creates the risk of an agency appearing to meet or exceed the Governor’s Flex Authority. According to 2012 Wyo. Sess. Laws. Ch. 26, Section 309, the Governor is authorized to transfer *“Between executive branch agencies... five percent (5%) of the total appropriation for the agency from which the funds are being transferred.”* Documentation B-11s that may not be necessary could appear to utilize the Governor’s 5% Flex authority.

If the Division used a different process to record actions taken in regard to previously appropriated funds, it would reduce the volume of total B-11s processed and could potentially allow for more efficient and effective reporting.

Examples of documentation B-11s vary. There is a wide variety of different purposes for documentation B-11s, from correcting errors to triggering movement related to continual appropriations. The following table provides specific examples of documentation

B-11s processed as part of the interim budget process.

Table 2.3
Examples of Various Documentation B-11s

B-11 Number	B-11 Type	Purpose	Authorizing Criteria
11404	Inter-Agency Flex	Approval to transfer \$1.87 million from the Governor's Office's 2011-2012 appropriated budget, Administrative Division to establish four (4) new programs: Governor's Residence Flatware (\$10,000); Niobrara Oil Play (\$610,000); Deep water Ports (\$250,000); and Rural Fires District Grants (\$1,000,000).	Senate Enrolled Act No. 68, 2011 General Session
11258	Inter-Agency Flex	Transfer of \$20,000 from the Federal Natural Resource Policy Account to the Department of Agriculture re: a range health assessment program.	2010 Wyoming Session Laws, Chapter 107, Section 3 (a)(i)
11467	Inter-Agency Flex	Transfer of \$6 million to the Office of State Lands and Investments from the Office of State Treasurer's holding account to assist counties impacted by energy development.	Senate Enrolled Act 94, 2011 General Session
11047	Intra-Agency Flex	Correction of mistakes by Wyoming Department of Health after establishing its budget for BFY2011 (e.g. transferring GF money to trust and agency accounts and non-GF funds)	General authority to establish budgets after legislative appropriation
13005	Intra-Agency Flex	WYDOT request to move two positions from the Highway Commission to the Highway Patrol Division (\$198,242)	Senate Enrolled Act 0029, Sections 2, Subsection 045 (1), 2012 Budget Session
11380	Non-Flex	Transfer of \$1 million from the Wyoming Business Council to the University of Wyoming for a payment re: an MOU related to the National Center for Atmospheric Research and University Corporation for Atmospheric Research.	2010 Wyoming Session Laws, Chapter 39, Section 324 (c)(ii)
11284	Non-Flex	State Parks and Cultural Resources request to carry forward \$5,000 for Legislative Art Donation Program	2010 Wyo. Sess. Laws Ch. 53 Section 7(a)(i)

B-11 Number	B-11 Type	Purpose	Authorizing Criteria
11218	Non-Flex	The Governor's Office request to carry forward \$750,000 from BFY09 to BFY11 for Emergency Contingency Funding.	2010 Wyo. Sess. Laws Ch. 39, Section 304(a)
11084	Carry-Forward	Transfer \$500,000 of unexpended balances of pathfinder Reservoir program (Office of Attorney General)	2008 Wyoming Session Laws, Chapter 48, Section 2, Subsection 015, (1) allows continuous appropriation through June 30, 2020

Source: Legislative Service Office from information provided by the Budget Division's Access database.

Legislative requirement for documentation. Section 300 of the supplemental budget bill requires the use of the B-11 process to document and report the number of B-11s used to create or renew “*At-Will Employment Contract*” (AWEC) employees within a two-year timeframe. However, it should be noted that within the sample reviewed by evaluators, all B-11s that requested the creation or renewal of AWEC positions would have been necessary with or without the legislative requirement.

The SAO has worked in conjunction with the Division to make the B-11 process more transparent. However, evaluators observed that the recent use of the interim budget process for documentation purposes, although well-intentioned, may raise questions about the intended use of the process. According to the Budget Division, B-11s of this nature were not processed under previous budget directors and the practice of documenting transfers that are otherwise already authorized by law “*has only recently been initiated.*”

Division staff also stated that “*some of these B-11s were completed based on internal Budget Division discussions, a number were prepared at the request of the State Auditor's Office.*” Given the recent emphasis placed on the importance of the B-11 process as expressed by both the executive and legislative branch, the Division has taken care to document any

actions taken in regard to the movement of funds.

While evaluators agree that documentation of such actions is important for transparency and reporting purposes, the interim budget process may not be the most appropriate vehicle for this documentation. To mitigate the risk of duplicative reporting and to improve overall transparency, the Division should use a separate process for recording actions that have been previously authorized. This process, when appropriate, would not require gubernatorial approval, as appropriations were previously authorized by law.

By isolating the documentation and correction process, the Division could provide more accurate accounts of interim budget actions related to new federal or other funds or increased federal or other funds while also alleviating the risk of duplicative reporting.

Recommendation 2.1: The Division and the Wyoming State Auditor's Office should work together to develop a separate tracking and reporting related to the movement of previously appropriated monies. This new process should include a differentiation between non-Flex and Flex B-11s, and include a manner in which to report amounts outside of the CAFR.

Position action occurs frequently with the processing of Flex and non-Flex B-11s

Position movement B-11s. Position action (e.g. creation, movement, or extension) occurs routinely as part of the interim budget process related to Flex and non-Flex B-11 requests.

Evaluators defined creation of a position as any position or AWEC not in existence prior to the B-11 request. Extensions are positions that may have been created through a legislative appropriation and renewed through the B-11 process. A B-11 request is also considered an extension if the requested position was created through a previous B-11, and, as the position was time-bound for two years, a subsequent B-11 was requested in order to extend beyond the initial approval period.

Position types. Various position types exist with respect to an agency's budget and B-11 requests.

According to the Department of Administration and Information (A&I), Human Resources Division's Rules and Regulations, "*the status of each position shall be designated, on the basis of authorized funding, as one of the following types: full-time; part-time; time-limited; or time-share.*" The following provides a definition of position types used in this report:

- Full-time or PFT: An authorized position funded for a salary expenditure of at least forty (40) hours of work per week;
- Part-time or PPT: An authorized position funded for a salary expenditure of less than forty (40) hours per week; and
- Time-limited or TPT/TFT: An authorized position funded for a limited period of time (either part-time or full-time).

Agencies may also use AWEC employees, which are governed by W.S. Statute 9-2-1022(a)(xi)(F). Generally, AWEC employees receive limited coverage and employer contributions related to social security, worker's compensation, and unemployment compensation. AWEC employees are prohibited by statute from participating in deferred compensation; however, they may receive coverage under state employee and official group insurance or state retirement if allowed per individual contract.

AWEC positions are filled to provide technical or professional services through a contractual process, which clearly states the duties, responsibilities, and benefits for a specified period of time. Terms and conditions of employed are defined within the contracts.

Wyoming statute and session laws do not explicitly allow or preclude the creation, movement, or extension of positions as a result of approved B-11 requests. Rather, they primarily require the reporting of incidental or implied position movement as part of the Governor's Flex Authority under 2012 Wyoming Session Laws Chapter 26 Section 309(b); AWEC creation via Chapter 26, Section 313 and subsequent reporting via the interim budget process is authorized pursuant to W.S. 9-2-1005(b)(ii).

It is important to note that in 2003, however, W.S. 9-2-1005(b) expanded the Governor's non-Flex authority to "*increase or revise*" amounts to a broader application to "*authorize revisions, changes, redistribution or increase amounts authorized.*" This increase in authority could arguably allow for greater flexibility with respect to position creation and movement.

Overall BFY2011 B-11 population. For BFY 2011, evaluators reviewed 118 requests which resulted in some type of action for 395.5 positions. The amount of money related to position action is \$12,309,083. The following tables outline the total position movement both with and without associated funding.

Table 2.4
***Total Positions with Requested Funds (by Position Type)**
Non-Flex

Position Type	Count of B-11 Requests	% of Count of Requests	Number of Positions	% of Position Type Count	Total Dollar Amount	% of Total Dollar
PFT	0	0	0	0	0	0
PPT	0	0	0	0	0	0
TFT	20	53%	61	53%	\$5,023,678	70.3%
TPT	3	8%	12	10%	\$102,781	1.4%
AWEC	15	39%	42	37%	\$2,022,789	28.3%
Total	38	100%	115	100%	\$7,149,248	100%

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

*Includes creation, transfer, and extension of positions.

Table 2.5
***Total Positions without Requested Funds (by Position Type)**
Non-Flex

Position Type	Count of B-11 Requests	% of Count of Requests	Number of Positions	% of Position Type Count
PFT	3	6%	1.5	1%
PPT	0	0	0	0
TFT	2	4%	4	2%
TPT	0	0	0	0
AWEC	46	90%	200	97%
Total	51	100%	205.5	100%

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

*Includes creation, transfer, and extension of positions.

To place these general numbers in perspective, 15% of total B-11 requests resulted in some type of position action and .5% of total dollars moved related to B-11 requests with position actions. These numbers seem to indicate that B-11 requests primarily deal with the movement of funds without any type of action on previously authorized positions.

The majority of position actions occurred within non-Flex B-11s, with 89 B-11 requests impacting 320.5 positions, which included \$7,149,248 of initial funding. Of the 320.5 positions, 190 positions were created, 105 positions were extended, 1 position was transferred, and 1.5 positions were moved. In addition, two requests both extended and created 23 positions.

Of the population, 14% of total non-Flex B-11 requests resulted in some type of position action and .3% of total non-Flex B-11 dollars moved related to non-Flex B-11 requests with position actions.

Flex also included. Other actions within the Governor's Flex Authority resulted in 29 B-11 requests related to 75 positions. The amount of money moved related to position actions is \$5,159,835. All 75 positions were transferred.

Of the population, 25% of total Flex B-11 requests resulted in some type of position action and 4% of total Flex B-11 dollars moved related to Flex B-11 requests with position actions.

Evaluators were also able to track initial requests for funding related to the majority of B-11 requests as illustrated in Table 2.4, Table 2.6, and Table 2.8. More specifically, funding for the majority of non-Flex B-11s related to position action came from federal or other funds, while the funding for the majority of Flex B-11s related to position action came from general or other funds. See Appendix C-1 for more specificity with respect to type of funding.

However, B-11 reports generated by the Division's Access database for 51 non-Flex and seven (7) Flex B-11 requests without initial funding requests, did not contain specific information about subsequent funding related to 222.5 positions as illustrated in Table 2.5, Table 2.7, and Table 2.9.

It should be noted, though, that individual B-11 reports did provide general information stating that positions were ultimately funded through the receiving agency's existing federal, general, or other funds.

As seen from the above tables, the majority of funded non-Flex B-11 requests relate primarily to actions with respect to TFT and AWEC positions. Non-Flex B-11 requests where funding is not requested relate primarily to AWEC positions. The dollar amounts related to funding these requests are also primarily related TFT and AWEC positions.

Although the B-11 number counts are much smaller for Flex B-11 requests for initial funding, the following tables illustrate how the ratio of B-11 counts to funded amounts is much higher for this group. For example, for every one (1) non-Flex B-11 request (funded), there is \$188,138 in funding. In contrast, within the Flex B-11 requests (funded), for every one (1) request there is \$234,537 in funding.

The same comparison can be done related to the number of positions, which yield a different result. For example, for every one position impacted by a non-Flex B-11 (funded), there is \$62,167 in funding. In Flex B-11 requests (funded), for every one position action, there is \$88,963 in funding. The following tables outline the position types, total positions moved, and associated dollar amount.

Table 2.6
***Total Positions with Requested Funds (by Position Type)**
Inter-Agency Flex

Position Type	Count of B-11 Requests	Percent of Count of Requests	Number of Positions	Percent of Position Type Count	Total Dollar Amount	Percent of Total Dollars
PFT	14	78%	46	90%	\$4,368,373	93%
PPT	0	0	0	0	\$0	0%
TFT	1	6%	1	2%	\$117,000	2%
TPT	0	0	0	0	\$0	0%
AWEC	3	17%	4	8%	\$211,468	5%
Total	18	100%	51	100%	\$4,696,841	100%

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

*Includes creation, transfer, and extension of positions.

Table 2.7
***Total Positions without Requested Funds (by Position Type)**
Inter-Agency Flex

Position Type	Count of B-11 Requests	Percent of Count of Requests	Number of Positions	Percent of Position Type Count
PFT	2	40%	3	20%
PPT	0	0	0	0
TFT	1	20%	1	7%
TPT	0	0	0	0
AWEC	2	40%	11	73%
Total	5	100%	15	100%

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

*Includes creation, transfer, and extension of positions.

Table 2.8
***Total Positions with Requested Funds (by Position Type)**
Intra-Agency Flex

Position Type	Count of B-11 Requests	Percent of Count of Requests	Number of Positions	Percent of Position Type Count	Total Dollar Amount	Percent of Total Dollars
PFT	3	75%	5	71%	\$427,064	92%
PPT	0	0	0	0	0	0
TFT	0	0	0	0	0	0
TPT	0	0	0	0	0	0
AWEC	0	0	0	0	0	0
Unspecified	1	25%	2	29%	35,930	8%
Total	4	100%	7	100%	\$462,994	100%

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

*Includes creation, transfer, and extension of positions.

Table 2.9
***Total Positions without Requested Funds (by Position Type)**
Intra-Agency Flex

Position Type	Count of B-11 Requests	Percent of Count of Requests	Number of Positions	Percent of Position Type Count
PFT	1	50%	1	50%
PPT	0	0	0	0
TFT	0	0	0	0
TPT	0	0	0	0
AWEC	1	50%	1	50%
Total	2	100%	2	100%

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

*Includes creation, transfer, and extension of positions.

As seen from the above tables, the majority of funded Flex B-11 requests relate to transfers with respect to PFT and AWEC positions. Likewise, Flex B-11 requests where funding is not requested relate primarily to transfers of PFT and AWEC positions.

Related to Inter-Agency Flex B-11 requests, 23 requests that transferred 66 positions were identified. For Intra-Agency Flex B-11 requests, six (6) requests that transferred nine (9) positions were identified.

Seasonal employees. Evaluators also reviewed B-11 requests to determine the number of seasonal positions created during the interim process. Through a combination of database review and review of sampled B-11 documentation, evaluators noted that ten (10) non-Flex requests created 125 seasonal positions for BFY 2011

These positions amount to 60% of total positions created by B-11 requests. They relate primarily to seasonal workload associated with the Department of Game & Fish and Wyoming State Parks.

*Interim budget process
used to carry-forward
previously authorized
funds*

Carry-forward B-11s. For BFY 2011, evaluators identified that 16% or 133 of 807 B-11 requests were used to carry-forward various funds into future biennia. Also, 24% or \$558,735,182 of \$2,366,041,898.30 of total funds moved as a result of B-11 requests related to carry-forward B-11 requests.

Evaluators found that for the most part the Budget Division is processing carry-forward B-11 requests in a manner that is not contrary to reversion statutes. More specifically, W.S. 9-4-207(b) provides that A&I may authorize the carry-forward of federal funds “to complete activities or functions in progress or for activities or functions not then started.” Fifty-percent (50%) of carry-forward B-11 requests and 80% of dollars carried forward related to federal funding during BFY 2011.

A&I, however, does not have the same authority with respect to general or other fund monies, which allows carry-forward of monies only as authorized by law (General Funds and other funds) and for capital outlay projects (General Funds). With the exception of a small number of carry-forward B-11 requests discussed in Table 2.11, the Budget Division is generally ensuring that carry-forward B-11 requests only move General Fund and other fund monies as authorized by law.

The following table provides additional information related to carry-forward B-11s and funding.

**Table 2.10
Carry-Forward B-11s
BFY 2011**

Type	Number of B-11s	Federal Funds	General Fund	Other Funds	Total
*Non-Flex	113	\$442,948,179	\$81,464,780	\$28,970,673	\$553,383,631
*Flex	6	400,785	326,000	17,718	744,503
Carry-forward	14	2,288,866	1,074,575	1,243,606	4,607,048
Total	133	\$445,637,830	\$82,865,355	\$30,231,997	\$558,735,182

Source: Legislative Service Office from information provided by the Department of Administration and Information, Budget Division.

*Originally coded as non-Flex and Flex. However, since July 2011, the Budget Division uses a carry-forward tab.

Evaluators could not identify specific authorization related to six (6) B-11 requests, which related to General Fund monies, that possibly should have reverted based on W.S. 9-4-207(a), which requires reversion of unexpended funds “*except for capital outlay and as otherwise authorized by law.*”

The following table provides examples of B-11s where specific statutory authority does not appear to allow carry-forward of funds.

**Table 2.11
General Fund B-11s w/out Specific Authorization for Carry-Forward**

B-11 Number	Agency	Dollar Amount	Division Comments
11003	Wyoming Geological Survey	\$232,578	<p>General funds were originally appropriated during BFY2007 for carbon sequestration work, but did not provide the source of authorization.</p> <p>Narrative on the original B-11 states these funds were “<i>acquired late during the fiscal year and were unable to be expended.</i>”</p> <p>The funds were planned to be used during BFY 2009 for CO2 sequestration projects.</p>

B-11 Number	Agency	Dollar Amount	Division Comments
			Both the original and carry-over B-11 identify the Governor's Special Project Fund as the appropriation source. However, the funding source identified in the budget string information identifies the General Fund.
11052	Department of Revenue	\$2,189,627	<p>General funds were originally appropriated in BFY 2005, but were carried over due to project delays and a continued need for the funds to complete the project for which the funds were appropriated.</p> <p>The project was to complete the Excise Tax and Mineral Tax systems, and was approved by the Governor, Legislature and Office of the Chief Information Officer (OCIO) in the 2006 Budget Session.</p> <p>The Division further stated, <i>"funding...was not encumbered due to the timing of vendor replacement and the lack of a contract allowing for such encumbrance."</i></p> <p>The approved budget for the tax systems was identified in the Department's BFY 2007 budget actual authorization to carry-over was not identified.</p>
11053	Office of the Attorney General	\$83,380	This B-11 carries over General Funds for completion of the Division of Victim Services claims processing system, originally approved by the Governor, Legislature and

B-11 Number	Agency	Dollar Amount	Division Comments
			<p>OCIO in its BFY 2007 budget.</p> <p>No information was provided related to contracts or any other circumstance that would allow these funds to carry-over.</p>
11112	Department of Fire Prevention and Electrical Safety	\$48,786	<p>The Division commented these General Funds were originally appropriated in the 2006 Budget Session and included in the BFY 2007 and BFY 2009 standard budgets. The authorization for carry-over was not identified; however Division officials stated they were <i>"unclear why these funds were not encumbered."</i></p>
11197	Office of the Attorney General	\$85,358	<p>These General Funds were approved by the Governor and OCIO for upgrades to the WyoSAFE reporting system housed within the Division of Victim Services. Additional funds were unexpended due to the need to make a modification to the system to be in compliance with federal law.</p> <p>No clear authorization to carry-over these funds was identified.</p>
11295	Office of the Attorney General	\$1,973,203	<p>These General Funds relate to continued litigation of the Colorado River Compact and the Yellowstone River Compact.</p> <p>Both of these compacts are included in the BFY 2009 Standard Budget, and were identified in statute (W.S. 41-</p>

B-11 Number	Agency	Dollar Amount	Division Comments
			12-401 et seq., and W.S. 41-12-601 et seq., respectively.) However, no clear authorization for carry-over was identified for funds related to litigation of the compacts.
Total		\$4,612,932	N/A

Source: Legislative Service Office from information provided by the Budget Division's Access B-11 database.

Lack of statutory language for carry-forward via B-11s.

Carry-forward of federal funds is authorized by W.S. 9-4-207(b). Specifically, this statute authorizes A&I to review unexpended federal funds at the end of the fiscal year pursuant to W.S. 9-4-206(b) and make decisions with respect to carrying the funds forward.

Statutory authority with respect to other exceptions to reversion requirements is found in W.S. 9-4-207(c), which provides "*any funds...not specified in subsection (a) or (b)...shall lapse at the end of the fiscal period...unless otherwise provided by the legislature.*" This authority is much like the authority to carry-forward certain General Fund monies as discussed above.

However, it should be noted that the reversion statutes discussed above do not include wording to document carry forward of funds via the B-11 process pursuant to W.S. 9-2-1005(b) as related to the creation of AWEC positions and the Governor's Flex Authority.

This omission appears to indicate that the Legislature did not envision the use of the interim budget process to document movement of authorized carry-forward amounts.

Recommendation 2.2: The Division and the Wyoming State Auditor's Office should work together to develop separate tracking and reporting related to the carry forward of previously authorized monies. This new process should include a differentiation between non-Flex and Flex B-11s, and include a manner in which to report amounts outside of the CAFR.

Additional Areas for Discussion

Evaluators noted several areas that warrant further discussion: **1)** The use of the B-11 process to authorize positions over multiple biennia; **2)** Funding AWEC interns outside of the B-11 process; **3)** The use of the Flex B-11 process to create positions in an off-budget agency and then transfer those positions to a legislatively appropriated agency; and **4)** Interaction between the Budget Division and Human Resource Division.

Recurring B-11 requests to authorize the same positions. Evaluators identified recurring B-11 requests that authorized repeated actions taken with regard to the same positions. These B-11 requests repeatedly approved position extension, possibly in place of requesting the positions within an agency's budget request. Nothing explicitly prohibits the use of a B-11 to continue positions that were created through the interim budget process.

Within the non-Flex sample, there were thirteen (13) B-11 requests that included requests for funding. Those 13 requests included requests for action taken in regard to 81 positions, totaling an aggregate amount of money moved of \$4,423,818.

Of that amount, \$1,804,486, or nearly forty-one percent (41%) was comprised of federal funds; \$232,578, or five percent (5%) General Funds; and, \$2,386,754, or fifty-four percent (54%) other funds.

The following tables provide additional information with respect to the 13 B-11 requests, as well as some specific examples.

Table 2.12
Recurring B-11 Requests for AWEC Positions (Non-Flex)

B-11 #	Number of Funded AWECs	B-11 Total	Federal Funds Subtotal	General Funds Subtotal	Other Funds Subtotal
11003	1	\$232,578.00	\$0	\$232,578.00	\$0
11532	1	22,895.00	0	0	22,895.00
11669	19	56,594.00	0	0	56,594.00
11709	2	985,959.00	985,959.00	0	0

B-11 #	Number of Funded AWECS	B-11 Total	Federal Funds Subtotal	General Funds Subtotal	Other Funds Subtotal
11733	4	172,949.00	172,949.00	0	0
Total 5	27	\$1,470,975.00	\$ 1,158,908.00	\$ 232,578.00	\$ 79,489.00

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

Table 2.13
Recurring B-11 Requests for Temporary Full Time Positions (Non-Flex)

B-11 #	Number of Funded TFTs	B-11 Total	Federal Funds Subtotal	General Funds Subtotal	Other Funds Subtotal
11002	1	\$50,000.00	\$ 50,000.00	\$0	\$0
11024	1	\$241,000	0	0	241,000.00
11043	1	36,265.00	0		36,265.00
11332	3	250,175.00	250,175.00	0	0
11376	3	56,903.00	56,903.00		
11435	32	2,000,000.00			2,000,000.00
11657	3	288,500.00	288,500.00	0	0
Total 7	44	\$2,922,843.00	\$645,578.00	0	\$2,277,265.00

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

Table 2.14
Recurring B-11 Requests for Temporary Part Time Positions (Non-Flex)

B-11 #	Number of Funded TPTs	B-11 Total	Federal Funds Subtotal	General Funds Subtotal	Other Funds Subtotal
11124	10	\$30,000.00	\$0	\$0	\$30,000.00
Total 1	10	\$30,000.00	\$0	\$0	\$30,000.00

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

Table 2.15
Specific Examples of Recurring B-11 Requests

B-11 Number	Description
11332	Requesting additional budget authority of \$250,175 and 3 Temporary-Full-Time or TFTs in order to accommodate a Wyoming Law Enforcement Academy (WLEA) grant from the Wyoming Department of Homeland Security. Evaluators questioned why the three positions had not been added to a budget request when funds had been available since 2005. Similarly, B-11 #11376 was also approved in relation to the WLEA to continue three TFTs and \$56,903 from BFY 2009 to BFY 2011.
11024	This B-11 is one of five requests approving staff for the Jonah Project Office for the Department of Agriculture. Evaluators observed that the previous four approvals were being used as justification as approval for the fifth request. Given that the narrative of this request states that " <i>this project will last approximately eight years and additional approvals will be needed,</i> " it is unclear to evaluators why the requested actions of this B-11 were never put into the agency's budget request. Funding for this request came from other fund monies.
11004	In this request, 20 summer AWEC positions were approved without funding to support the archeological survey group. The request stated that as the agency already had funds in its Office of the Wyoming State Archeologist (OWSA) 100 series, no further spending authority was needed. It was also noted within the narrative that a previous B-11, # 9734, also approved the same 20 positions in June 2010.

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

Transfer of positions from off-budget to legislatively appropriated agencies. While not within the BFY 2011 sample period, B-11 request #13001 is of interest related to position transfers, as it moved a position and funding from the Transportation Commission's budget to WYDOT's Highway Patrol, which is a legislatively appropriated budget for BFY 2011 and BFY 2013.

In addition to exploring if the B-11 process was intended for position movement from a non-legislatively appropriated budget to a program that is legislatively appropriated, the timing of this B-11 is noteworthy in that it was processed in BFY 2013 but moved a position for BFY 2011. The B-11 increased the 2011-2012 budget through September 30, 2012 by \$21,035 and the 2013-2014 biennial budget by \$201,928. The position was transferred from the Facilities Maintenance program within the Commission budget to the Highway Patrol, Executive Protection budget.

There is no language within statute that addresses transfer from an off-budget entity to a typical executive branch agency. However, it is important to note that an off-budget agency can create positions outside of the statutory constraints of other agencies. The Budget Division agreed that type of transfer is not specifically authorized, but stated that discussions regarding this type of situation are ongoing.

Internship programs. According to the Division, student intern positions filled as AWECs are not reported in the same manner as other AWEC positions pursuant to Wyoming Session Law, which requires the reporting of such positions through the B-11 process identified in W.S. 9-2-1005(b). More specifically, the Division stated *“the sole, ongoing exception to the methodology referenced [in] session laws is the creation of AWEC position for interns within the Human Resources Division of the Department of Administration & Information.”*

The AWEC positions are not allocated by the Legislature. Rather, funding is provided to fund individual contracts, which according to A&I include controls such as start and end dates that *“prevent perpetual positions.”* The Division further stated that those positions *“have historically been created based on an appropriation for this purpose within the Division. Furthermore, additional intern positions have recently been created based on the receipt of federal funds authorized by B-11.”*

For example, A&I’s Human Resources Division in the past has received approximately \$500,000 in General Fund monies per biennium to fund anywhere between 20 to 70 intern positions, funded by the Grants & Aid Payment (600) series. It will use this money to create individual AWEC contracts, which expire at the end of the internships.

However, there have been discussions in the past where other agencies used the B-11 process to document intern positions; more specifically, discussions occurred between the AG’s Office and the Governor’s Office. Ultimately, though, according to an internal A&I memo, *“the practice of A&I over the past 10+ years has been A&I-HRD creates AWEC positions for the A&I-HRD sponsored student interns. No B-11 has previously been submitted and approved. Once the internship is completed the position is deleted.”* It also stated that *“AWEC positions also affect the position counts and some go on for years. However, student*

intern positions are not generally long-term in duration and should not be considered as part of the total position count. They are generally temporary or short-term in nature.”

The Budget Division has confirmed that the practice of not reporting student intern positions in accordance with Section 313 is still ongoing, despite the Governor's Office recommendation to discuss this information with the Joint Appropriations Committee.

Interaction between Budget and Human Resource Divisions.

According to Budget Division officials, the Division works with the Human Resources Division when new positions are created; however, based on the manner in which documentation was provided by the Division, it appears that information concerning positions may not be maintained in a way that allows for quick and easy reporting between the two Divisions.

According to the Budget Division, “approved B-11s for the transfer of FT, PT and AWEC positions are forwarded to the Human Resources Division. Human Resources Division personnel follow-up the receipt of these B-11s with an e-mail notification of the change authorized by the B-11 to the affected agencies and the assigned budget analyst.”

The same action is taken with creation and movement of positions. While the Human Resource Division is somewhat involved in the B-11 process where positions are concerned, its involvement could be strengthened or formally streamlined into the B-11 approval process.

Evaluators initially requested the number and description for positions created or terminated via B-11 and pursuant to the 2010 Wyoming Session Laws Chapter 39, Section 312. The Budget Division was able to complete data extracts; however, extra time was requested to fulfill this request as human resource data was not readily available.

Although it took some time to provide the information to evaluators, there is clearly a working relationship between the two divisions. Consistent and more formal tracking however, could improve the reporting of this type of data in the future.

Recommendation 2.3: The Budget and Human Resource Divisions should develop policies with respect to more formal interaction as part of the interim budget process.

Focus should be placed on clear documentation and reporting of position impact as a result of the approved B-11s and NAFRs.

Matter for Legislative Consideration 2.1: The Legislature may wish to consider statutory and session law changes to provide more specificity with respect to defining the interim budget process. The following could be considered:

- Create a specific chapter within Wyoming Statute, Title 9 to clearly define the allowable and prohibited action in the interim budget process. The chapter could also serve to bring together current statutory language discussing the interim budget process, specifically: non-Flex and related topics as illustrated in Appendix A-1;
- Review and amendment if necessary to W.S. 9-2-1005(a) and (c) to clearly define allowable actions with respect to non-Flex authority;
- Create boiler plate language for the Joint Appropriations Committee to consider for inclusion in budget bills for Executive Flex Authority to clearly detail disallowable actions contemplated in this report;
- Review language within Section 300 of the budget bill with respect to using the interim

budget process as a reporting tool related to the creation or renewal of AWECS;

- Review W.S. 9-4-207(a) and (c) with respect to additional exceptions to reversion; and
- Require the Budget Division to create rules with respect to the interim budget process.



CHAPTER 3

Limited Functionality in the Budget Division's database and processes to approve B-11s and New/Adjusted Fund Requests (NAFRs)

Finding 3.1: Although the Division's Access database is used in a manner to successfully maintain multiple data fields related to B-11 requests, current limitations prevent complete and accurate reporting to the Legislature, and some cases inputting and other mistakes.

The Department of Administration and Information's (A&I) Budget Division's (Budget Division) Access database provides a functional and efficient system for tracking and recording B-11 data. It is used internally by the Division and an abridged version is provided to Legislative Service Office (LSO) Fiscal Division who in turn uses the data to conduct analysis to produce the quarterly reports for the Joint Appropriations Committee (JAC). However, certain limitations potentially cause concern.

While an established process was observed for tracking, recording, and processing B-11 requests, a similar system was not found to be in place for New/Adjusted Fund Requests (NAFRs). The Division agrees that creation of similar system is needed for NAFRs and as a first step to streamlining the B-11 process the Division has taken efforts to redesign the NAFR form.

The Division is interested in complete automation of the interim budget processes to include automation of B-11 and NAFR requests from inception to final disposition, including electronic routing and enhanced reporting capabilities. Ideally, electronic tracking, recording, and storing of B-11 and NAFR request information would be incorporated into the design of an automated system, nullifying the need to maintain a separate

database to electronically track and record B-11 and NAFR requests. However, since a fully automated system for this purpose does not yet exist, minor adjustments could be made to the Division's current database to improve functionality and reporting capabilities.

Database summary In 1999, LSO transferred the original FOXPRO database used for tracking and recording B-11 requests to the Budget Division. In 2001 the Division developed a new database using Access, which is currently used. A complete copy of the current Access database was provided by the Division containing B-11 data from BFY 2001 through BFY 2013 (June 11, 2013), which was the date the database was received.

In the Division's B-11 Access database, various data fields are input, captured, and recorded and linked to multiple tables within the database. As illustrated in Table 1.4 of Chapter 1, the data fields related to the B-11 requests include the B-11 number; the fiscal year of the funds; agency and division codes; pertinent WOLFS data regarding the fund, appropriation, and revenue codes; the amount requested; and requested position counts by type.

Data fields are also available for the Budget Division's and Governor's dispositions, as well as to identify the type of new or additional funds such as '*Cash Balance*' or '*Federal Funds Pass Through*.'

Upon entry of necessary data fields by Division staff, the official B-11 request form that is sent to the Governor's Office for review is generated through a forms feature of Access. This process ensures that the information contained in the B-11 database is the same as the information included in the request form submitted to the Governor's Office.

Common data fields are grouped into multiple tables within the database to store and record the entered data. The primary tables of the database include the Appropriation Table, the Expenditure Table, and the B-11 Base Data Table; however, it should be noted that the Division's database contains 10 tables, over 30 saved queries, and 14 saved reports.

As discussed in the Scope and Methodology, a copy of the Division's ACCESS database was reviewed and analyzed to

identify the quantity of B-11 requests, the number of each type of B-11 request, and the aggregate and net total of funds authorized. Based on review of the data contained in the database, summary analysis for BFY 2005 through BFY 2013 (through June 2013) was conducted and the results are recorded in Appendix B.

To ensure accuracy and verify the functionality and reporting capabilities of the extracted summary data, BFY 2011 B-11 requests were individually reviewed, analyzed and reconciled with the Division's extract of the same period. Through this process, certain limitations in the functionality and reporting capabilities of the Division's Access database were identified.

It should also be noted that the Budget Division, the Governor's Office, the State Auditor's Office, and the Legislative Service Office all maintain separate tracking systems related to B-11 requests. Consideration has been given to integrating the systems for the Division and the Governor's Office. However, according to Division staff during initial meetings a shared database has not been feasible because the Division and the Governor's Office do not have a shared network. Currently, though, the Governor's Office relies on the Access database administered by the Division in lieu of a separate system.

Database Limitations

No specific criterion exists prescribing the type and functionality of the tracking and reporting method used by the Division. As a result, the current system has evolved over time to meet certain internal and external needs.

Overall, the Division should be commended for its use of the Access database; however, certain limits exist which impair the Division's ability to accurately record and fully analyze interim budget data to include authorizations by B-11 type, dollar amount, new or increased federal or other revenues, NAFR information, and purpose and nature of position creation and movement.

Specifically, current database limitations or needed enhancements fall into four categories: **1)** Functional limitations, **2)** Coding errors and inconsistencies, **3)** Reporting limitations, and **4)** Absence of tracking and recording NAFR data.

Functional limitations **Lack of primary key.** A primary key is not established in the main tables of the Division's database with the exception of Flex type, which impacts accuracy of reporting and according to Division Staff creates limitations in categorizing B-11 requests by type.

In general, a primary key is used in a relational database table as a constraint to prevent users from entering duplicate records. A primary key also serves to facilitate relationships between multiple tables of a database to enhance data entry accuracy and efficiency and enhance reporting capabilities.

For example, the B-11 number could be established as the primary key in the Basic B-11 Data Table to prevent entry of duplicate records and serve as the base table from which all data could then be populated to the Expenditure and Appropriation Tables. This example illustrates some of the current limitations; ultimately the Division should work to enable the information within the current database to allow for accurate data analysis and reporting in an efficient and effective manner.

Under the current architecture, since no primary key exists, there is risk of assigning the same B-11 number to multiple requests and to corrupt originally input information. For example, B-11 #1343 is used for two separate unrelated B-11 requests. Additionally, B-11 #3461 is also used twice, although one entry is coded as a placeholder in the database. If these two duplicate entries were resolved in the B-11 Basic Data Table, the B-11 number could be used as a primary key and an error message would be generated if a user attempted to use the B-11 number more than once.

Lack of relational connections between tables. In addition to preventing duplicate entry errors, the use of a primary key in combination with relational links to tables could provide efficiencies in updating multiple tables within the database and eliminate data entry errors when inputting the same information in multiple tables.

The use of relational links also allows utilization of reporting and query functionalities to the program's full potential. Under the current setup, since limited relationships between tables are established, the data must be exported and manipulated to fully analyze data from multiple tables.

Coding errors and inconsistencies **Miscoding and inconsistent type coding of requests.** B-11 requests are categorized in the Division's database into the seven categories listed in the table below. Inconsistent coding of B-11 Type observed in the Division's B-11 database appears arise from two factors: evolutionary changes and inaccurate coding.

Table 3.1
B-11 Type Categories

Type	B-11 Description
1	Non-Flex
2	Flex*
3	Intra-Agency Flex (Between Programs within one agency)
4	Inter-Agency Flex (Between agencies)
5	ARRA (American Recovery and Reinvestment Act)
6	ACA (Affordable Care Act)
7	Carry Forward

Source: Legislative Service Office from information provided by the Budget Division.

*Discontinued use as of November 2008

Several evolutionary changes between BFY 2001 data and BFY 2013 data of recording Flex type are apparent. First, most B-11 data prior to July 2006 did not assign a Flex type by number (i.e. Type 1, Type 3, Type 4) and a separate field with a 'yes' or 'no' criteria for Flex was used to distinguish between Flex and non-Flex requests. The use of this field was discontinued around February 2008. A few exceptions of B-11 requests prior to July 2006 in which a Flex type number was assigned were observed; however, beginning in July 2006, Flex type by number were consistently assigned based either a Type 1 (Non-Flex) or a Type 2 (Flex) coding.

Also beginning around February 2008, the Flex requests were separated into two categories: Type 3 (Intra-Agency) and Type 4 (Inter-Agency); however, isolated instances of the use of Type 3 and Type 4 coding was used prior to this date. Additionally, the use of Type 2 coding was not discontinued until November 2008 so there was a period time when Type 2 Flex coding was used at the same time as Type 3 and Type 4 Flex coding.

Similarly, prior to July 2011 carry-forward requests were not differentiated as a separate type of non-Flex requests and were included in the Type 1 coding. Subsequent to this change, no change in the Type 1 category was made and it remained titled 'Non-Flex,' which creates ambiguity when distinguishing between Type 1 and Type 7 (carry-forward), both of which are non-Flex B-11s.

In either instance, the evolution of recording Flex types or distinguishing carry-forward requests from other non-Flex requests, no changes were made to the existing data entered to synchronize coding. Therefore data inconsistencies are present when looking at the B-11 data as a whole for historical reporting purposes.

Instances of miscoding were also observed upon review of the BFY 2011 B-11 sample. For example, five (5) BFY 2011 B-11 requests were incorrectly coded as Type 3 requests when the appropriate coding of Type 7 should have been selected. Other instances were observed for Type 3 and Type 4 requests in which both Flex and non-Flex actions were made in the same request. Since the Division currently uses the Flex type field as a primary key in the database, a B-11 request cannot be coded as more than one type and choosing the most appropriate code is left to the discretion of the budget analyst. Division staff agrees this practice is problematic in terms of accuracy of type coding.

Improper coding of request type impacts the accuracy of internal or external data reporting. Code types are used to differentiate between Flex and non-Flex transfers in LSO quarterly reports to the Joint Appropriations Committee (JAC). In reviewing the requests that were identified in the Division's database as miscoded as Type 3 (Intra-Agency Flex) and comparing to the quarterly reports submitted to the JAC, the interim budget modifications were reported based on their categorization in the database. For example, a carry-forward request that is miscoded as a Type 3 in the database is included in the section of the report to the JAC as funds moved pursuant to the Governor's Flex Authority even though the funds were not transferred between programs within an agency.

Currently, the quarterly reports provided to the JAC only differentiate between Flex and non-Flex interim budget

modifications and the carry-forward requests are not separately illustrated in the report. However, since carry-forward requests typically have a net to zero effect the overall net totals reported to the JAC, even in the instance of miscoding, are not skewed and only the Flex versus non-Flex totals are inaccurately reported.

Additionally, while the Division does not directly track the aggregate totals for Flex B-11 requests for the purpose of reviewing if Flex transfers are within the allowable Flex limits of 5% and 10% for Inter-Agency and Intra-Agency Flex transfers respectively, miscoding of Flex types for Type 3 and Type 4 would impact such tracking.

Data validation. The Division does not have a data auditing process to verify the accuracy of input information. As discussed above, the Division's current process lends itself to consistency between the information in the database and the final B-11 request submitted by the Division to the Governor's Office since the final B-11 request is generated through the Access database based on the input information. However, without proper data auditing controls, inaccurate and inconsistent data entry is a risk, especially for a database with multiple users.

During review of the Division's B-11 files, one such example was discovered that illustrated the potential need for data auditing controls. B-11 #11720 was originally assigned to a request from the Department of Workforce Services for \$4,924,211.00 in new grant funding to include approval of 1 Temporary Full Time (TFT) position. This request was processed and ultimately approved by the Governor's Office on May 2, 2012.

This B-11 number was also assigned to a request from the Department of Corrections to flex \$2,800,000.00 in General Funds from the 100 series of the State Penitentiary to the Medium Correctional Institution for salary budget shortfalls. The second request was approved by the Governor's Office on June 12, 2012. Since the data entered in the Division's database for the second request for the Department of Corrections overrode the data entered for the request for the Department of Workforce Services, the data for the first request for the Department of Workforce Services no longer exists in the database and only the hard copy request exists.

If data auditing controls were established to compare the B-11 requests generated to the information in the database, this error may have been prevented.

In addition to data accuracy features, through the use of a primary key and relational tables, data validation criteria could be electronically established in the database to ensure accuracy. Data validation rules within a database in which mandatory fields with specified data criteria are established would further serve to reinforce information integrity.

Reporting limitations Inability to breakout new and increased federal or other funds. Currently, there is no distinction made in the data collected in the Division's database between new or additional federal or other funds that are authorized in the interim through the B-11 process.

During the course of the audit, Division staff was asked to detail B-11 data for new and additional federal or other monies based on fund type. In response to this request, the Division provided the information detailed in the table below.

Table 3.2
BFY2011 "Type I" B-11 Information
New or Additional Federal or Other Funds by Type

Type 1 Category	Number of B-11s	Dollar Amount
New Appropriated Federal Dollars (NAFR)	102	\$19,338,275.00
Increased Appropriation (Federal Dollars (NAFR))	66	117,300,156.00
*Newly Appropriated Other Dollars (NAFR)	194	1,384,698,612.33
Previously Appropriated Dollars (Documentation)	2	12,652,217.00
Increased Funds Appropriation	113	110,008,026.40
Total	477	\$1,643,997,286.73

Source: Legislative Service Office from information provided by the Budget Division

*A single B-11 request for biennial tax revenue distributions makes-up \$1,268,540,500.00 of the total new other dollars

To produce this information, Division staff matched the B-11 request data revenue codes to the agency's standard budget revenue codes from IBARS. New federal or other monies were identified as those revenue codes that were not found in IBARS and then separated into federal and other revenue code categories. Conversely, increased appropriation monies were identified as those revenues codes that were found in IBARS and then also

separated into federal and other revenue code categories.

The previously appropriated dollars calculation is based on the two requests that were identified by the Budget Division as “*Documentation*” requests for funds that were otherwise legislatively appropriated. Since the Division does not track “*Documentation*” requests by type, identification of the amount of funding previously appropriated is incomplete.

Increased fund appropriations were also identified based on the associated revenue code in IBARS. The total amount identified is comprised of funding for group health/optional dental funds, internal service funds for ITD, Child Support Trust Funds, and TANF funds for Employment and Training for Self-Sufficiency and Healthy Families Succeed Job Assist program.

While the Division was able to produce the figures listed in Table 3.2 above, they reported that it was not easily accomplished. Additionally, Division Staff noted that the data could be skewed due to differences between WOLFS load and budget structure contained in IBARS.

Inability to accurately identify aggregate totals. The Division’s database does not allow for accurate reporting of aggregate totals and only the net totals for each B-11 request are specifically tracked. As part of the review of the architecture of the Division’s database, evaluators dissected an extract of the database and manually consolidated the line items of each B-11 request to generate an aggregate total. Then to test the accuracy of the manipulated extract, each BFY 2011 B-11 request was individually reviewed to identify the aggregate totals and then reconciled to the dissected extract.

In order to validate the evaluators’ assessment of the aggregated totals, Division staff was also asked to provide their calculation of aggregate totals for BFY 2011. Through this process evaluators learned that the aggregate totals provided by Division staff were derived by summing all of the positive numbers from the Appropriation Table which allowed evaluators to reconcile aggregate totals for each B-11 request.

The differences between the aggregate totals provided by the Division and those established through individual review of the BFY 2011 B-11 requests by evaluators were a result of denied B-11 requests, B-11 requests for decreased appropriations, and in some instances, B-11 requests for multiple actions such as a Flex and non-Flex in the same request.

As a result of the above described process, evaluators concluded that the current setup of the Division's database does not allow for the identification of aggregate totals. The accurate totals listed in Appendix B for BFY 2011 were only made available through individual review of each request. Without the ability to review aggregate amounts, reports never illustrate the actual amount of money moved in the interim.

Lack of position tracking with respect to purpose and seasonal employment of tracked positions created. Under the Division's current database structure position authorizations are tracked by count of position category for Permanent Full Time (PFT), Permanent Part Time (PPT), Temporary Full Time (TFT), Temporary Part Time (TPT), and At-Will Employee Contract (AWEC) positions.

Other than the narrative, no further data is recorded in the Division's database to provide additional information regarding the purpose of position such as if the position is newly created, if the position is an extended position, or if the position is a transferred position.

Some assumptions can be reasonably made through the review of the B-11 Type in combination with position authorizations. For example, position authorizations for Type 3 (Intra-Agency) and Type 4 (Inter-Agency) requests should be transferred positions. Position authorizations for Type 1 (non-Flex) should be either newly created or extended positions; however, differentiation between the two categories cannot be determined without individual review of B-11 request.

Authorizations for seasonal versus non-seasonal positions have reportedly been of interest to the Legislature. The maximum duration a position may be authorized for through the B-11 process is for the biennium; however, in the instances of temporary positions, such as TFT, TPT or AWEC, no information

is recorded to indicate if the position is seasonal in nature. Again, individual review of the B-11 request narratives is the only way to distinguish between seasonal and non-seasonal positions.

No tracking of NAFR requests The Division does not electronically record, track, or store data regarding NAFR requests and consequently does not have the ability to analyze NAFR data for internal or external purposes. NAFR requests are maintained in hard copy format only and filed in separate folders for each agency for each biennium with the exception of NAFR requests for American Recovery and Reinvestment Act (ARRA) or Affordable Care Act (ACA) funding which are filed separately in numeric order. Division Staff agree there is need to create a database for NAFRs similar to the Division's B-11 database for tracking and reporting capabilities.

Not only are NAFR requests not electronically tracked or recorded, the Division does not reference NAFR numbers to the corresponding B-11 request with the exception of identifying some ARRA and ACA NAFR numbers in the designated fields of the B-11 database. Under the current format, the corresponding NAFR number is not a tracked field in the B-11 database, and while it is often referenced in the narrative of the B-11, in most instances review of the Division's complete B-11 file is necessary to identify the NAFR under which authority to receive the new funds was granted.

Recommendation 3.1 The Division should work to enable the information within the current database to allow for improved data analysis and reporting in an efficient and effective manner.

Recommendation 3.2 The Division should create a system to track, record and report NAFR information similar to the B-11 database. Corresponding NAFR and B-11 numbers should be referentially linked.

Finding 3.2: The lack of an automated interim budget process tied to the database creates challenges for the Budget Division when processing B-11 and NAFR requests.

General observations The Division's B-11 and NAFR request processes are not automated and are not tied into its database. Although the B-11 and NAFR request forms are downloaded from the Division's website, once the agencies complete the forms the physical documents are manually routed to the Governor's Office, Chief Information Officer (if appropriate) and then returned to the Budget Division for final processing. Within the process, there are several steps taken by various entities, which lead up to an approved B-11 or NAFR request.

Chapter 1 of this report describes the steps involving the Division, Governor's Office, and State Auditor's Office related to processing NAFR and B-11 requests. As noted, each entity has distinct processes for receipt, review, and approval or denial of NAFR and B-11 requests. It should also be noted the State Auditor's Office involvement in the B-11 process generally occurs once a B-11 has been approved. At that time, the State Auditor's Office makes adjustments to expenditure authorities to accommodate actions resulting from approved B-11s.

For the most part, these steps are performed manually. The development of an automated system to process the request from beginning to end would not only expedite the processing time for request but would increase transparency.

There are no requirements in Wyoming statute, session laws, or policy to automate processes related to information and other exchanges between agencies and the Budget Division, or between the Budget Division and Governor's Office and the State Auditor's Office. In addition, this process has evolved over time without clearly defined policies or automated internal controls to ensure accurate information is received from agencies and processed and documented by the Division.

The Division's lack of policies or automated internal controls has resulted in the manual processing and documenting of NAFRs and B-11s. Further, there is no sharing of "real-time" information among the Division, the Governor's Office and the State Auditor's Office or routine real-time notifications to the Legislature with respect to NAFR and B-11 actions.

Maintaining a manual process can create unnecessary lag times from initial NAFR or B-11 requests to the time they are approved by the Governor's Office and sent to the State Auditor's Office for expenditure authority adjustment.

The table below illustrates timelines from agency request (if available to evaluators) to when the B-11 is returned to the Division from the Governor's Office as observed by evaluators during the review of sample BFY 2011 B-11s. There were no instances in which evaluators noted documentation identifying when the final B-11s were forwarded to the State Auditor's Office.

Although the processing timeline for B-11s identified below are not excessively long, automation would increase the speed and ease with which requests are processed. As a result of efficiencies gained by automation, budget analysts' workload associated with the manual processing of NAFR and B-11 requests would be lessened.

Table 3.3

Timeline from Agency Request to B-11 Return to Division

B-11 No.	Timeline of Requested B-11s
11157 Department of Environmental Quality	<ul style="list-style-type: none"> • 8/11/2010 written request from the Agency • 8/11/2010 Date stamped received (Assumed by the Budget Division) • Budget Analyst checked "approved" and signed it 8/18/2010 • Budget Administrator signed it 8/18/010 • The Governor's Office approved and signed the document 8/19/2010 • 8/20/2010 Date stamped by the Budget Division <p>Note: This B-11 took a total of nine (9) days to process. Based on this timeline, it took the Division seven (7) days after having received the</p>

B-11 No.	Timeline of Requested B-11s
	request for process and approval. It took the Governor's Office two (2) days for review and approval.
11146 Department of Environmental Quality	<ul style="list-style-type: none"> • 8/5/2010 written request from the Agency • 8/9/2010 Date stamped received by the Budget Division • Budget Analyst checked "approved" and signed it 8/9/2010 • Budget Administrator signed it 8/9/2010 • ***No date stamp when received by the Governor's Office • The Governor's Office approved and signed the document 8/11/2010 • 8/12/2010 Date stamped by the Budget Division <p>Note: This B-11 took a total of eight (8) days to process. The Division stamped the request as having received it four (4) days after the date of the written request. The Division reviewed and approved it that same day.</p>
11709 Office of Attorney General	<p>This B-11 reflects the following NAFR approval/denial timeline:</p> <ul style="list-style-type: none"> • 1. NAFR #2184 approved January 3, 2012. • 2. Memo to Budget administrator dated April 2, 2012 • 3. Approved by the Budget Division analyst April 5, 2012. • 4. Signed by the Budget Division Administrator on April 6, 2012. • 5. Received by the Governor's Office April 10, 2012. • 6. Approved by the Governor's Office May 2, 2012. • 7. Received back at the Budget Division on May 4, 2012.
11711 Department of Family Services	<ul style="list-style-type: none"> • 4/3/2012 written request from the Agency • 4/3/2012 Date stamped received by the Budget Division • Budget Analyst checked "approved" and signed it 4/5/2012 • Budget Administrator signed it 4/5/2012 • 4/10/2012 Date stamped received by the Governor's Office • The Governor's Office approved and signed the document 4/16/2012 • 4/17/2012 Date stamped by the Budget Division <p>Note: This B-11 took a total of fifteen (15) days to be processed. The Division took three (3) days to review and approve this request.</p>

B-11 No.	Timeline of Requested B-11s
	<p>However, it was not received by the Governor's Office until five (5) days later. The Governor's Office approved the B-11 six (6) days after having received the request.</p>
<p>11004 Department of State Parks and Cultural Resources</p>	<ul style="list-style-type: none"> • 4/19/2010 written request from the Agency • 4/20/2010 Date stamped received by the Budget Division • Budget Analyst checked "approved" and signed it 4/21/2010 • Budget Administrator signed it 4/21/2010 ***No Date stamp from the Governor's Office • The Governor's Office approved and signed the document 4/22/2010 • 4/23/2010 Date stamped by the Budget Division <p>Note: This B-11 took a total of five (5) days to be processed. The Division took two (2) days to review and approve this request. The Governor's Office took one to two (2) days to review and approve the request. The Budget Division received it the following day.</p>

Source: Legislative Service Office from information provided by Budget Division as a result of evaluator review of sample B-11 files.

Current status of future automation

The Division is strongly in favor of planning and developing an automated system; however, the cost for such a system is a concern. It should be noted that the Division has yet to plan a system and has not received quotes either from the Department of Enterprise Technology or a third party.

Division officials indicated that conversations have been initiated with the Office of Chief Information Officer (OCIO) about the creation of an automated B-11 process system. One such option being explored by the Division is to incorporate the B-11 and NAFR processes into a document management system currently being modified by DETS. This system is envisioned to include processing and reporting needs.

Division officials stated another possible option for electronic processing of B-11s and NAFRs could be to inquire about making minimal modifications to the budgeting system, which is used to track appropriations.

Other states and automation

Evaluators reviewed comparator states to determine the types of systems in place for the interim budget process. Although fully automated systems were not identified, Montana and South

Dakota have electronic processing elements that could be of interest to the Division.

Montana uses an Excel spreadsheet as an electronic form for the submission and tracking of interim budget requests. The spreadsheet is designed to establish a format by which agencies make their requests.

Conditional fields are established which adjust to the required information for each request type. Separate tabs within the Excel workbook are designated to list accounting string information, list FTE information, and for review and approval or disapproval information. Pertinent documents are either saved to a shared network location or faxed to the budget office.

The Excel workbook also contains a tab in which an agency checklist is provided. This tab is designated for agency use and lists all the required submission items. The agency must review each of the listed items and indicate if the requirement has been fulfilled.

If the Division were to develop an electronic form such as the one discussed, it would put more onus on the agencies to provide complete and accurate information and would alleviate some of the workload on the Division.

South Dakota electronically notifies the Legislature any time a funding transfer is approved, and is the last in the chain of notifications. South Dakota budget officials indicated electronic notification is the preferred method through which members of the Legislature want to be notified. Additionally, annual reports outlining all transfers are also submitted to the Legislature.

The lack of automation results in a labor intensive manner by which NAFR and B-11 requests are processed and approved. Original B-11 requests are not always in the Division's hard files, documentation maintained in the NAFR and B-11 folders is inconsistent, sharing of information between the Division, Governor's Office and SAO is not real-time, and notifications to the Legislature are not made in an automated fashion. An automated system would improve consistency and transparency for the B-11 and NAFR process.

Recommendation The Division should work with the OCIO to
3.3 identify an appropriate automated system to process B-11 and NAFR requests. Issues identified in Chapter 4 with respect to workflow should also be considered.



CHAPTER 4

Lack of Formalized Policies and Customer Service

Finding 4.1: Lack of formalized policies, procedures, and rules creates challenges and increases work for Budget Division staff

The Department of Administration and Information's (A&I) Budget Division (Budget Division) does not maintain formalized policies, procedures, or rules providing clear guidance for agencies or Division staff, regarding the processing of B-11 and New/Adjusted Fund Request (NAFR) requests.

The current B-11 and NAFR process has evolved alongside the broadly defined statute and session law governing the interim budget process, but without specific guidance related to documentation of previously authorized appropriations, carry-forward, and issues related to position movement. In addition, there is no clearly defined policy to ensure accurate information is received from agencies and documented by the Budget Division to support preliminary request approvals.

The lack of a clearly defined process allows agencies to submit NAFR and B-11 requests without providing complete and accurate supporting information for the Budget Division. Such information, if provided, could expedite the B-11 and NAFR request processing times, as well as increase accuracy and consistency with existing statutes.

As a result of the lack of accurate information from agencies, the Budget Division typically makes the determination of whether a B-11 is processed as a Flex or non-Flex request. The Division must conduct research related to previous grant funding history, identify statutory or session law criteria related to carrying monies to new biennia to ensure reversion statutes are not violated, and also must conduct other research on whether monies are new or additional revenue sources. The current process does not allow for maintaining consistent documentation in the NAFR and B-11

files.

Instructions versus expectations

Although the Division has done a good job of developing instructions for completing the NAFR and B-11 forms, it does not provide clear, adequate expectations for agencies to ensure proper supporting information is provided as part of an agency's B-11 or NAFR request. Additionally, the Division does not specify criteria to be used related to other issues such as documentation of previously authorized appropriations, carry-forward of funds, or issues related to position movement.

Evaluators discussed promulgation of rules with the Division, but were met with some resistance. Concerns raised by the Division included the cumbersome process of altering rules if steps of the process change.

The Division also commented that because the B-11 process is well-defined in statute, there is no need to promulgate rules. Finally, the Division stated the Governor has requested agencies to reduce rules by one-third (1/3) in length and volume. It is worth noting, however, that the Division did state it believes there should be policies associated with the B-11 process.

Evaluators noted the lack of ownership agencies exhibit regarding their NAFR and B-11 requests. Rather than providing clear guidance to agencies so they can make initial determination related to submitting a Flex or non-Flex request, the Division makes this determination.

Additionally, it appears that agencies rely on the Budget Division to conduct research related to previous grant funding history, statutory or session law criteria related to carrying funds into future biennia to ensure reversion statutes are not violated, and to conduct other research regarding whether funds are newly appropriated.

Placing the responsibility for such research on the Budget Division adds considerably to staff workload. For example, if an agency does not complete the forms appropriately, it is part of the budget analysts' duties to make contact with the agency to request additional information.

It may be a more effective use of the Budget Division's resources to provide more specific guidance while also requesting agencies

complete the research and initial steps associated with a new B-11 request. Budget Division staff could also benefit from documenting conversations and decisions between itself, requesting agencies, and the State Auditor's Office (SAO).

Documentation of B-11 and NAFR Files

There is no consistency with respect to how the Budget Division documents information provided by requesting agencies. After review of Division B-11 and NAFR files, evaluators identified varying degrees of documentation supporting the requests. This lack of proper documentation is partially a result of several different analysts processing NAFRs and B-11 requests, but more likely a result of unclear guidance with respect to file maintenance and documentation.

Specifically, evaluators reviewed a sample of BFY 2011 NAFRs and B-11s to determine the type of documentation maintained in each file. In order to accomplish this goal, evaluators developed a checklist consisting of information that would document required actions as part of the B-11 and NAFR request processes. In total, evaluators reviewed 67 B-11 files and ten (10) NAFR files.

B-11 files Evaluators found significant variation in terms of what documentation is included with the B-11 requests in the Division's files. However, there were certain pieces of information that tended to be more consistently included.

For example, final B-11 requests produced by the Division consistently included required signatures and Division date stamps and the agencies' requests consistently contained statements of purpose of funds, spending authority, and how funds will be applied. However, documentation between agency officials, budget analysts, and the SAO were not evident in the files.

The most surprising result was the number of instances in which the B-11 form required by the Division was observed to be lacking in the file documentations. Even though this form was not developed until 2011, those completed subsequent to the form's development were not typically included in the files.

Less than 9% of the B-11 files included a copy of either the formal letter request prior to the development of the B-11 form, or the actual B-11 form required to be filled out by agencies to

request a B-11 action. However, most B-11 files (76%) included a memo or other correspondence from agencies to request a B-11 containing information related to the purpose for the request, the budget string information, and, for some, additional support documentation.

NAFR files Evaluators also selected a sample of 10 NAFR files to review.

Required NAFR forms were included in the files 100% of time and as a result, most of the elements required of the submitting agency were included.

Similarly, the recommendation letter from the Budget Division was included in the NAFR file in all but one instance. The Division's recommendation letter provides evidence of the process of reviewing the NAFR requests by Division staff.

See Appendix E for additional detail related to documentation of B-11 and NAFR files.

Policy Manual Development

The Division could increase consistency in the process for submitting, requesting, reviewing and documenting NAFR and B-11s if it developed a policy manual. The instructions for both B-11s and NAFRs, along with a policy statement, would be a good place to start developing an interim budget modification process manual that explains the process from start to finish.

The manual could serve the dual purpose of providing clear guidance to agencies for completing and submitting NAFRs and B-11s, as well as providing guidance for budget analysts to determine if the agencies provided all the necessary information and the most important documentation to include with the NAFRs or B-11. In addition, the manual could formalize the steps and duties required of budget analysts to ensure consistency of the process.

Such a manual could also include a detailed explanation about the following areas.

- When to use a Flex versus a non-Flex B-11 request
- Position movement

- Carry-forward and encumbrances
- Guidance related to research of grant and funding history
- Use of Division checklists
- Documentation of previously appropriated funds

Other states offer examples. Within comparator states, both Alaska and Vermont have established program manuals outlining policies, procedures and requirements to provide clear guidance to budget staff and agency staff related to budget processes, including interim budget modifications. Both manuals are good examples the Division could use to develop a formal policies and procedures manual.

Alaska maintains a “*Revised Program Manual*” which is the Office of Management and Budget’s (OMB) policy statement related to changes made to existing appropriations and authorized positions. The manual clearly identifies information and forms that are required for the agencies to complete before any changes are considered. In addition, it includes the authority of the Governor and Commissioners to approve any alterations to appropriations or positions. It also clearly outlines the type of funding transfers allowable and the approval needed for such a transfer. For example, the OMB must approve a transfer of funds from the personal services and grant line items; however, the OMB delegates other transfers between line items to the agencies.

Other authorities and documentation requirements identified in this manual include position changes, including which position changes do not need OMB approval; approval requirements for contracts for services; scope changes in capital projects; increases in expenditure authority due to availability of new or additional revenues; and includes statutory budget provisions.

Vermont’s Department of Finance and Management maintains a manual titled “*Overview of Legislative and Administrative Changes to Current Year Appropriations.*” While not as extensive as Alaska’s manual, it still contains good information related to the different types of adjustments to an appropriation allowable throughout a fiscal year. It also addresses transactions and approval processes required for budget adjustments, including carrying forward appropriations, reversions, receipting excess funds and new grants, transfers of appropriations and spending authorities.

Without some type of formalized guidance to assist decision making related to B-11 and NAFR submission, the process becomes one that is inconsistently applied. Further, it creates opportunities for inappropriate B-11s to be approved, as well as NAFRs. The Division can review other states' manuals, such as Alaska's and Vermont's, to obtain additional ideas.

Recommendation 4.1 The Budget Division should formalize current practices into policies and procedures. If legislative changes are made as a result of this report, the Division should move forward with the promulgation of rules as well.

Finding 4.2: Agencies are generally satisfied with the guidance provided by the Budget Division for processing and approving B-11 and NAFR requests

In order to gather information related to the processing of the sample population, evaluators sent 36 surveys to State of Wyoming Agencies.

With this survey, evaluators were interested in how well the Budget Division provides guidance to agencies related to processing their B-11 requests. Evaluators also wanted to ascertain the level of knowledge agencies had with respect to the overall B-11 process and its governing statutes. Of the thirty-six (36) electronically sent surveys, thirty-two (32) were returned for an overall return rate of 89%.

See Appendix G for a complete listing of questions and answers.

General observations Evaluators observed that in general, agencies are satisfied with how the Division processes NAFRs and B-11 requests. Agencies were also generally satisfied with guidance provided by the Division for the interim budget process.

However, agencies appear to lack knowledge about the interim budget process, including relevant statutory and session law authority and restrictions. Instead, many agencies rely on their

assigned budget analyst within the Budget Division to determine the appropriateness of a request. Additionally, the agencies do not determine whether a request is a Flex or non-Flex.

Similarly, agencies had mixed responses when discussing the written guidance provided. Agencies feel that the B-11 process is formal and rely on the Budget Division's website for basic information on the interim approval process. However, as one respondent stated, the advice is only as good as the analyst. In one response, it was noted that the analyst would not answer an agency's question as he or she was "*too busy.*" It should be noted, however, that agencies appear generally satisfied with their interaction with the Budget Division.

Additionally, when asked about specific actions that occur as a result of a B-11 request, such as carry-forward or position movement, agencies provided mixed responses as to the level of guidance, but rated the guidance they did receive at a satisfactory level.

The majority of agencies (27 or 84% of responding to the question) agreed that the B-11 process was either very formal or formal, noting that requirement changes have made the process more formal. It should be noted that responses related to the written guidance concerning the B-11 process varied. For example, one response stated that the "*Budget Division does a thorough review of our requests.*" However, another respondent commented, "*NAFRs need more clarification on usage than B-11s.*"

Written and verbal guidance

While seventy-percent (70%) or 21 agencies responding to the question, stated that they were very satisfied or satisfied, twenty-percent (20%) or six respondents stated no guidance was provided, and two (2) did not respond. Ten-percent (10%) or three respondents stated that they were dissatisfied with the written guidance, as shown in Table 4.1.

One respondent noted, "*The only written guidance of which I'm aware is what is provided on the A&I Budget Division webpage. So far, that information has met my needs.*" Agencies were not specific on which type of guidance (Flex or non-Flex) was more useful. In fact, a couple responses indicated that they have no say in requesting a B-11 as a Flex or non-Flex and one respondent

wrote, “*what is flex/non-flex?*”

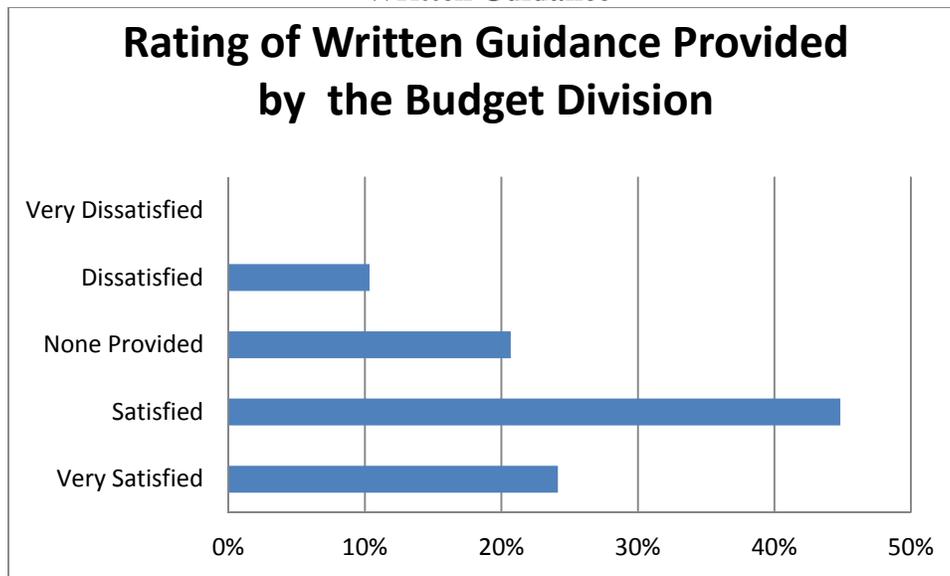
Evaluators also asked agencies to rate the verbal guidance provided by the Budget Division. Twenty- three (23) respondents, or seventy-four percent (74%), stated they were satisfied or very satisfied, while two (2) respondents or 6% expressed dissatisfaction.

Six (6) respondents stated no guidance was provided, and one (1) did not answer the question. One respondent stated, “*Individual requests are discussed with the Budget Division each time. The majority of requests are Non-Flex.*” However, another respondent stated he or she had “*never been talked to about the option of a flex or non-flex. Verbal guidance has been very limited.*”

In addition, another noted, “*The current budget analyst is not terribly helpful, but the analyst previously assigned to the agency was extremely helpful and proactive. No guidance other than the budget division web site has been provided as to whether a request should be submitted as a flex or non-flex B-11.*”

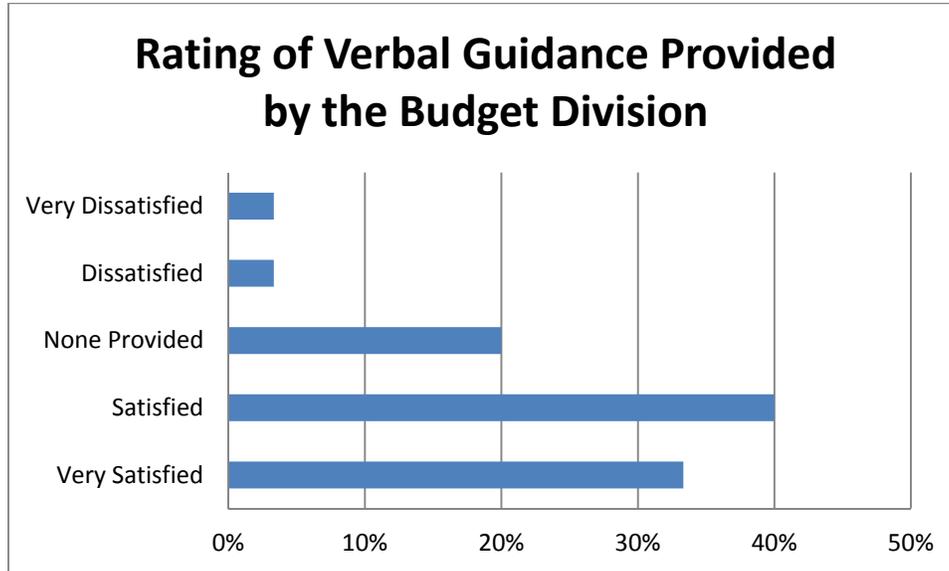
The following tables provide additional information.

Table 4.1
Written Guidance



Source: Legislative Service Office

Table 4.2
Verbal Guidance



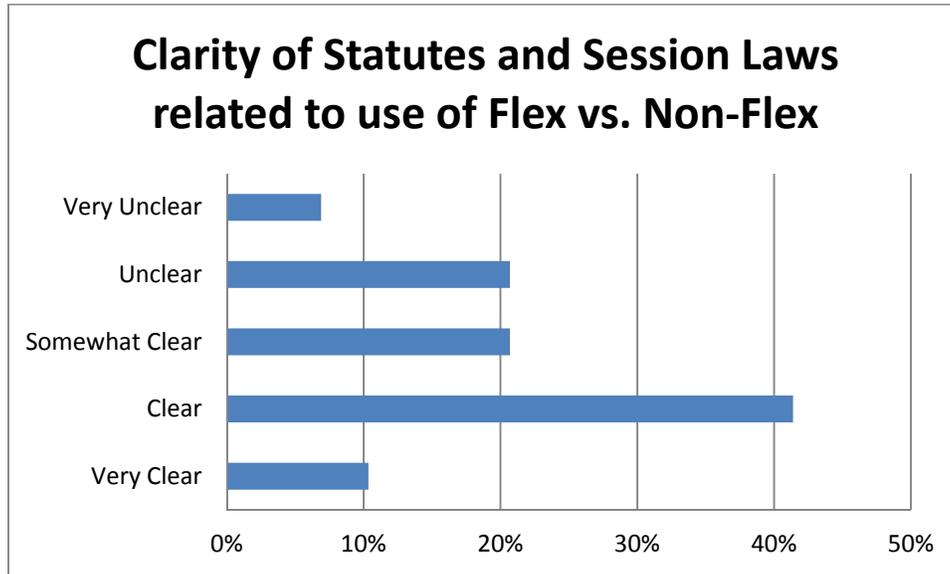
Source: Legislative Service Office.

***Statute and session
law language***

As shown below, when asked about the clarity of statutes and session laws when submitting submission of a Flex or non-Flex B-11, twenty-seven percent (27%) or eight (8) respondents stated that they were unclear or very unclear. Several agencies noted that they had not reviewed state or session law pertaining to the B-11 process. One respondent noted that he or she was “*completely unfamiliar with statutes and session laws.*” Additionally, one respondent stated that “*I have not researched this topic as I rely on the Budget Office and our assigned analyst.*”

It appears that agencies are not well informed regarding the B-11 request and as a result, rely on the Division to make important decisions regarding interim budget modifications. This fact is further supported through evaluator fieldwork. Based on evaluator review of agency files, it appeared as though the Division tends to fill in the gap on agency requirements for B-11 requests.

Table 4.3
Statute and Session Laws



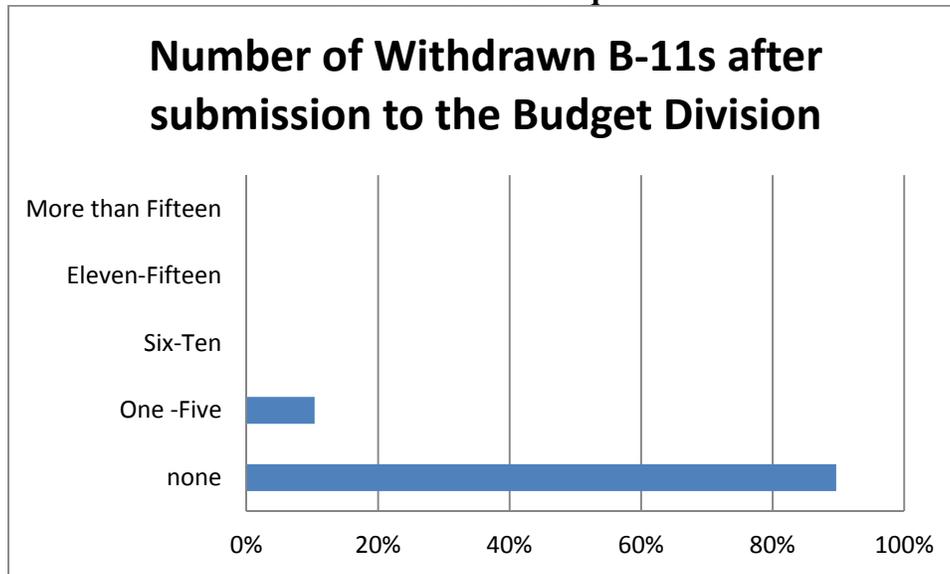
***Withdrawn B-11 and
 NAFR requests***

Another area addressed by the survey was the issue of withdrawn B-11s. Initially, the Division told evaluators that it does not keep a recording of B-11s that have been withdrawn by the agency once submitted. This was concerning to evaluators, as agencies are required to maintain a record of all transactions of state business.

Furthermore, tracking withdrawn B-11s could provide a useful baseline when researching agency interim requests. Through the survey, evaluators questioned the instances of agency-initiated withdrawals within BFY 2011.

As shown on the following page, ninety percent (90%) or 27 of the respondents indicated they have never withdrawn a B-11 request. Ten-percent (10%) or three (3) respondents indicated that they withdrew 1-5 requests in BFY 2011.

**Table 4.4
Withdrawn B-11 Requests**



Source: Legislative Service Office.

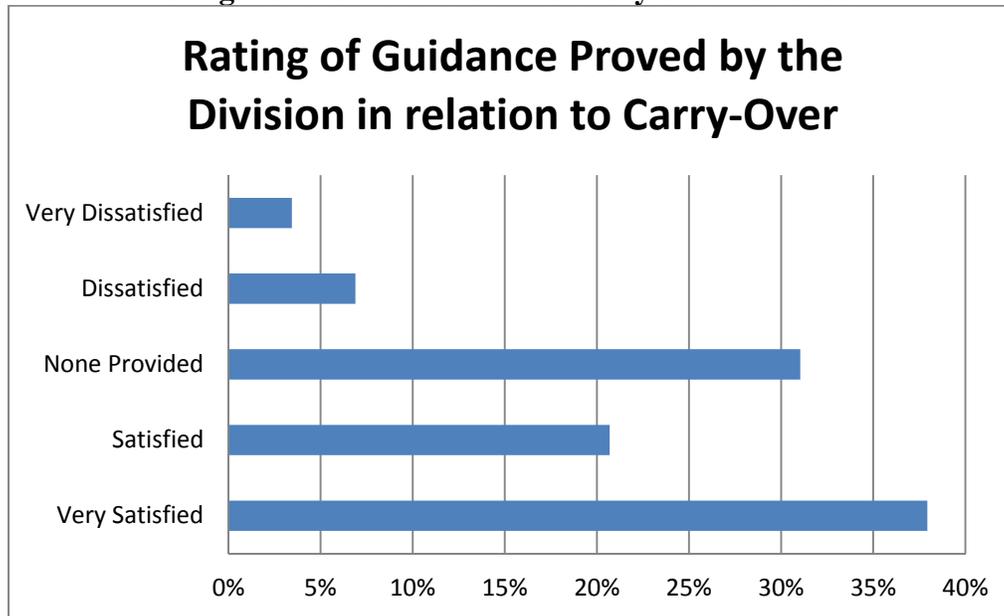
Carry-forward and encumbrances

Related to B-11s that cross multiple biennia and work similarly to an encumbrance, or carry-forward B-11 requests, evaluators asked the agencies about the level of satisfaction with the Division and whether the guidance provided was verbal or written. Eight (8) responses, or 26%, stated that the guidance was primarily verbal while fifteen (15) responses or 48% stated the advice was a combination of written and verbal.

Responses ranged from “*they have instructions on their website,*” to “*we have been advised to use B-11 for this and we do so at the end of each biennium.*” Overall, a little over 60% of respondents stated that they were satisfied with the guidance regarding carry-over B-11s.

As illustrated below, thirty percent (30%) or nine (9) respondents provided neutral as their response and 10% or three (3) respondents were dissatisfied or extremely dissatisfied with the guidance provided.

Table 4.5
Budget Division Guidance on Carry-Forward B-11s

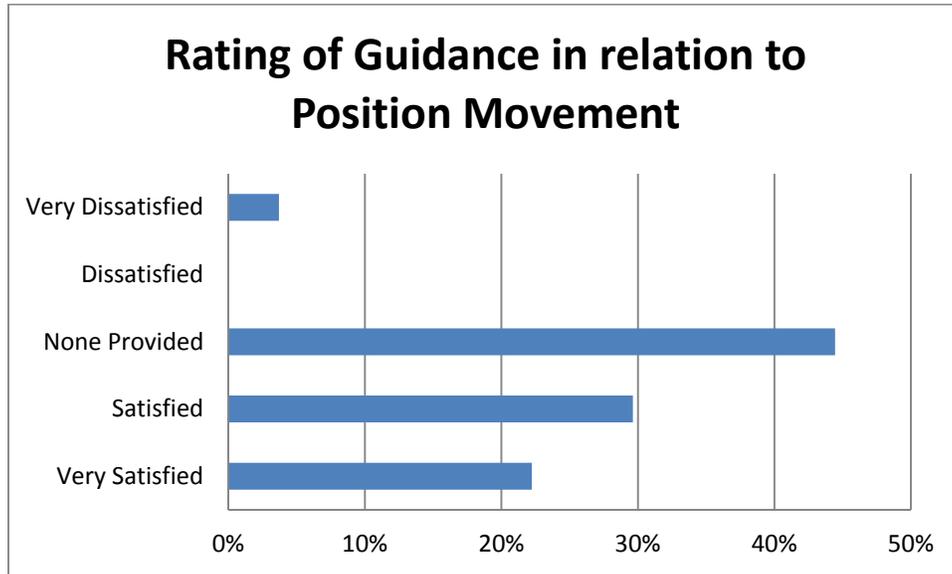


Source: Legislative Service Office.

Position movement In relation to position movement, thirty-seven percent (37%) or 11 respondents indicated that no guidance has been provided to them. Forty-three percent (43%) or 13 respondents stated that they receive a combination of written and verbal guidance and nearly twenty-percent (20%) or six (6) respondents stated that they receive only verbal guidance. Interestingly, the majority of respondents, all but three of the 30 respondents received, stated they have not used the B-11 process for FTEs.

Further, twenty-five percent 25% or seven (7 respondents) stated they were very satisfied with the guidance provided, twenty-nine (29%) or eight (8) respondents stated that they were satisfied, forty-three percent (43%) or 12 respondents remained neutral, and three percent (4%) or one (1) respondent stated that they were very dissatisfied with the guidance provided.

Table 4.6
Budget Division Guidance on Position Movement



Source: Legislative Service Office.

Because of the professional and competent individuals within the Budget Division and the organized processes in which they provide service, most agencies appear satisfied with the overall service they receive. However, the survey results indicated that agencies could benefit from more guidance on the B-11 process and its governing legislation.



CHAPTER 5

Denied and Amended B-11 and New/Adjusted Fund Requests (NAFRs)

Finding 5.1: New/Adjusted Fund Requests (NAFRs) or B-11 requests are rarely recommended for amendment or denial by the Budget Division or by the Governor's Office

For BFY 2011, 16 or 2% of total B-11s were denied. Eight (8) or less than 1% of B-11s for that biennium were amended. Although the Budget Division's database does not track NAFR information, the Division identified eight (8) denied NAFRs and 24 amended NAFRs.

Broad statutory provisions and language in the budget bill grants authority to the Governor to approve or deny B-11 and NAFR requests outside of legislative review. As outlined in the background section of this report, W.S. 9-2-1005(b)(i-iii) and W.S. 9-2-1005(c) are both broad in nature. Additionally, Flex Authority granted through language in the budget bill, further broadens the Governor's interim budget modification authority.

A comparison of the interim budget processes in comparator states is discussed in further detail in Chapter 7; however, Wyoming's process of sole gubernatorial interim budget modification authority is unlike any of the other states surveyed.

B-11 Requests **Denied B-11 requests.** Based upon review of the Department of Administration and Information's (A&I) Budget Division's database, no B-11 requests were denied from BFY 2005 through BFY 2009 and less than 2% were denied in BFY 2011. However, this total does not account for any B-11 requests that were withdrawn prior to final disposition as these requests are not tracked by the Division.

Listed in the following table are the number of B-11 requests BFY 2011 and BFY 2013 that were denied by the Governor's Office, recommended for denial by the Budget Division, or denied by both.

Further detail regarding each request is included in Appendix D.

Table 5.1
Denied or Recommended for Denial B-11s
BFY 2011 through BFY 2013 (June 2013)

Disposition	BFY 2011	*BFY 2013
Denial by Budget- Approved by Governor	2	1
Approval by Budget- Denied by Governor	8	1
Denied by Both	8	4

Source: Legislative Service Office from information provided by the Budget Division.

*BFY 2013 through 6/11/13 only.

Three requests were recommended for denial by the Budget Division but were ultimately approved by the Governor's Office. The B-11 #11259 file for the State Parks and Cultural Resources did not contain any information regarding why the Budget Division recommended denial, nor was there any rationale included explaining why the Governor's Office approved the B-11.

The other two approved requests, #11636 and #13022, were similar in nature. Both requested At-Will Employee Contract (AWEC) positions for the Office of the Attorney General funded through federal grants. In each case, the Budget Division made denial recommendations based on the agency's request to authorize the positions beyond the end date of the associated grant funding. In both requests, the agency states that continued funding of the grant is expected, although the timing of the federal award is not certain, and agreed to terminate the positions if grant funding ceases.

In B-11 #11636, the agency request states it will use general funds from their operating budget until the grant funds are received and in the unlikely event that the grant is not awarded, the incurred costs will be transferred to the Forfeiture Fund.

No comment was provided by the Governor's Office regarding under what statutory authority this request was approved, and the Governor's Office did not comment on use of General Funds to supplant the federal funds until the grant funding is received. Since request #11636 was not made pursuant to the Governor's Flex authority, the use of the General Funds could be contrary to W.S. 9-2-1005(c)(ii) if the funds used cross-line item appropriations.

B-11 #13022 is slightly different in that at the time of the request, grant funding was available to support the requested position for three months before the additional grant funds would be needed. The Budget Division recommended approval of the position through the current grant expiration date and resubmission of a request for authority for the new grant period.

In response to the Division questioning the available funding for the BFY 2013 period, the Agency confirmed that the funding had not yet been received and they were "*wanting to deal with this position the same as we requested for the HIDTA position,*" which was the position approved through B-11 #11636. The Governor's Office ultimately approved the position through the end date of the new grant period, but stated while grant funds had not been received they were originally included in the agency's budget request.

Reasons for denial. Of the twenty-one (21) denied B-11 requests, seven (7) B-11 files did not contain any documentation from the Governor's Office explaining the reason for the denial. In the remaining fourteen (14) denied B-11 files, the type of documentation explaining the reason for denial varied by type from a hand-written note on the B-11 request form to a formal letter from the Governor's Office.

The nine (9) B-11 requests that were approved by the Budget Division but denied by the Governor's Office were noted as denied for one of the following reasons:

- Transfer of funding source not permitted
- Request will be addressed in the upcoming legislative session
- BFY 2011 funds should not be used for BFY 2013 activities

- The request should be modified to increase spending authority in current biennium, not transfer funds from a previous biennium
- Available approved vacant positions should be used instead of requesting a new position
- Funds not yet received
- No explanation

In the twelve (12) B-11 requests that were denied by both the Budget Division and the Governor, the following reasons for denial were noted:

- Request contrary to statute
- Existing budgeted funds should be used
- Insufficient funds to support the requested position
- Request and related MOU not aligned
- Request lacks relevant information
- 2 AWEC positions will be funded by transfer of 900 series (Special Services) funds to 100 series (Personal Services), which is viewed as outside legislative intent, and 1 AWEC position does not meet short term assistance requirement
- No explanation provided or explanation is unclear

In comparing the Budget Divisions' recommendations to the Governor's denial recommendations within this particular sub-population, it was determined that Budget Division staff identified B-11 requests warranting denial recommendations when appropriate. Additionally, the narrative of the B-11 requests completed by the Budget Division staff sufficiently identified any concerns or additional information the Governor's Office should have been made aware of, even in the instances in which the Budget Division did not also recommend denial of the request.

Amended B-11 requests. Amendments to B-11 requests are separately tracked and recorded through a designated data field within the Division's database. Amendments to B-11 requests were observed to fall into one of two categories: **1)** Changes made by the Budget Division to the agency's original request prior to submitting to the Governor's Office, and **2)** Changes to the B-11 request after the initial request was approved and processed.

Amendments to the agencies' original requests made by the Division prior to submission to the Governor's Office include

changes in the requested transfer amount due to outstanding expenditures, changes in the number of positions requested due to the lack of need perceived by the Division, and changes to correct errors in the agencies' calculations.

A variety of types of amendments were also observed in those instances in which the B-11 request was amended after it was approved which include corrections to the appropriation code, corrections to the division code, change in the type of position requested to be transferred from an AWEC to a PFT, and transfers not authorized, such as movement from the 400 series (Data Processing Changes).

While no direct communications were recorded in the B-11 files from the State Auditor's Office or Enterprise Technology Services, by virtue of type of amendment, it is likely these changes were precipitated following review and processing by these agencies.

Withdrawn B-11 Request. The Division does not currently track withdrawn B-11 requests, because Division staff believes that doing so has no merit. Additionally, B-11 numbers for withdrawn requests are reassigned; therefore no record of the number of withdrawn requests exists in the Division's database.

Although the exact volume of withdrawn B-11 requests is unknown, it appears that it is an infrequent occurrence. In response to the conducted survey, of the 31 agencies who responded, 90% indicated they had not withdrawn a B-11 request in BFY 2011 and 10% indicated they withdrew 1-5 requests in BFY 2011. Since the transmittal of the request is sent by one agency and is received by another agency, it would be considered a public record and tracking of such requests for purposes related to public records is recommended.

Potential Non-Permissible Transfers. As stated above, broad statutory authority exists to accommodate the authorization of interim budget modifications. That being said, certain restrictions established in session law do exist limiting the Governor's authority.

For example, subsection (d) of Section 309 of the 2010 Session Law restricts the Governor's Flex Authority from funds that are specified in session law not to be transferred for any other purpose

whereby establishing a hierarchy of statutory authority related to potentially conflicting transfer provisions.

Most of the specified appropriations restricted from transfer apply to funds for a single program, such as funds appropriated to the Game and Fish for the Aquatic Invasive Species Program or the funds appropriated to the Livestock Board for abandoned animals; however, three instances were identified in which transfers from classes of appropriation types are prohibited from being transferred for other purposes: **1)** Construction Fund Appropriations, **2)** General Fund appropriations for health, dental or life benefits, and **3)** Transfer of General Fund appropriations from the 100 series (Personal Services) to any other series.

Areas for Discussion. Evaluators also identified certain areas that may warrant further discussion, although not specifically contrary to Wyoming statute or session law.

Movement of 900 to 100 series (Personal Services) funds to support newly created AWEC positions. Review of B-11 request #11058 raises an area for discussion for denial of B-11 request. In B-11 #11058, the Livestock Board requested three AWEC positions, two of which were to be used for brucellosis education and prevention and would be funded by transferring 900 series (Special Services) money to the 100 series (Personal Services). While no comments are available regarding the Governor's Office denial, the Division staff recommended denial because it was the legislative intent that this work should be performed through the contract process (i.e. 900 series funding) and not through AWEC positions.

B-11 #11134 is a similar request for an AWEC position for the Professional Teaching Standards Board, to be funded by transferring current budget authority from the 900 series (Special Services) to the 100 series (Personal Services). B-11 #11134 was also denied but does not include a reason for denial other than a handwritten note from the Governor's Office designee stating, "*please consider resubmitting without AWEC.*"

Whether funds should be transferred from the 900 series (Special Services) to the 100 series (Personal Services) to fund AWEC positions authorized through the B-11 process is an area for further discussion, because evaluators identified at least eight other instances in which AWEC positions were approved through

the B-11 process for transfer of funds from the 900 series (Special Services).

It should be noted that in most instances the movement of the funds is not included in the expenditure tables of the request and is only noted in the narrative or agency's B-11 request, making it impossible to query the Division's database for all such authorizations. These movements are done within WOLFS, outside of the interim budget process.

Also, it was difficult to determine in the identified requests if the transfer of funds from the 900 series (Special Services) to the 100 series (Personal Services) was for the same work specified in the appropriation to be completed on a contractual basis, such as in B-11 #11058, or if the transferred funds were merely excess funds identified in the 900 series (Special Services).

Funds required to be legislatively appropriated. Constitutional provisions exist requiring legislative appropriation of funds. For example, under W.S. 27-3-211(b) monies collected and established in the employer support fund shall only be expended "upon appropriation by the legislature," which would appear to preclude transfer of funds in the interim through gubernatorial authorization. However, through B-11 #11691, \$846,000.00 was authorized through the Governor's Flex Authority to be transferred from the employment support fund to employment programs and employment insurance to implement a virtual labor market information module.

While the transfer of funds is used for the statutorily stated use for unemployment compensation benefits or administrative expenses specifically for the support of employment office program administered by the Department of Workforce Services pursuant to W.S. 27-3-211(b)(iv), it is not clear if these funds were intended to be authorized in the interim outside of appropriation by the legislature, given the decision to process the movement via an inter-agency Flex B-11.

It is interesting to note B-11 #11701 is comparable to B-11 #11691 but was denied. Under B-11 #11701, the Department of Health requested authorization for special revenues generated through the Public Health Lab and this request was denied by the Governor's Office, which stated the funds must be legislatively appropriated, given the footnote language which states, "No

monies deposited into this account shall be expended until appropriated by the legislature.” The potential approval inconsistency between B-11 request #11691 and #11701 may illustrate the need to clarify the Governor’s interim budget modification authorities as it relates to funds of this nature.

NAFR Requests Requests for interim budget modifications for new or additional funds by an agency are commonly called NAFRs. Pursuant to W.S. 9-1-208, each agency is required to obtain approval from the Governor prior to applying for federal funds or private endowment funds; this process requires use of the NAFR form.

According to the instructions on the Division’s website, NAFRs are required for: **1)** New or “*unappropriated*” federal program funding, as well as new or “*unappropriated*” private or other endowment funding; **2)** Significant dollar expansions to existing programs and/or additional personnel requirements; and **3)** Amendments that change the scope of existing federal or other privately/public supported programs or grants.

Denial recommendations by the Division were most frequently observed to be based on late submission of the request on the part of the agency but were occasionally made based on projected future costs or personnel obligations.

Despite timely statutory submission requirements, the Governor’s Office has allowed itself some discretion for approving NAFRs as long as the funding relates to the Agency’s function and the State’s ability to secure the additional funds was not impaired. Consequently, NAFRs are infrequently denied final approval.

Denied NAFRs. Unlike B-11 requests, NAFRs are not recorded and electronically tracked and while the Division was able to manually identify the number of denied or withdrawn NAFRs, the frequency at which denial occurs was not calculated since the total population is not known.

Between January 2009 and June 2013, eight (8) NAFRs were denied by the Governor’s Office, representing \$7,389,127.00 in total funding made-up of \$7,271,127.00 in federal funds and \$118,000.00 in non-federal or other revenues sources.

By design of the NAFR submission process, the Budget Division’s recommendation and rationale for denial is always

evident in the file with the recommendation letter submitted to the Governor's Office; however, limited file documentation is included in the NAFR files to explain the Governor's reason for denial. Listed in the following table are the eight (8) denied NAFRs with the Budget Division's recommendation.

Although explanation for denials is not required, only two NAFR files, #2086 and #2175, contained clear information from the Governor's Office explaining the reasons for denial, both of which were due to late submission. In the instances in which there is no documentation in the file explaining the Governor's Office denial rationale, assumptions could be made that the Governor's Office disapproval reasons coincided with the Division's denial recommendation. Conversely, in the instance of an approval recommendation by the Division the NAFR file is completely silent with regard to the rationale for denial.

Table 5.2
Denied NAFRs

NAFR #	Agency	NAFR Submission and Review Period	Amount	Fund Source	Budget Division Approval	Budget Division Denial Based on Late Submission	Budget Division Denial Based on Other
2148	Department of Agriculture	Sep-11	\$90,000.00	Federal & GF		X	
2021	Department of Health	Nov-10	\$103,000.00	Other Funds			X
2215	Department of Health	Mar-12	\$10,000.00	Other Funds	X		
016 (ACA)	Department of Health	May-11	\$2,787,200.00	Federal		X	X

NAFR #	Agency	NAFR Submission and Review Period	Amount	Fund Source	Budget Division Approval	Budget Division Denial Based on Late Submission	Budget Division Denial Based on Other
2086	Livestock Board	May-11	\$347,656.00	Federal		X	
2175	Office of Homeland Security	Nov-11	\$46,271.00	Federal		X	
2068	Office of the Attorney General	Apr-11	\$4,000,000.00	Federal	X		
2301	State Parks and Cultural Resources	Sep-12	\$5,000.00	Other Funds		X	
<i>Total</i>			<i>\$7,389,127.00</i>				

Source: Legislative Service Office from information provided by the Budget Division.

As noted in the table above, two requests were observed in which the Division recommended denial of the NAFR for reasons other than late submission. In these instances, the Division's denial recommendation is based on State fund obligations as a result of the grant and uncertainty of ongoing costs.

Approved NAFRs despite Budget Division's recommendation of denial. In addition to the two NAFR requests identified above in which the Budget Division recommended denial for reasons other than late submission of the request, six (6) other NAFRs were observed to have denial recommendations by the Budget Division for reasons other than late submission, but were ultimately approved by the Governor's Office.

Detailed in the table below is each of six (6) NAFRs in which the Budget Division recommended denial that were ultimately approved. In over half of the requests, the Budget Division's denial is based on the positions requested.

Table 5.3
Approved NAFRs with Denial Recommendations
by the Division for Reason Other than Timeliness

NAFR #	Agency	NAFR Submission and Review Period	Amount	Fund Source	Budget Comments
ARRA-100	Casper College	Nov-09	\$750,000.00	Federal	The grant requires 2 full-time positions and the NAFR indicates only 1 FTE.
1887	Livestock Board	Mar-10	\$191,000.00	Federal & In-kind match	Recommends approval of the request but denial of the 1 full time and 1 part time AVEC.
2297*	Office of the Attorney General	Sep-12	\$2,501,820.00	Other Funds	Recommends approval of the fund, but denial of the requested position and suggests that if the position approval should be considered in the supplemental budget request.
ARRA-28	Office of the Attorney General	Apr-09	\$424,573.00	Federal	Denial Recommendation- no guarantee that the grant funding will prevent the local law enforcement position it will support from being laid off. It is further noted the Budget Division does not believe that the request for funding falls under the guidelines of what the stimulus package was designed for.
ARRA-65	Public Service Commission	Aug-09	\$763,577.00	Federal	Denial Recommendation because it will add additional personnel and they may not be sustainable after the grant has ended.

NAFR #	Agency	NAFR Submission and Review Period	Amount	Fund Source	Budget Comments
ARRA-04	Workforce Services	Mar-09	\$126,306.00	Federal	Denial Recommendation- Unlikely that the Division will overcome the challenges identified in the attached white paper including insufficient grant funds, problems associated with contractor turnover and timing issues of stimulus funding.

Source: Legislative Service Office from information provided by the Budget Division.

*NAFR file #2297 does not contain the final signed NAFR form indicating the final disposition; however, it is included in the Division's Summary Report as Denied by the Budget Division only.

No documentation is included in any of the above six NAFR files to indicate why the Governor's Office approved the request despite the Budget Division's denial recommendation. In two of the requests, #1887 and #2297, the Budget Division recommends partial denial of the request and there is no information included in the NAFR file to determine if the Governor's Office approved the request in full or in part as recommended by the Budget Division.

Violations of W.S. 9-1-208(a). On May 18, 2011, the Governor sent a letter to the agency directors which was copied to Senate and House Leadership, explaining the requirements of agencies to request new or additional funds in the interim and reinforcing his commitment to the process and requirements specifically related to W.S. 9-1-208 requiring agencies to receive Governor's approval prior to applying for federal or private endowment funds.

Between January 2009 and June 2013, twenty-four (24) NAFRs were submitted after applying for or receiving the associated grant funding contrary to W.S. 9-1-208(a). In most instances grant funding was applied for but not yet accepted prior to the approval of the NAFR request; however, in two instances the grant funding was received prior to the NAFR approval and in the instance of NAFR #2119 funds were received and expended prior to the NAFR request.

Detail regarding each of the twenty-four (24) NAFRs is included Appendix D-2.

In a response from the Governor's Office regarding the twenty-four (24) NAFRs, the Governor's Office states, "*in all cases, the NAFR's in question were approved based on the ability of the State to secure additional funding for the purposes directly related to the Agency's function.*"

While several agencies were observed to have only one request that violated W.S. 9-1-208, five agencies, which are listed in the table below, were observed to have multiple violations of this statutory provision.

Table 5.4
Agencies with Multiple Violations
of W.S. 9-1-208(a)(i)

Agency	Number of Requests	Total Grant Amount
Department of Agriculture	3	\$231,381.72
Livestock Board	4	\$372,588.00
Military Department	2	\$80,767.00
Office of the Attorney General	4	\$523,778.00
State Parks and Cultural Resources	5*	\$389,742.06

Source: Legislative Service Office from information provided by the Budget Division.

*Does not include NAFR #2127 which was withdrawn but in which application for grant funding was submitted prior to NAFR request.

It is evident by the Governor's May 18, 2011 letter that timely submission of NAFR requests was a self-identified problem and a clean-up period would have been expected subsequent to the letter; however, out of the twenty-four (24) identified requests fourteen (14) were observed to have grant funding applied for after the Governor's May 18, 2011 letter.

While it is concerning that 58% of all the identified violations of W.S. 9-1-208 occurred after the Governor's May 18, 2011 letter, there has been a tapering of the violations. Seven of the fourteen identified requests were submitted in 2012 and one of the fourteen

requests was submitted in 2013 through June. This tapering may be indicative of resolution of the problem, although there is no other evidence to indicate that the problem of non-compliance with W.S. 9-1-208 is resolved.

Amended NAFRs. Based on information provided by the Division, between April 2009 and July 10, 2013, twenty-four (24) NAFRs were amended, only one of which was not a request for either ARRA or ACA funding.

In many instances, the amendment was to request additional grant funds above the previous request, and increased funding requests accounted for eight of the twenty-four amended requests. Other reasons for amendments included a reduction in grant funding, addition of a position, correction or updated information to the original request, amendment of the designated agency, and revision of the purpose of grant funds or changes in state plans.

Unlike amended B-11 requests, amended NAFRs were not observed to represent requests that were amended by the budget analyst prior to submission to the Governor's Office and amendments were initiated by the agency to request changes in previously approved NAFRs.

It is significant that all amended requests except for one were for ARRA or ACA funding, as NAFR numbering for ARRA and ACA funding is different than numbering for all other NAFR types. Changes to ARRA and ACA grant requests are made using the same NAFR number with a letter modifier while requests for changes for all other grant funding are assigned a completely new number from the originally approved NAFR.

While this numbering system used for ARRA and ACA NAFRs may be beneficial for all other NAFRs to link multiple requests associated to a common grant, it is acknowledged that a limitation exists with all other NAFR types in terms duration of grant funding that may make this numbering system impractical. Nonetheless, there is a need to link related NAFR requests for a single grant, which is discussed in further under the Division Database section of this report.

Withdrawn NAFRs. Unlike B-11 requests, the Division maintains copies of NAFRs that are withdrawn prior to final approval or disapproval by the Governor's Office. Between June

2009 and July 10, 2013, three NAFRs were withdrawn.

Two of three requests were NAFRs for ARRA funding and one was for traditional grant or endowment funding. None of the requests included any information related to reason for withdrawal; however, NAFR #2127 was recommended for denial by the Budget Division because it was not submitted prior to applying for or accepting new or additional funds.

Table 5.5
Withdrawn NAFRs

NAFR #	Agency	Amount	Comments
ARRA #054	Pipeline Authority	\$600,000	ARRA grant from the U.S. Department of Energy to be used to design a pipeline system to transport CO2 from various regional source points to sequestration destinations where CO2 will be used to recover additional domestic oil.
ARRA #102A	Department of Education	\$159,713,979	Amended ARRA grant to increase the grant award by \$139,713,979.00 for a competitive grant application for a program that rewards states that are creating the conditions for education innovation and reform and achieving significant improvement in student outcomes.
#2127	State Parks	\$40,000	National Endowment to be used to support two tribes in developing an interpretive plan for the Wind River Indian Reservation.
<i>Total</i>		\$160,353,979	

Source: Legislative Service Office from information provided by the Budget Division.

Recommendation 5.1 The Division should record withdrawn B-11 requests to improve maintenance of public records.

Recommendation 5.2 Tracking of NAFR data as recommended in Recommendation 3.2 should include recording and tracking of denied and withdrawn NAFR data as well as a system to link NAFRs for common funding sources.



CHAPTER 6

Limited Review of General Accounting Encumbrances and Lack of Auditing of the Interim Budget Process

Finding 6.1: General accounting encumbrances (GAE) are not reviewed in the same manner as B-11 requests used to carry-forward federal, general, and other funds.

Reviewing carry-forward B-11 requests related to non-federal funds precipitated a review of the State's general accounting encumbrance (GAE) policy in order to distinguish between it and the interim budget process.

GAEs are used to encumber funds for use at a future time and are processed through the Wyoming Online Financial System (WOLFS). However, a review similar to what is completed by the Budget Division when processing and approving carry-forward B-11 requests is not completed to ensure that GAEs are consistently processed with the State's reversion laws.

Wyoming has a lenient encumbrance accounting policy Wyoming utilizes encumbrance accounting to identify major fund obligations. According to the *SAO WOLFS Budget User Guide*, "An agency must have a valid obligation to encumber funds for the carryover." However, there is no formal definition of a "valid obligation," nor are there requirements that agencies submit documentation related to their requests.

Other states provide additional clarification as to what constitutes a legitimate obligation, such as monies encumbered as a result of contracts or to payments for services or goods ordered but not yet received. In Wyoming, however, agencies use GAEs for a variety of reasons, which often causes the encumbering of funds early in the biennium. Reasons for GAEs include:

- Encumber board-approved grants
- Capture funds for services incurred within the proper fiscal

period time frame, that will not be invoiced in a timely manner

- Agreements for pass-through funds (600 series)
- Vendor issues
- Encumber endowment monies for several vendors for differing amounts
- When an agency has a valid obligation of funds and needs to carry over the money into the next budget fiscal year in order to complete an obligation

Review of monthly encumbrances approved during FY 2011 and FY 2012, revealed an unexpected amount of encumbrances early within each fiscal year. Just under half of all General Fund encumbrances occurred in the first period of each fiscal year and less than 10% of all General Fund encumbrances occurred in the 12th fiscal period of each fiscal year. Based on the nature of encumbrances to restrict monies that might lapse otherwise at the end of a biennium, it is counterintuitive that earlier requests are observed.

When discussing this issue with State Auditor's Office (SAO) staff, they noted that some agencies use the encumbrance process for "*budgetary or management purposes*" to set aside money for certain projects. This practice leads to risk of agencies encumbering funds early on in the biennium to assure that money will not revert.

Listed in Table 6.1 and Chart 6.1 below are all General Fund GAEs processed during FY 2011 and FY 2012 by fiscal period which illustrates early agency encumbrances with in each fiscal year.

Table 6.1
FY 2011 and FY 2012 General Fund Encumbrance (Initial Approvals)
By Fiscal Period

Period	Sum of Posting Amount
1	\$212,872,686.23
2	48,502,727.91
3	1,809,230.09
4	26,641,917.65
5	7,888,817.64

Period	Sum of Posting Amount
6	48,802,803.39
7	10,359,100.85
8	9,866,718.48
9	22,570,481.07
10	6,709,016.62
11	3,658,636.13
12	38,923,955.95**
***Total	\$438,606,092.01

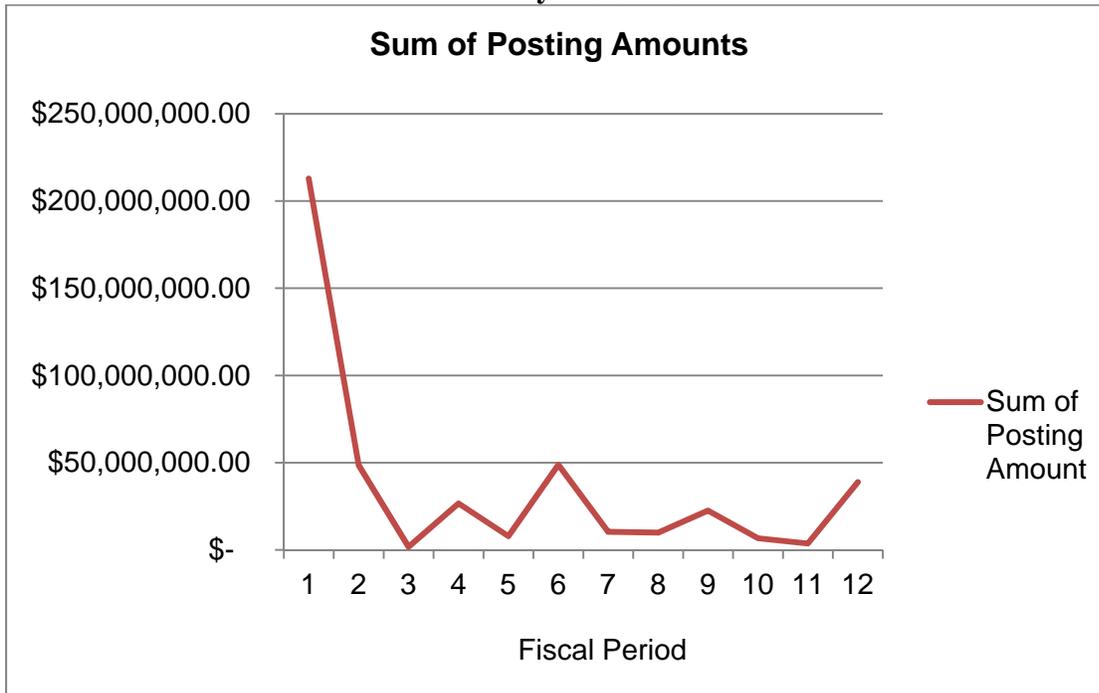
Source: Legislative Service Office from information provided by SAO.

*Includes GAEs related to BFY 2005, BFY 2007, BFY 2009, and BFY 2011 budgets.

**\$3,616,087.36 in GAEs for June 2011 and \$35,307,868.59 in GAEs for June 2012.

***GAEs not audited by the Legislative Service Office. However, agencies with the highest posting amounts include the Wyoming Department of Health (\$175,435,582.93), Office of State Lands and Investments (\$93,655,629.08), and the Wyoming Business Council (\$56,589,831.49).

Chart 6.1
FY 2011 and FY 2012 General Fund Encumbrance
By Fiscal Period



Source: Legislative Service Office from information provided by SAO

*Includes GAEs related to BFY 2005, BFY 2007, BFY 2009, and BFY 2011 budgets

**\$3,616,087.36 in GAEs for June 2011 and \$35,307,868.59 in GAEs for June 2012

Limited review of GAE requests

According to the SAO, the Comprehensive Annual Financial Reporting (CAFR) group conducts a limited review of GAE requests through WOLFS. The review is designed to ensure that monies from the 100 object series (Personal Services) are not encumbered. It does not, however, review GAE requests to ensure that valid obligations exist for requests or require that supporting documentation accompany each request. It should also be noted that according to the SAO, external auditors who review the State's CAFR will sample individual GAE requests.

According to the SAO, "*each agency should have proper internal controls in place to ensure that it is not submitting GAE documents that are contrary to W.S. 9-4-207(a-c).*" In addition, there are no policies or guidelines requiring agencies to liquidate encumbrances on a routine basis. As a result, Wyoming has long-standing open budgets, which in effect tie up previously appropriated General Fund monies, possibly contrary to reversion statutes.

GAEs are reviewed within WOLFS by A&I's Procurement Division with respect to purchasing guidelines. According to Procurement Division staff, GAEs are generally reviewed to determine whether requested amounts are in accordance with the state's procurement statute (W.S. 9-2-1016) and A&I's "*Purchasing Procedures Manual.*" It should be noted that not all object series GAE requests receive the same scrutiny. For example, the Procurement Division focuses primarily on GAEs related to "*supportive*" and "*special*" services under the 0200 and 0900 object series respectively.

Encumbrance balances are in the hundreds of millions

According to the CAFR for Fiscal Year Ending June 30, 2012, the balance of total encumbrances within restricted and committed fund balances of the governmental funds totaled over \$575 million.

The following table provides additional information.

Table 6.2
State of Wyoming Encumbrances of \$500,000 or Greater
Fiscal Year Ending June 30, 2012

Fund	Encumbrance Amount
General Fund	\$201,018,710**
American Recovery & Investment Fund	1,523,365
Foundation Program Fund	5,674,496
*Non-Major Governmental Funds	367,052,101
Total	\$575,268,672

Source: Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2012.

*Proprietary funds such as enterprise and internal service funds related to State charges to customers.

**Includes all encumbrance types.

It should be noted that encumbered amounts change daily, since payments against encumbrances are continually processed in WOLFS. For example, during BFY 2011 as seen in Table 6.1, SAO processed and approved a net total of \$438,606,092.01 worth of General Fund agency GAEs.

As seen from the table below, however, as of June 30, 2013, according to the SAO, General Fund encumbrance balances were much less because of daily transactions against those encumbrance balances. That amount is \$171,944,484.62.

The following table provides a more specific breakout by object series.

Table 6.3
GAE General Fund Existing Encumbrance
As of June 30, 2013

Object Code	GAE Outstanding Amount	% of Total
*100 Series (Personal Services)	\$10,067.00	.01%
200 Series (Support Services)	1,227,173.71	.70%
300 Series (Restrictive Costs or Services)	186,499.86	.11%
400 Series (Data Processing)	374,251.65	.22%
600 Series (Grants & Aid Payments)	125,357,291.31	72.91 %
800 Series (Non-Operating Expenditures)	8,493,762.33	4.94%
900 Series (Special Services)	36,295,438.76	21.11%

Object Code	GAE Outstanding Amount	% of Total
**Total	\$171,944,484.62	100.00%

Source: Legislative Service Office from information provided by SAO.

*Amounts encumbered exclusively for employer paid benefits due at 6/30, but not paid, according to SAO, which is consistent with W.S. 9-2-1008 related to "outstanding obligations."

**GAEs not audited by the Legislative Service Office to determine purpose or validity. However, many may include obligations with respect to local governments and municipalities.

Encumbrances are not time-limited. It should also be noted that previously approved encumbrances result in open budgets back to the early 2000s. According to the SAO, as of June 30, 2013, 11% or \$18,915,579.40 of General Fund encumbrances are related to BFY 2009 budgets or earlier.

Oversight of encumbrance accounting

According to the SAO, a formal process is needed to ensure GAEs are not approved contrary to W.S. 9-4-207(a-c). The SAO recommends that a formal policy be developed with input from the SAO, the Procurement Division, and the Budget Division to review and approve GAE requests. Furthermore, the SAO also recommends that agencies be required to submit documentation supporting each GAE.

W.S. 9-2-1008 places responsibility with SAO to ensure that all unused funds lapse at the close of the fiscal period after provisions for payments for outstanding obligations legally incurred during the fiscal period are made unless carried over pursuant to W.S. 9-4-207. Specifically, W.S. 9-2-1008 states "*the auditor, after consultation with the department, as of June 30 of each year shall take appropriate action in accordance with this section.*"

While the legislative intent appears to clearly assign oversight to the SAO, a formalized process may be needed to fulfill the consultation requirement of A&I and to ensure encumbrances are adequately scrutinized.

The SAO believes there is benefit to including the Budget Division in the approval workflow in WOLFS, since the Division knows and works with all agencies on their budgets. The Budget Division has a base of knowledge to ensure that GAEs are related to outstanding obligations legally incurred during the previous fiscal period, according to the SAO.

According to the Governor's Office, the SAO historically promulgated rules regarding encumbrances; however, in recent years much of the compliance responsibility has shifted to the agencies. The SAO stated, however, that such guidance may have come from policies or guidance, but not in the form of formally promulgated rules. Nonetheless, the Governor's Office believes that the current GAE process properly "*places responsibility for statutory compliance with agencies, with an adequate oversight process.*"

The Governor's Office and the Budget Division expressed workload concerns involving Budget Division staff in the encumbrance process. Additionally, the SAO expressed concerns about its own workload if additional steps are required to request and review supporting documentation as part of the GAE approval process.

SAO's oversight and interaction with agencies

According to the SAO, "*it is providing the necessary information and working with agencies to close open budgets.*" It is also working with the Governor's Office related to a solid proposal to address open budgets.

Although agencies have processes to close out budgets and submit GAE requests, there is no consistent oversight by an audit entity to ensure that adequate internal controls exist with respect to the review of encumbrances.

According to the Department of Audit, open budgets may be reviewed during the course of an assigned audit, but audits are not routinely completed related to encumbrances and open budgets. It should be noted that W.S. 9-2-1005(d) requires the SAO, the State Treasurer, and the Department of Audit to assist the Governor upon request related to "*audit, record keeping, and control of budgets.*" According to the Department of Audit, it has the technical expertise to audit GAEs if requested. In order to audit GAE's however, clearly established internal controls and a definition of "*legitimate obligation*" should be developed.

While the onus is placed on the agencies to keep track of their budgets, the SAO stated that "*at the close of every biennium it sends a detailed schedule of active budgets for all fiscal years to each chief fiscal officer for review, analysis, and oversight of their agency budgetary management. This list outlines all open*

appropriations and asks that each agency review the list for any possible reversions.” In an effort to close prior year’s budgets, states agencies also move previously encumbered funds forward through the B-11 process, which further blurs the lines determining which funds should be transferred through the B-11 process and when funds should be encumbered.

The SAO clearly has the authority related to ensuring reversions occur pursuant to law, as well as authority related to liquidating encumbrances; however, unilateral action to do so coupled with a lack of formalized definition for legitimate obligation would certainly be met with resistance.

Other states are less lenient

In comparing Wyoming’s encumbrance policy to policies in comparator states, most other states surveyed placed time limitations such as two years or less for encumbrances. Many states also have processes in which thresholds are established and older encumbrances receive greater scrutiny. For example, in South Dakota encumbrances going into the second year are reviewed and approved at the discretion of the Commissioner of Finance.

Montana was observed to have one of the more restrictive time limitations on encumbrances. Montana’s policy allows encumbrances for a 30-day period for services or equipment ordered but not yet received and up to one year for encumbrances established for contracts or grants; any encumbrance for greater than one year must be approved by the state’s accounting office.

Despite the more restrictive encumbrance policy, Montana has a discretionary reversion statute, which allows an agency to re-appropriate 30% of the remaining balance of an appropriation, instead of automatic reversion. According to State officials, this reversion statute prevents agencies from expending unused funds prior to the close of the biennium, as well as attempting to receive approval for encumbrances outside of a legitimate obligation.

A comparable policy in Wyoming could discourage agencies from unnecessary encumbrances. Comparator states’ encumbrance, carry over, and reversion policies are discussed in further detail in Chapter 7.

Recommendation 6.1 The State Auditor's Office, Governor's Office, and Budget Division should: **1)** Develop a plan of action to liquidate unnecessary encumbrances outside of the most recent previous biennium; **2)** Develop a process to review and approve GAE requests to ensure encumbrances are only approved under legitimate circumstances; and **3)** Discuss options to include the Budget Division as part of the WOLFS workflow for GAE requests or other options to clarify A&I's role with respect to W.S. 9-2-1008.

Recommendation 6.2 The State Auditor's Office should include a definition of a "*valid obligation*" in its budget manuals, with respect to the processing and approval of GAE requests.

Matter for Legislative Consideration 6.1 The Legislature may wish to consider enacting legislation or amending W.S. 9-4-207(a-c) to request a re-appropriation of a certain percentage of unused appropriations for subsequent biennia.

Matter for Legislative Consideration 6.2 The Legislature may wish to consider enacting legislation or amending W.S. 9-2-1005(d) to require periodic audits of agency internal controls with respect to the processing of encumbrances, as well as sampling approved GAEs to ensure reversion statutes have not been violated.

Finding 6.2: Audit requirements related to the processing of B-11 and NAFR requests are non-existent.

Although W.S. 9-2-1005(d) requires the State Auditor’s Office (SAO), the Treasurer’s Office, and the Department of Audit to provide audit assistance to the Governor upon request, auditing related to the processing of B-11 and NAFR requests does not occur.

In addition, there are no specific statutes related to the Office of Chief Information Officer (OCIO) reviewing and approving B-11 requests related to information technology, which could be consistent with W.S. 9-2-2906(d)(i and ii) requiring the review of agency expenditure for information technology-related purchases.

As a result, the interim budget process is largely a process conducted without independent auditing oversight. It can be argued, however, that because of the broadness of W.S. 9-2-1005(d) and Wyoming Session Laws related to the Governor’s Flex Authority, adequate criteria does not exist against which to audit. Therefore, this section will discuss current statutes related to the interim budget process and other processes, as well as how that wording could be modified by the Legislature, given the recommendations and legislative considerations within this report.

Current statutory requirements W.S. 9-2-1005(d) is the only statutory criteria with respect to auditing the interim budget process. It states, “*the state auditor, state treasurer and director of the state department of audit shall assist the governor and the department in carrying out legislative appropriation acts with respect to the audit, record keeping and control of budgets approved thereunder.*” Such a request from the Governor’s Office to the Department of Audit has occurred one time.

Governor’s audit request. In 2012, the Governor requested that the Department of Audit review B-11 #13224 related to Wyoming Department of Education (WDE) realignment of employees. That B-11 was initially approved by the Budget Division, but ultimately not approved by the Governor, as the request lacked clarity.

The intent of the B-11 was to realign positions at WDE with respect to actual duties and job classifications of those employees. The Department of Audit started to look at this B-11; however, the audit request was withdrawn by the Governor because the matter was being legislatively reviewed.

It does not appear that the review of the B-11 went any further; however, the Governor's Inquiry Team Report, released on June 30, 2013, extensively discusses the B-11 and use of General Expenditure Modification (GEM) transactions in order to receive federal reimbursement.

Incidental auditing of B-11 and NAFR requests. According to the Department of Audit, approved B-11 and NAFR requests do not receive consistent scrutiny as part of the Statewide Single Audit or as part of its review of Wyoming's comprehensive annual financial statements. Independent auditors will, however, make sure a B-11 or supplemental budget request change occurred if presented in the *Schedule of Revenues & Expenditures (Budget & Actual)* in the CAFR.

In addition, the Department does not review specific B-11s or open encumbrances unless upon special request or as a part of an existing audit engagement. For example, as part of the Assessment and Testing audit of WDE in 2012, the Department of Audit identified unspent money from previous budgets. WDE made the decision to liquidate those encumbrances as it was much cleaner to do so than deal with reconciliations.

Transparency in government. While auditing at the request of the Governor has only occurred in the instance above, periodic auditing could ensure consistency with current legislative actions with respect to transparency of government. For example, in 2009, House Enrolled Act 123 (House Bill 144) created W.S. 9-2-1035 through 1037 requiring transparency in government. "*Participating state entities*" are required to post financial documentation to a state-operated website that allows taxpayers to "*view and track the use of taxpayer dollars.*"

In particular, W.S. 9-2-1036(b)(iv) requires access to "*financial reports, financial audits, budgets or other financial documents that are used to allocate, appropriate, spend and account for government funds as may be established by rules under W.S. 9-2-*

1037.”

Records under W.S. 16-4-201 through 205 account for monies, funds, accounts, bonds, loans, expenditures or revenues, regardless of source, and are owned, held, or administered by the participating state entities. This version of the law identified “*Participating state entity*” as “*the state of Wyoming government including the executive, legislative and judicial branches of government and any department, divisions, agency, board, commission or other instrumentality of those branches.*”

Although state entities are required to post financial information on the public finance website, it does not specifically mention interim budget modifications via B-11 and NAFR requests.

Office of Chief Information Officer (OCIO) review of expenditures. W.S. 9-2-2906(d)(i and ii) requires that certain technology-related purchases occur with the approval of the OCIO. Evaluators did not observe any formal process by which the OCIO reviews and approves technology B-11s, however.

Although the OCIO is not formally part of the B-11 workflow, the Office has been involved intermittently with various B-11 approvals; the Budget Office requires that the agency have Department of Enterprise Technology Services (DETS) approval on all data processing charges (400 object series) decreased before a B-11 is prepared, but increases to the 400 objective series are not reviewed by DETS.

The CIO believes it would be beneficial if his office played more of a formal part related to the approval of B-11 and NAFR requests, especially those related to data expenditures and appropriations. However, the OCIO stated that review is not required on all B-11 requests, especially those where DETS involvement is already present.

Both the Budget Division and OCIO sees benefit in the OCIO approval being included as part of the B-11 approval process, but both also discussed resources and the additional time it may take.

Other statutory criteria. Other statutory provisions could be targeted should a more active auditing presence occur, particularly W.S. 9-1-208(a), regarding prior approval before applying for federal funds.

The statute specifically states, “*no state department, board, commission or agency whose director, board or commission members are appointed by the governor shall, without prior approval of the governor: (i) Apply for federal funds or private endowment funds; (ii) Contract with the federal government or any private association; or (iii) Effectuate and put into force any plan.*” As discussed in Chapter 5 related to denied NAFRs, this particular area has proven to be problematic.

Another area with respect to potential auditing, relates to W.S. 9-2-1005(a) and (c). As discussed in previous chapters, Wyoming Session Law language “*notwithstanding*” prohibited actions discussed under (a) and (c). This is not to say, however, that non-Flex B-11 requests are afforded the same flexibility.

Finally, Wyoming Session Law language also discusses other “*notwithstanding*” prohibitions. For example, section (d) of Wyoming Session Law Flex Authority states, “*any provision of this act or any other legislation enacted which specifies that an appropriation shall not be transferred or expended for any other purpose, or containing language of like effect, shall prevail over this section and no such funds so appropriated shall be subject to subsection (a) of this section.*”

In other words, this language prevents the Governor’s Flex Authority to be used contrary to existing statutory language outside of W.S. 9-2-1005(a) and (c). It also establishes a clear hierarchy of statutory authority related to potentially conflicting transfer provisions.

Matter for Legislative Consideration 6.3 The Legislature may wish to consider enacting legislation or amending W.S. 9-2-1005(d) to require periodic audits of approved B-11 and NAFR requests. It may also wish to consider amending W.S. 9-2-2906(d)(i-ii) with respect to requiring approval by the OCIO with respect to IT related B-11 or NAFR requests.



CHAPTER 7

Other States Provide Alternative Processes

Finding 7.1: Other states offer various options for Wyoming to explore.

As discussed in the Scope and Methodology, evaluators surveyed five (5) comparator states: Vermont, Alaska, Montana, South Dakota, and North Dakota. Comparison was undertaken in order to obtain more information with respect to the interim budget processes in the other states.

The following is a summary of other states' information, with additional detail provided in Appendix F.

Legislative session and budget frequency

The frequency with which a state enacts its budgets has a direct impact on the volume of interim budget modifications; therefore this frequency is also likely to affect the process by which interim budget modifications are made. States that enact biennial budgets would be expected to have a greater volume of interim budget modifications requests compared to states that enact annual budgets.

The following table provides additional information.

**Table 7.1
Session and Budget Frequency**

State	Session Frequency	Budget Frequency
Alaska	Annual	Annual
Montana	Biennial	Biennial
North Dakota	Biennial	Biennial*
South Dakota	Annual	Annual
Vermont	Annual	Annual
Wyoming	Annual	Biennial*

Source: Legislative Service Office from survey of other states.

*Consolidated two-year budget.

Of the comparator states surveyed, both Montana and North Dakota also enact biennial budgets; however, Montana's process differs slightly in that two fiscal year budgets are authorized at one time.

North Dakota is most similar to Wyoming in that both enact a true biennial budget where funds are not designated for a fiscal year. In fact, according to information available through the National Conference of State Legislatures (NCSL), North Dakota and Wyoming are the only two states still practicing true biennial budgeting.

In an effort to establish controls to ensure adequate funds are available throughout the biennium, North Dakota agencies are restricted from spending more than 75% of salary and operating appropriation line items within the first 18 months.

Flex authority The other comparator states were surveyed with respect to their flex authorities for appropriated funds with distinction between the following three types of transfers:

- Intra-Program Transfers: Transfer of funds within a single program
- Intra-Agency Transfers: Transfers between programs within the same agency (Comparable to Type 3 transfers)
- Inter-Agency Transfers: Transfers between agencies (Comparable to Type 4 transfers)

Intra-program transfers. Similar to Wyoming, all other comparator states allow intra-program transfer of funds although certain restrictions apply. In most states, authority for intra-program transfers is granted to the agency; however, in South Dakota, the Budget Office is responsible for authorizing transfers of this nature.

By comparison, in Wyoming intra-program transfers occur in WOLFS at the agency level, pursuant to W.S. 9-2-1005 (b)(i), which is conditioned by W.S. 9-2-1005 (c)(ii).

In all states except for Vermont, restrictions on intra-program transfers exist. Like Wyoming, Alaska, North Dakota, and South Dakota were all observed to have restrictions on transferring funds appropriated to personal services. In Montana, trigger amounts

are established based on the appropriation amount for each operating category and the agency must obtain prior approval from the interim legislative appropriation committee for transfers exceeding the trigger amounts.

The following table provides additional information.

Table 7.2
Intra-Program Transfers by State

State	Intra-Program Transfers Permitted	Authorized Entity	Restrictions
Alaska	Yes	Agency	<ul style="list-style-type: none"> Agency not authorized to transfer funds for personal services or grants Movement between salaries and professional service object series must be authorized by the Governor and to the Legislature
Montana	Yes	Agency	<ul style="list-style-type: none"> Must obtain prior approval from the Legislative Finance Committee for transfers greater than 25% of an operating category (cumulative) that are at least \$75,000 or changes that exceed \$1 million
North Dakota	Yes	Agency	<ul style="list-style-type: none"> Transfers cannot exceed line-item appropriation amounts (line-items include HR, Central Services, etc.) Most agencies cannot transfer monies from salaries to operations
South Dakota	Yes	Budget Office	<ul style="list-style-type: none"> Cannot move monies out of salary object code
Vermont	Yes	Agency	None
Wyoming	Yes	Agency/Budget Division	<ul style="list-style-type: none"> No transfers from Personal Service (100 Object Series) to other Object Series

Source: Legislative Service Office from survey of other states.

In the states of Alaska and Vermont, no formal request process for intra-program transfers exists. In Alaska, the Office of Management and Budget tracks shifts in funds and reconciles any transfers at the end of the year. A similar process is performed in Vermont.

Intra-agency transfers. All other comparator states also allow intra-agency transfer of funds (between programs within the same agency) although the authorizing entity varied from state to state. In Vermont, like Wyoming, gubernatorial authority is granted for intra-agency transfers under a specified cap amount.

In Vermont the cap amount for permissible intra-agency transfer is \$50,000 in General Funds compared to Wyoming's transfer amount cap of 10% of the agency's total appropriation.

Restrictions on transfers for funds appropriated for personal services were observed in Alaska and North Dakota while Montana and South Dakota were observe to restrict transfers between fund types (General Funds, federal funds, and other funds).

The following table provides additional information.

Table 7.3
Intra-Agency Transfers by State

State	Intra-Agency Transfers Permitted	Authorizing Entity	Restrictions
Alaska	Yes	Agency	<ul style="list-style-type: none"> Agency not authorized to transfer funds for personal services or grants Movement between salaries and professional service object series must be authorized by the Governor and reported to the Legislature
Montana	Yes	Agency	<ul style="list-style-type: none"> Must obtain prior approval from the Legislative Finance Committee for transfers greater than 25% of an operating category (cumulative) that are at least \$75,000 or changes that exceed \$1 million

State	Intra-Agency Transfers Permitted	Authorizing Entity	Restrictions
			<ul style="list-style-type: none"> Cannot transfer between fund types
North Dakota	Yes	Agency	<ul style="list-style-type: none"> Transfers cannot exceed line-item appropriation amounts (line-items include HR, Central Services, etc.) Most agencies cannot transfer monies from salaries to operations
South Dakota	Yes	Agency	<ul style="list-style-type: none"> Cannot transfer between fund types (GF, FF, and OF)
Vermont	Yes	Governor	<ul style="list-style-type: none"> Up to \$50,000 of General Funds
Wyoming	Yes	Governor	<ul style="list-style-type: none"> Up to 10% of the total appropriation for the agency No transfers from Personal Service (100) to other Object Series

Source: Legislative Service Office from survey of other states.

Inter-agency transfers. None of the comparator states grant exclusive authority to the executive branch to transfer funds between agencies comparable to the inter-agency transfers (Type 4) that occur in Wyoming. South Dakota and North Dakota are the only other states in which inter-agency transfers are even permitted and in both states, approval from the interim legislative committee is required.

The following table provides additional information.

Table 7.4
Inter-Agency Transfers by State

State	Inter-Agency Transfers Permitted	Authorizing Entity	Restrictions
Alaska	No	NA	NA
Montana	No	NA	NA
North Dakota	Yes	Emergency Commission	• None
South Dakota	Yes	Joint Appropriation Committee	• None, but infrequently requested
Vermont	No	NA	NA
Wyoming	Yes	Governor	<ul style="list-style-type: none"> • Up to 5% of the total appropriation of the transferring agency • No transfers from Personal Service (100) to other Object Series

Source: Legislative Service Office from survey of other states.

Permitted instances of transfers were noted in the states of Alaska and Montana; however, these examples applied to service agreements between agencies or in instances in which the purpose of the appropriation was maintained. In both instances, the requests for transfer for service agreements are reviewed and approved the interim committees.

New or additional federal or other funds

Authorization to receive new or additional federal or other funds varied from state to state. However, most states were observed to have similar processes when comparing receipt of excess funds and receipt of new funds, though some differences were noted so the two categories will be addressed separately.

Excess federal and other revenues. All comparator states were observed to have some form of executive branch authority to receive additional federal and other revenues above the amounts appropriated. However, additional legislative authority for these

types of authorizations was also observed in the states of Alaska, Montana, and North Dakota.

The following table provides additional information.

Table 7.5
Excess Federal or Other Revenues

State	Authorizing Entity	Restrictions
Alaska	Open-ended appropriations established in session law	<ul style="list-style-type: none"> Conditionally reviewed by legislative interim committee; however, Governor can override committee's review
Montana	Agency & Legislative Finance Committee	<ul style="list-style-type: none"> Statutory provision established to prohibit significant commitment of General Fund Budget Amendments are submitted to the Committee above trigger amounts
North Dakota	Emergency Commission & Agency	<ul style="list-style-type: none"> Most approved by Commission; however, agencies can receive additional funds within cumulative appropriated amounts
South Dakota	Budget Office (Delegated by the Governor)	<ul style="list-style-type: none"> Funding Source must be designated continuously appropriated via statute
Vermont	Governor	None
Wyoming	Governor	None

Source: Legislative Service Office from survey of other states.

In North Dakota, most approvals for excess revenues are reviewed by the interim legislative committee. However, an agency can receive additional funds within the cumulative appropriated amounts so that if an appropriated grant does not come in, the agency can accept unapproved revenues up to their total appropriation.

In Montana, agencies are authorized to receive additional federal or other revenues under the same trigger amounts established for flex authorities described above, and only requests above the

trigger amounts are required to be reviewed by the interim legislative committee. Statutory controls are also established to prohibit receipt of federal or other funds that would ultimately require significant future commitment of General Funds.

South Dakota's process of establishing certain revenues as continuously appropriated and allowing for approval of increased expenditure authority for such revenues by the Commissioner of the Bureau of Finance appears to streamline the process and may eliminate unnecessary approval requests that are likely to be "*rubber stamp approved.*"

Alaska's open-ended appropriation for additional federal revenues is of interest. Since Alaska's constitution requires the appropriation of all monies and case law supports that appropriation power cannot be delegated to a committee or agency, a bill is passed each session stipulating that "*excess federal funds are appropriated and conditionally reviewed by the interim legislative committee, Legislative Budget and Audit Committee.*" However, in the event of unfavorable review by the Legislative Budget and Audit Committee, the Governor can override the Committee as the additional funds are ultimately appropriated during session.

New federal or other revenues. In Alaska, Montana, and North Dakota, the states' processes and authorities for receipt of new federal or other revenues is the same as their process for receipt of excess federal or other revenues. Only in South Dakota and Vermont do the two processes differ.

In South Dakota, when new federal or other revenues are identified, authority to expend is established by the Bureau of Finance with notification to the Legislature, who then during session amends the current year's budget to include the newly identified revenues.

Vermont's process is similar in terms of amending the current year's budget, although approval by the Joint Fiscal Committee is required in the interim. This process of amending the current year's budget to include new revenues identified in the interim would eliminate revolving interim budget modification requests for the same funding source since all revenues are accounted for in the budget.

The following table provides additional information.

Table 7.6
New Federal or Other Revenues

State	Authorizing Entity	Restrictions
Alaska	Open-ended appropriations established in session law	<ul style="list-style-type: none"> Conditionally reviewed by legislative interim committee; however, Governor can override committee's review
Montana	Agency & Legislative Finance Committee	<ul style="list-style-type: none"> Statutory provision established to prohibit significant commitment of General Fund Budget Amendments are submitted to the Committee above trigger amounts
North Dakota	Emergency Commission & Agency	<ul style="list-style-type: none"> Most approved by Commission; however, Agencies can receive additional funds within cumulative appropriated amounts
South Dakota	Budget Office	<ul style="list-style-type: none"> Budget Bureau notifies the Joint Appropriations Committee prior to session to amend the current year's budget
Vermont	Joint Fiscal Committee	<ul style="list-style-type: none"> Legislature passes an amended budget bill for the current year.
Wyoming	Governor	None

Source: Legislative Service Office from survey of other States

Interim approval of FTEs Survey of the comparator states revealed that the states are split in terms of having legislatively appropriated positions. In South Dakota and North Dakota, FTEs are legislatively appropriated similarly to Wyoming; however, North Dakota's Emergency Commission has the authority to create new FTEs above the number legislatively appropriated.

In Alaska, Montana, and Vermont, the number of positions are not legislatively appropriated and agencies are free to create, move, and modify positions within appropriated funding amounts. Restrictions were observed in Montana in which approval is required from the Governor and Budget Office while in Alaska and Vermont, agencies are authorized to create, move, and modify positions within appropriated amounts.

The following table provides additional information.

Table 7.7
Approval of FTEs

State	Legislatively Appropriated	Comments
Alaska	No	<ul style="list-style-type: none"> Agencies can create, move, and modify positions within appropriated funds
Montana	No	<ul style="list-style-type: none"> Governor and Budget Office authorize positions based on funding
North Dakota	Yes	<ul style="list-style-type: none"> FTEs can be transferred across programs within the same agency Agencies can split FTEs to create multiple part-time positions Only the Emergency Commission can create new FTEs in the interim
South Dakota	Yes	None
Vermont	No	<ul style="list-style-type: none"> Agencies can create, move, and modify positions within appropriated funds
Wyoming	Yes	<ul style="list-style-type: none"> Gubernatorial authority required to create or move positions Number positions supported by general funds is limited to the cumulative total of legislatively appropriated positions

Source: Legislative Service Office from survey of other states.

Interim committees All comparator states were observed to have legislative committees with interim budget modification authorities although the authorities of committees varied from state to state.

The following table provides additional information.

Table 7.8
Other States' Interim Committees

State	Committee	Member Make-up	Meeting Frequency	Interim Approval Authorities
Alaska	Legislative Budget and Audit Committee	Legislative	Monthly	<ul style="list-style-type: none"> Increased and new federal or other revenues. Governor can override
Montana	Legislative Finance Committee	Legislative- members from the appropriation committees	Quarterly	<ul style="list-style-type: none"> Transactions above trigger amounts Transfers between agencies to ensure original appropriation purpose is maintained Budget amendments for increased or new federal or other revenues above trigger amounts
North Dakota	Emergency Commission	Governor Secretary of State Co-chairs of the appropriation committees President of the Senate Speaker of the House	Not specified	<ul style="list-style-type: none"> Movement of funds between salary and operating series Increases and new federal or other revenues Movement of funds between agencies (inter-agency) Creation of new FTEs
South Dakota	Joint Appropriation Committee	Legislative	<i>"A few times during the interim"</i>	<ul style="list-style-type: none"> Transfers between salary and non-salary object codes Transfers between agencies (inter-

State	Committee	Member Make-up	Meeting Frequency	Interim Approval Authorities
				agency)
Vermont	Joint Fiscal Committee	Legislative	As required	<ul style="list-style-type: none"> New federal or other revenues

Source: Legislative Service Office from survey of other states.

North Dakota's Emergency Commission was observed to have the most granted authorities of all the states surveyed. The makeup of the Commission is also interesting because it is the only state, of those surveyed states, in which the members include executive branch appointees, namely the Governor and Secretary of State, in addition to the legislative branch appointees.

Encumbrances A variety of encumbrance and carry forward policies were observed in the comparator states. Most states make a distinction between a valid encumbrance in which funds are obligated by purchase order or contract and carry forward requests for unexpended, unobligated funds.

In Alaska, only valid encumbrances are allowed, while the states of South Dakota, Montana, North Dakota, and Vermont also consider carry forward requests.

The following table provides additional information.

Table 7.9
Other States Encumbrance Specifications

States	Encumbrance Time Limit	Comments
Alaska	One Year	<ul style="list-style-type: none"> Unexpended, unobligated funds liquidate annually Valid encumbrance include purchase order, delivery order, contracts of other documents Blanket encumbrances are prohibited

States	Encumbrance Time Limit	Comments
Montana	<ul style="list-style-type: none"> ▪30 days for purchase orders ▪1 year for contract or grant 	<ul style="list-style-type: none"> • Two Types 1) established contracts 2) Services or equipment ordered but not yet received • Encumbrances >1 year approved by accounting office • Automatic carry forward of capital outlay and IT projects • Re-appropriations permitted up to 30% of remaining balance
North Dakota	Two Years	<ul style="list-style-type: none"> • All General Fund revert at the end of the biennium except as provided by statute, for purchase orders, or contracts • All carry forward requests are reviewed by legislative committee
South Dakota	Two Years	<ul style="list-style-type: none"> • Permitted for purchase orders or contractual obligations • Encumbrances and carryover requests into the second year are at the discretion of the Commissioner of Finance
Vermont	None	<ul style="list-style-type: none"> • For non-general funds, true obligations are automatically encumbered • Commission of Finance approves or disapproves all other carry forward requests

Source: Legislative Service Office from survey of other states.

All of the comparator states except Vermont have limitations on the amount of time for which an encumbrance can be made. For those states with established time limitations, requirements prohibited encumbrances greater than two years.

Review authority of encumbrances in the comparator states was observed to reside with the budget office in South Dakota and Vermont, the accounting office in Montana, and a legislative committee in North Dakota.

Montana's reappropriation of unexpended funds is the most liberal reversion policy of all the states surveyed. It is interesting to note that this policy of re-appropriating up to 30% of the remaining balance of an appropriation in lieu of reversion, upon approval, reportedly discourages agencies from committing unnecessary spending prior to the close of a biennium.

Transparency In general, there appears to be a greater amount of transparency in the comparator states than in Wyoming related to interim budget modifications, largely due to the legislature in many instances serving as the authorizing entity for interim budget modifications.

In South Dakota, not only is the current year's budget modified to include new or additional federal or other funds approved in the interim, a system of instant notification is in place to electronically notify the legislature when a transaction is made related to an interim budget modification. This notification process is built into the workflow and after the transaction receives all the appropriate approvals, an electronic notification describing the transaction is generated and sent to the legislature.

While the legislature still receives annual reports regarding transactions related to interim budget modifications, the electronic transaction notice is reportedly the preferred method of notification.

Recommendation The Budget Division should review other states' practices as it moves forward to make changes to its automated and other processes.

7.1

CHAPTER 8

Conclusion

The audit of the interim budget process performed by the Legislative Service Office's Program Evaluation section identified elements of the process that can be improved to increase efficiency and transparency. Broad statutory guidance, the lack of formalized policies, the need for increased efficiency at the Division, and increased transparency of the B-11 process are the primary areas to address regarding improvements.

The practice of using the B-11 process for actions such as documentation of previously appropriated funds, continually reauthorizing the same positions, and carry-forward of previously authorized funds may cause confusion within the process and in reporting.

Clarifying statutes and developing formal policies to ensure the process only focuses on appropriating new dollars or increasing current appropriations will increase reporting accuracy, decrease Division staff workload, and increase transparency.

Additionally, establishing a separate process for documenting previously appropriated and carry-forward funds that differentiates from Flex and non-Flex B-11s will alleviate the potential for inaccurate reporting through the CAFR.

Several opportunities for increased efficiency with respect to B-11 and New/Adjusted Fund Request (NAFR) file maintenance will help decrease the workload related to processing and approving B-11 and NAFR requests. Also, completely automating the process by which B-11 and NAFR requests are processed and approved could provide increased efficiency and transparency. Additionally, establishing related internal controls to better verify and document supporting data could assist with more accurate reporting to the public and the Legislature.

Another area to assist with increased efficiency is to develop formalized policies and rules. The Division already has a good base from which to accomplish this task with respect to its online B-11 and NAFR instructions.

Apart from the areas addressed above, other concerns were noted that impact the overall interim budget process either directly or indirectly. For example, evaluators noted the lack of scrutiny related to the encumbrance process, a lack of an auditing presence for the interim budget process, and the lack of formal process to include the OCIO's approval on information technology related B-11 requests. Addressing the findings and implementing the recommendations related to these areas will increase clarity and transparency in the interim budget process.

The Division should also review other states' processes. In general, comparator states (Alaska, Montana, North Dakota, South Dakota, and Vermont) have detailed and proven criteria and processes by which to appropriate, track, and report interim funding decisions.

Overall, the Division is processing NAFRs and B-11s pursuant to statutory provisions, however seeking statutory clarification, developing formalized interim budget modification policies and improving its database to incorporate the adjustments identified in the report will make the overall process more efficient, accurate and transparent.

AGENCY RESPONSE

Wyoming's Interim Budget Process



Office of the Governor

October 29, 2013

The Honorable David Miller, Chairman
Management Audit Committee
State Capitol Building
Cheyenne, WY 82002

Dear Chairman Miller, Vice Chairman Schiffer and Members of the Management Audit Committee,

The Governor's Office has reviewed the recommendations contained in the Confidential Draft on Wyoming's Interim Budget Process to Modify Legislatively Appropriated Funds. The Evaluation Staff did a thorough review and provided a solid analysis of the process, its strengths and weaknesses. The Draft contains a number of recommendations that have been specifically addressed by the Budget Division and several others that can be addressed as a single topic. This response addresses these by topic.

Many of the recommendations (2.1, 2.2, 2.3, 3.1, 3.2, 3.3, 4.1, 5.1 and 5.2) relate to establishing improvements in data systems, reporting practices and policy. These improvements would allow for better reporting and the ability to track Interim Budget Processes. The Governor's Office generally concurs with these recommendations. It is worth noting, there has been discussion of the need to improve the state's budget and accounting system. The Interim Budget Process is one part of the larger system. If changes to the larger system are contemplated, these items might be best addressed as part of the larger project.

Recommendation 4.1 specifically suggests the Budget Division might consider formalizing its process in policy and in rules. The Governor's Office supports the recommendation as it relates to policy but would question the benefit of developing rules. The requirements of the process are set forth in statute and in policy and the Draft reflects that the process has functioned as intended with limited exception. Adding layers to the process would not necessarily increase its efficiency or transparency.

Recommendation 6.1 contains a recommendation specific to the Governor's Office and addresses a plan for encumbrances outside of the previous bienniums and GAE requests. This seems to be a reasonable approach to address these matters and the Governor's Office concurs.

Chairman Miller
October 29, 2013
Page 2

The Budget Division has developed a detailed response to this Draft as it relates to its responsibilities and areas of responsibility. The Governor's Office has reviewed that response and adopts it as a part of this letter.

Finally, the Draft suggests a number of legislative changes for your consideration (2.1 (MFLC), 6.1 (MFLC), 6.2 (MFLC) and 6.3 (MFLC)). The Governor's Office notes the success of the Interim Budget Process over the years. The process has served the needs of the state within the appropriate parameters and subject to legislative oversight. The Legislative Service Office, the Governor's Office and the Legislature probably all agree with the old adage that when a complicated process works – it is always good to undertake repair with caution. If the Legislature sees a need for changes, then the Governor's Office will work to assist in the process.

Thank you for the opportunity to participate in the Audit and to review and comment on the Draft.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kari Jo Gray". The signature is stylized and cursive.

Kari Jo Gray
Chief of Staff

KG:md



STATE OF WYOMING
DEPARTMENT OF ADMINISTRATION
AND INFORMATION
Budget Division

Matthew H. Mead
Governor

Dean Fausset
Director

Bret A. Jones
Administrator

October 30, 2013

The Honorable David Miller, Chairman
The Honorable John Schiffer, Vice-Chairman
Management Audit Committee
213 State Capitol
Cheyenne, WY 82002

Re: Formal Written Response – LSO Program Evaluations Report on the Interim Appropriations Process

Dear Representative Miller and Senator Schiffer:

The purpose of this letter is to provide a formal response to the recommendations outlined in the draft report prepared by LSO Program Evaluation with respect to its review of the Interim Appropriations Process. As directed by Mr. Hoppman, this response corresponds with that report's recommendations.

Recommendation 2.1 – Separate Tracking and Reporting Process – Documentary B-11's

The Division somewhat agrees with the recommendation.

Documentary B-11's have typically been prepared on the basis of direction in session law, a request from the State Auditor's Office or a determination by the Budget Division that there is value in documenting specific fund movements contemplated by legislative directive. More often than not, authority for such movements has already been legislatively granted.

In its report, LSO Program Evaluation expresses concern about the impact of this type of B-11 on reporting accuracy with respect to the calculation of flex limits, duplication of appropriation amounts within the CAFR report or with respect to B-11 activity reports provided to the legislature and/or others.

While these concerns could be addressed via a separate process, it could also potentially be addressed via a redesign of the B-11 system and a segregation of this type of B-11 within the existing system. Depending on the design of the system, a new category could be established that segregates B-11's of this nature. As an alternative, the Division could also discontinue the current practice of preparing these B-11's entirely and provide consultative support to the State Auditor's Office in its loading and handling of appropriations typically addressed in this manner.

Finally, given the numerous recommendations within this report related to the Division's current database and the need for improvements to the same, the Division believes that the redesign of the system to accommodate this type of B-11 could be easily accomplished.

Additionally, while LSO Program Evaluation notes that this type of B-11 may not require gubernatorial approval, gubernatorial review may still be desirable, especially given the nature of a number of these B-11's or the specific requirement in session law that the Governor make a determination with respect to the appropriation in question.

Recommendation 2.2 – Separate Tracking and Reporting Process – Carry Forward B-11’s

The Division somewhat agrees with the recommendation.

While the Division’s existing database is currently capable of tracking and reporting carry forward B-11’s, there could be improvement in this area.

Once again, given the numerous recommendations with this report related to the Division’s current database and the need for improvements to the same, the Division believes that the redesign of the system to accommodate improved tracking and reporting with respect to carry forward B-11’s can be easily accomplished. The Division will also formalize its guidance to analysts and agencies with respect to the application and processing of carry forward B-11’s and will do so in consultation with the State Auditor’s Office.

Additionally, the Division has noted the reference in the report to Montana’s practice of authorizing major IT project appropriations to function in a manner similar to capital construction appropriations, especially in light of a number of the noted general fund carry forward B-11’s in the report being related to such projects.

Finally, with respect to LSO Program Evaluation’s references to W.S. 9-4-207(a) and (c) as those sections relate to the lapse of other funds appropriations, it should be noted that in many instances (but not all) spending authority for other funds can be increased in a new biennium via the B-11 process. In this regard, the language in W.S. 9-4-205(c) and (e) should be noted.

Recommendation 2.3 – Policies Formalizing Budget/Human Resource Interaction - Position B-11’s

The Division somewhat agrees with the recommendation.

While the Division believes that the process of coordinating position authorizations with the Human Resources Division currently works well, it acknowledges that the effectiveness of this process is, to a large degree, a product of the quality of the current personnel at the center of this coordination effort. While a change in personnel would not necessarily result in a drop in the quality of this interaction, the Division acknowledges that a formalization of the interaction between the two divisions could strengthen an already effective process.

Additionally, improvements to the Division’s current database, most notably the electronic routing of B-11’s and the design of the same, could go a long ways to improving the interaction between the divisions as well as tracking and reporting with respect to position B-11’s.

Recommendation 3.1 – B-11 Database - Data Analysis and Reporting Improvements

The Division somewhat agrees with the recommendation.

The Division’s Access database has, to a large degree, been in its current configuration since 2001. Although periodic adjustments have been made to the system over time (i.e. the addition of carry forward tracking, the addition of ARRA references), it is, by and large, utilizing the same underlying structure and capabilities as when it was initially designed. Additionally, while the database in many respects continues to effectively serve at a functional level, there are a number of areas where improvement could be made. Furthermore, the overall B-11 process itself continues to be dependent upon the transmittal of hard copy documentation and the application of technology could reduce reliance on the same.

In its report, LSO Program Evaluation has identified a number of areas where the database could be improved to more effectively capture agency submittal information, incorporate consistent information into the record associated with each B-11, minimize errors in B-11 processing, streamline the processing of requests and enhance tracking and reporting. The Division believes the areas of concern could be effectively addressed in a redesign of the electronic processing of requests. A redesigned system could address the functional limitations of the current database, provide data validation, automatically track and prompt compliance with important statutory requirements (i.e. flex limits), automatically route specific B-11's as a part of processing and significantly expand reporting capabilities.

As indicated in the report, the Division has already met with the Office of the Chief Information Officer on at least two separate occasions to investigate its options for improving the database.

With respect to any redesign of the database, however, it should be noted that the foundational design will be critical to the nature of the information that could be provided in tracking and reporting efforts. This is important to note in that during the course of LSO Program Evaluation's review, specific requests were made with respect to certain categories within the Type 1 (Non-Flex) B-11's. LSO Program Evaluation specifically requested that B-11's of this type be extracted on the basis of categories not previously anticipated in the construction of the existing database. As a result, this information was not readily produced. The simple conclusion from this discussion is that the redesign of the system should involve system users as well as those that require information from the database. That being said, it is also important to acknowledge that, over time, the needs with respect to information change.

As noted above, in approaching a redesign of the system, all parties to the process should be involved. The Division would anticipate utilizing a committee to provide input into such an effort. Participation on such a committee should involve representatives from the Governor's Office, the Division, the State Auditor's Office, the Legislative Service Office, the OCIO and at least a couple of state agency fiscal staff.

Finally, such an effort is unlikely to be accomplished without the financial resource to design and implement a new system.

Recommendation 3.2 – Creation of NAFR Tracking and Reporting System

The Division agrees with the recommendation.

In the course of LSO Program Evaluation review process, the review and extraction of requested NAFR information was very labor intensive, as there is no electronic database of requests or supporting documentation. A database would be extremely helpful in a number of ways, including data validation, automatic tracking and prompting of compliance with important statutory requirements, automatic routing of NAFR's as a part of processing (including an electronic correlation to related B-11's) and significant expansion of reporting capabilities.

Recommendation 3.3 – Work with CIO to Identify Automated System for B-11's/NAFR's

The Division agrees with the recommendation.

As previously indicated, the Division has initiated efforts with the OCIO to identify its options in this regard.

Recommendation 4.1 – Formalization of Current Practices Into Policies/Procedures

The Division somewhat agrees with the recommendation.

As previously indicated in this response, the Division believes that the formalization of current practices into policies and procedures would be beneficial to the overall process. The Division sees this occurring in a number of ways – development of additional written guidance for both Division staff as well as agency fiscal personnel and periodic training of agency fiscal staff in the areas of statutory compliance and in Divisional guidelines for completion of either a NAFR or B-11 request. The Division will review the State of Alaska’s “Revised Program Manual” (referenced in LSO Program Evaluation’s report) as a starting point for developing this additional guidance. Furthermore, the Division believes that the B-11 and NAFR file checklists developed by LSO Program Evaluation in the course of conducting this review could also serve as a basis of a component of the proposed guidelines.

The Division does not see the need for a promulgation of rules in this area and has previously expressed concern about the same in light of the Governor’s efforts to reduce the number of state rules and regulations and due to challenges associated with the cumbersome nature of the process for revising potential rules.

Recommendation 5.1 – Recording of Withdrawn B-11’s

The Division agrees with the recommendation.

The Division believes that this could be addressed in the redesign of the current B-11 system and in the formalization of B-11 guidance to both agencies and analysts. A redesigned system could include a provision for electronically noting withdrawal.

Recommendation 5.2 – Recording of Denied/Withdrawn NAFR’s

The Division agrees with the recommendation.

The Division believes that this could be addressed in the redesign of the current NAFR system and in the formalization of NAFR guidance to both agencies and analysts. A redesigned system could include a provision for electronically noting withdrawal.

Recommendation 6.1 – Liquidation of Encumbrances and Review of GAE’s

The Division somewhat agrees with the recommendation.

It is unclear to the Division that the issues addressed within Chapter 6 of LSO Program Evaluation’s report fall within the scope of the audit.

Although it appears from figures contained in LSO Program Evaluation’s report that this is a significant issue that requires action, the Division believes that it is important to understand the rationale behind the encumbering of these funds (the specific nature of the encumbrances themselves). Information pertaining to the period of time covered by these amounts and the basis for the ongoing nature of the encumbrances, which could be determined from the encumbering agencies, would be critical in a defining the nature of the problem.

Additionally, as the Division has previously outlined in responses to questions from LSO Program Evaluation, the Division believes that the primary responsibility for encumbrance oversight lies with agency directors and their fiscal staff (who actually encumber the funds), A&I Procurement Office staff (which reviews encumbrances for compliance with statute and rules) and the State Auditor's Office (which is statutorily-charged with oversight of appropriations in W.S. 9-2-1008). This being said, the Division acknowledges that based on language within this referenced statutory provision, the Division has a role to play in supporting the named parties in their efforts in this area.

The Division is supportive of a formalized policy in this area, believing that such a policy would provide needed guidance and consistent direction to agencies beyond their own internal policies governing the same (there are a number of agencies that have such policies).

The Division believes there is little benefit to be gained from including another entity (the Budget Division) in the encumbrance review process/WOLFS workflow. This belief is based on the fact that qualified and capable people are already involved in oversight of these transactions (both Procurement staff and State Auditor's Office staff) and having a third entity involved would seem to be duplicative in nature. Furthermore, the Division has concerns regarding additional workload, especially in light of having lost a position in the 2013 budget reductions.

Finally, the Division was involved earlier this year in discussions with LSO Fiscal Division staff and the State Auditor's Office on a unified approach to agencies designed to resolve as many outstanding appropriations as possible. While the Division is aware of efforts on the part of some agencies in this area, it is also prepared to continue cooperative efforts with LSO Fiscal Division and the State Auditor's Office to address those issues.

Recommendation 6.2 – Definition of “Valid Obligation”

The Division somewhat agrees with the recommendation.

It is unclear to the Division that this issue falls within the scope of the audit.

That being said, it would appear to the Division that such a definition, if it does not presently exist within State Auditor's Office policy manuals, might be helpful in addressing the issues identified within the LSO Program Evaluation report.

Recommendation 7.1 – Review Practices of Other States

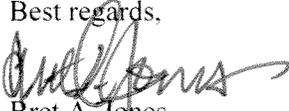
The Division agrees with the recommendation.

While the specifics of the appropriation (and interim appropriation) process vary from state to state, the Division believes that it can learn from how other states approach similar issues. To the extent that circumstances are similar, the Division will consider other states' practices (as indicated previously in this response) in its efforts to improve the NAFR and B-11 processes as recommended in the LSO Program Evaluation report.

In conclusion, while the timing of the LSO Program Evaluation review process has been less than ideal given the current biennial budget process that is underway, the Division has found Program Evaluation staff easy to work with and believes that the resulting findings will likely result in action by the Division and, ultimately, improved NAFR and B-11 processes.

The Honorable David Miller, Chairman
The Honorable John Schiffer, Vice-Chairman
Management Audit Committee
October 30, 2013
Page 6

Best regards,



Bret A. Jones
Budget Administrator
A&I Budget Division

pc: Dean Fausset, Director, Department of Administration & Information
Kari Gray, Chief of Staff, Governor's Office



State of Wyoming

State Auditor's Office

Cynthia I. Cloud, CPA
State Auditor

Vicci M. Colgan
Deputy State Auditor
State Capitol, Suite 114
Cheyenne, WY 82002
Telephone: (307) 777-7831
Fax: (307) 777-6983
E-mail: SAOAdmin@wyo.gov

To: Hon. David Miller, Chairman
Hon. John Schiffer, Vice Chairman
Management Audit Committee

From: State Auditor Cynthia Cloud 

Date: October 30, 2013

RE: Wyoming's Interim Budget Process Audit

Thank you for the opportunity to formally respond to the Legislative Service Office's Audit, "Wyoming's Interim Budget Process." This budget process is key to government efficiency and an important area to concentrate efforts. I commend the Committee for selecting this function of government to review.

The State Auditor's Office (SAO) has been focused on the business processes and functions in the B-11 process and encumbrances. Since 2011, collaborative accomplishments have been made by working with the Budget Division. These functions have been an area that our Office has been working to strengthen the process, the business forms, and the agency responses.

There are two areas within the report that SAO would like to submit for the Committee's further consideration:

1. Budget Division's Access Database

The report says at page 25 that the Budget Division is interested in modifying its current database to provide more online interaction with the Governor's Office, SAO, and other requesting agencies. There are two (2) separate computer systems currently in use: The Budget Division uses the Internet Budgeting Analysis and Reporting System (IBARS). SAO uses the Wyoming Online Financial System (WOLFS). These two systems are not interfaced and do not communicate, leading to inefficiencies and many manual entries in the budgetary process. The question of whether IBARS has the capacity to interface with the WOLFS system to automatically upload appropriations at the fund and program level should be addressed by the Budget Division in concert with SAO and Enterprise Technology Services.

2. Oversight of Encumbrance Accounting (Page 107 – 109)

SAO has been pro-active in this process. For example, for FY 2012, SAO sent a joint memorandum with the Budget Division to agency directors and chief financial officers regarding encumbrances and the fiscal year-end close. At our year-end fiscal close meeting, we

Hon. David Miller, Chairman
Hon. John Schiffer, Vice Chairman
Management Audit Committee
October 30, 2013
Page 2

highlighted this topic, and the Budget Division made a presentation on encumbrances at the meeting. SAO has clearly been addressing this issue for some time. Our office has consistently given the necessary information and direction to agencies to correct their open budgets or revert budgets. Each state agency's management must address these issues with their fiscal staff and take action.

The State Auditor is the State's chief comptroller and fiscal officer. The State Auditor also has the authority to conduct pre-audits, which it has begun doing in a limited manner, given current resources. These pre-audits are conducted using a recognized sampling method, and review actual transactions for accuracy and for sufficiency of internal controls. W. S. 9-4-217(e) provides that the state auditor, with assistance from the department of audit, the budget division of the department of administration and information, and the state treasurer, shall prescribe such internal controls procedures for any state agency as he deems necessary to assure assets are properly safeguarded, accounting entries are accurate and reliable, and being utilized consistent with the requirement of the law and duly established managerial policies in an effective economical and efficient manner.

The sufficiency of internal controls, as implicitly acknowledged in W.S. 9-4-217(e), is as much a management function as an accounting function. Chief fiscal officers within agencies must establish internal controls for year-end close procedures, encumbrances, reversions, and all other agency budget functions. Internal audits of state agencies are imperative. The statutorily required annual financial audit conducted by the Department of Audit is a high level audit which only determines if the financial statements presented by the State of Wyoming through this Office are "free of material misstatement." The State of Wyoming should not rely on this financial audit for confirmation or enforcement of agency internal controls. Neither should it rely on program audits, which also are not designed to accomplish the oversight needed. There should be regular tests of controls within state government agencies on a routine basis by an oversight agency which actually has authority to see that agencies are held accountable for their internal controls.

I appreciate the opportunity to comment on the report and on the areas which might be worthy of consideration and further discussion by this Committee.

cc: Gerald Hoppmann, Legislative Service Office
Bret Jones, State Budget Division, Department of A & I

APPENDICES

Wyoming's Interim Budget Process



APPENDIX A-1

Constitutional and Statutory Criteria

General Processes

Citation	Authorizing Actions	Language
Article 3, Section 34.	General Appropriations	General appropriation bills; other appropriations: <i>“The general appropriation bills shall embrace nothing but appropriations for the ordinary expenses of the legislative, executive and judicial departments of the state, interest on the public debt, and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.”</i>
Article 3, Section 35.	B-11 Processes (Implied)	<p>Money expended only on appropriation: <i>“Except for interest on public debt, money shall be paid out of the treasury only on appropriations made by the legislature, and in no case otherwise than upon warrant drawn by the proper officer in pursuance of law.”</i></p> <p>Note: During the writing of the Constitution, the appropriations process was less complex than it is today. And, one can assume there was no B-11 type process. However, the <i>“pursuance of law”</i> provision provides wide latitude for continuous appropriations to occur; that is, expenditure authority to expend funds for certain purposes.</p>
Article 3, Section 36.	General Appropriations	Prohibited appropriations: No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the state, nor to any denominational or sectarian institution or association.
Article 16, Section 6	Individuals, Associations, or Corporations	<i>“Neither the state nor any county, city, township, town, school district, or any other political subdivision, shall loan or give its credit or make donations to or in aid of any individual, association or corporation, except for necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation, except that funds of public employee retirement systems and the</i>

Citation	Authorizing Actions	Language
		<i>permanent funds of the state of Wyoming may be invested in such stock under conditions the legislature prescribes. The state shall not engage in any work of internal improvement unless authorized by a two-thirds (2/3) vote of the people.</i>
W.S. 9-4-205(a)	Legislative review	<i>“The revenues and other resources of the general fund, the special revenue fund insofar as it contains restricted revenue, federal funds and the permanent land fund as provided by W.S. 9-4-310 are subject to legislative review and appropriation for each fiscal period.”</i>
W.S. 9-4-205(c)	Budget Division review	<i>“The revenues and other resources in any funds created by this act which are not affected by subsection (a) or (b) of this section may be expended pursuant to law or agreement if in conformity with the requirements of the budget division of the department of administration and information, if any.”</i>

Source: Legislative Service Office

Non-Flex B-11 (General Fund)

Citation	Authorizing Actions	Language
W.S. 9-2-1005(b)(i)	Governor's statutory authority to make limited changes to GF budgets	<p><i>Subject to subsection (c) the Governor may: "Authorize revisions, changes or redistributions to approved budgets."</i></p> <p>Subsection (c) discusses limitations on the Governor's authority with respect to General Fund dollars.</p> <p><i>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 allocations from the governor's emergency appropriation, if any."</i></p> <p><i>The Governor shall not: "(ii) Authorize funds appropriated from the general fund for one (1) program as represented by line appropriation within any legislative appropriation act to be used for another program."</i></p>
W.S. 9-2-1005 (b)(iv)	Personnel Classification and Compensation Plan	<i>"Authorize the implementation of the personnel classification and compensation plan consistent with W.S. 9-2-1022(b)."</i>
W.S. 9-2-1005 (e)(ii)	Defines program	<i>"...line appropriation within a general appropriation act of the legislature as so designated."</i>

Source: Legislative Service Office

Non-Flex B-11 (Non-General Fund)

Citation	Authorizing Actions	Language
W.S. 9-2-1005(b)(ii)	Governor's statutory authority to make changes to federal budgets based on a list of individual criteria	<i>Subject to subsection (c) the Governor may: "Authorize revisions, changes, redistributions or increases to amounts authorized for expenditure by legislative appropriation acts from non-general fund sources after notifying the legislature that in his opinion an emergency financial situation exists, general fund appropriations can be conserved, agency program requirements have significantly changed or unanticipated non-general fund revenues become available and qualify pursuant to W.S. 9-2-1006(a)."</i>
W.S. 9-2-1005(b)(iii)	Governor's statutory authority to authorize the receipt and expenditure of federal revenues exceeding appropriations	Subject to subsection (c) the Governor may: <i>"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)."</i>
W.S. 9-2-1005(g)	Approval by Governor to expend excess federal funds	<i>"(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 with a copy to the joint appropriations interim committee. 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."</i>
W.S. 9-2-1005(b)(iv)	Personnel Classification and Compensation Plan	<i>"Authorize the implementation of the personnel classification and compensation plan consistent with W.S. 9-2-1022(b)."</i>
W.S. 9-2-1005(e)(ii)	Defines program	<i>"...line appropriation within a general appropriation act of the legislature as so designated."</i>

Source: Legislative Service Office

Non-Flex B-11 (Non-General Fund Reversion and Carry Overs)

Citation	Authorizing Actions	Language
W.S. 9-2-1008	Provisions for non-GF funds to lapse or carry over at the close of a fiscal period	<i>"In the event that the appropriation made or other revenue authorized by law for use by a state agency has not been expended by the close of the fiscal period, it shall lapse or be carried over as provided by W.S. 9-4-207 after provision is made for payment of outstanding obligations legally incurred during the previous fiscal period. The auditor, after consultation with the department, as of June 30 of each year shall take appropriate action in accordance with this section."</i>
W.S. 9-4-207(b)	Provisions for federal funds to lapse or carry over at the close of a fiscal period	<i>"All unexpended federal funds appropriations and budget authorizations to accept and expend federal funds as provided by W.S. 9-4-206(b) shall be reviewed by the department of administration and information at the end of the fiscal period. The department may authorize amounts to be carried forward into the next fiscal period which are necessary to complete activities or functions in progress or for activities or functions not then started. Federal funds not carried forward shall revert to the general fund unless federal requirements provide otherwise or unless otherwise provided by the legislature. The department of administration and information shall report to the governor the amount and nature of the funds carried forward, reverted to the general fund, or returned to the federal government."</i>
W.S. 9-4-207(c)	Provisions for non-GF funds to lapse or carry over at the close of a fiscal period	<i>"Unexpended appropriations from any funds created by this act not specified in subsection (a) or (b) of this section shall lapse at the end of the fiscal period and be accounted for as unappropriated surplus within the fund or account if applicable except as otherwise provided by the legislature."</i>
W.S. 9-4-206(b)	Provisions for Governor's written acceptance and expenditure of federal funds	<i>"Supplemental additions to approved budgets for acceptance and expenditure of federal funds authorized for acceptance by the governor 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."</i>

Source: Legislative Service Office

Non-Flex B-11 (General Fund Reversion and Carry Overs)

Citation	Authorizing Actions	Language
W.S. 9-2-1008	Provisions for GF funds to lapse or carry over at the close of a fiscal period	<i>"In the event that the appropriation made or other revenue authorized by law for use by a state agency has not been expended by the close of the fiscal period, it shall lapse or be carried over as provided by W.S. 9-4-207 after provision is made for payment of outstanding obligations legally incurred during the previous fiscal period. The auditor, after consultation with the department, as of June 30 of each year shall take appropriate action in accordance with this section."</i>
W.S. 9-4-207(a)	Provisions for GF funds to lapse or carry over at the close of a fiscal period	<p><i>"All unexpended general fund appropriations shall lapse as of the end of the fiscal period excluding appropriations for capital outlays and except as otherwise authorized by law."</i></p> <p>Note: Pursuant to W.S. 9-2-1012(e), reversions are deposited into the Budget Reserve Account for re-appropriation.</p>

Source: Legislative Service Office

Non-appropriated Revenue

Citation	Authorizing Actions	Language
W.S. 9-2-1009	Provisions for non-appropriated revenue to be transferred by State Auditor	<i>"If non-appropriated revenues under the control of agencies lapse, convert or otherwise become the property of the state, the auditor, after consultation with the department, shall transfer the funds to the general or other appropriate fund."</i>

Source: Legislative Service Office

Governor’s Emergency Expenditures

Citation	Authorizing Actions	Language
W.S. 9-4-209	Authority for the Governor to use GF revenues for emergencies	<p><i>a) The legislature shall appropriate money from the general fund to the governor for use as hereafter provided.</i></p> <p><i>(b) The money appropriated pursuant to subsection (a) of this section is subject to allocation and expenditure by the governor to meet emergency and unanticipated requirements:</i></p> <p style="padding-left: 40px;"><i>(i) Necessary to insure the proper functioning of state government and to render essential state services when the legislature is not in session;</i></p> <p style="padding-left: 40px;"><i>(ii) Which were not foreseeable or predictable at the time of the preparation and adoption of the budget and the passage of appropriation measures during the session of the legislature immediately preceding the occurrence of the emergency or requirement; and</i></p> <p style="padding-left: 40px;"><i>(iii) For which other money is unavailable or is insufficient.</i></p> <p><i>(c) 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 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. Written notification of the request and grant of money, if any, shall be distributed as provided in W.S. 9-4-206(b).</i></p> <p>Note: The reporting requirement (W.S. 9-4-206(b)) for these GF monies is the same required for federal funds. This appears to indicate that a B-11 should be done for expending GF money for emergencies. According to the State Auditor’s Office, there is no actual fund or account set up in WOLFS related to this statute. In other words, any appropriation related to this statute, as well as monies pooled from agencies during the interim, is typically expended via the Flex B-11 process.</p>

Source: Legislative Service Office

Flex B-11 (GF and Non-GF)

Citation	Authorizing Actions	Language
<p>Session Laws, 2012, Section 309</p>		<p><i>“(a) Notwithstanding W.S. 9-2-1005(a) and (c), the governor is authorized to transfer:</i></p> <ul style="list-style-type: none"> <i>(i) Between programs within any executive branch agency, excluding the university of Wyoming, ten percent (10%) of the total appropriation for the agency;</i> <i>(ii) Between executive branch agencies, excluding the university of Wyoming, five percent (5%) of the total appropriation for the agency from which the funds are transferred.</i> <p><i>(b) All transfers authorized under this section shall be approved by the governor and reported to the joint appropriations committee through the B-11 process as authorize by W.S. 9-2-1005(b)(ii).</i></p> <p><i>(c) The authority granted under this section is effective for the period beginning July 1, 2012 and ending June 30, 2014.</i></p> <p><i>(d) Any provision of this act or any other legislation enacted which specifies that an appropriation shall not be transferred or expended for any other purpose, or containing language of like effect, shall prevail over this section and no such funds so appropriated shall be subject to subsection (a) of this section.”</i></p>
<p>W.S. 9-2-1005(a)</p>	<p>Prohibited actions unless by Flex authority or exemption by W.S. 9-2-1006(b)</p>	<p><i>“(a) No warrant shall be drawn by the auditor or paid by the treasurer:</i></p> <ul style="list-style-type: none"> <i>(i) Unless funds have been previously appropriated or otherwise authorized by law for that purpose;</i> <i>(ii) When it has been certified by the department that a state agency is in nonconformance with its approved budget;</i> <i>(iii) If the amount sought to be expended would exceed the appropriation or other funds authorized for its use by law;</i>

Citation	Authorizing Actions	Language
		<p><i>(iv) If the expenditure is in nonconformance with the amounts, programs and approved budget authorized by legislative appropriation acts except upon approval of the governor as provided by subsection (b) of this section;</i></p> <p><i>(v) If the agency for which the expenditure was authorized is in noncompliance with a provision of a legislative appropriation act relating to the expenditure;</i></p> <p><i>(vi) If the expenditure relates to a capital improvement project for which total appropriations and authorizations for the project are insufficient except as otherwise authorized by law;</i></p> <p><i>(vii) If the expenditure is for salaries for employees exceeding the maximum number of employees for the agency authorized by a legislative appropriation act except upon approval of the governor as provided by subsection (b) of this section;</i></p> <p><i>(viii) If the expenditure of general fund monies is requested for a program other than the program for which the expenditure was authorized by the legislature;</i></p> <p><i>(ix) If the expenditure of nonfederal monies appropriated for the personal services budget by a legislative appropriation act is requested for any other purpose;</i></p> <p><i>(x) If the expenditure was authorized for capital improvements but sought to be expended for any other purpose;</i></p> <p><i>(xi) If the expenditure is requested from federal revenues exceeding the amount authorized by a legislative appropriation act except upon approval of the governor as provided by subsection (b) of this section;</i></p> <p><i>(xii) If the expenditure is for data processing hardware, software, consultants or training and exceeds the small purchase amount established by the department of enterprise technology services, unless specifically approved by one (1) of the following:</i></p>

Citation	Authorizing Actions	Language
		<p>(A) President of the University of Wyoming for the University of Wyoming;</p> <p>(B) The state chief information officer. A purchase shall not be approved pursuant to this subparagraph if it fails to conform with the criteria developed pursuant to W.S. 9-2-2906(b)(iii);</p> <p>(C) Chief justice of the supreme court for the judicial branch;</p> <p>(D) Director of the legislative service office for the legislative branch; or</p> <p>(E) President of each community college for his respective community college.</p> <p>(xiii) If the expenditure is otherwise in violation of law.”</p>
W.S. 9-2-1005(c)	Prohibited actions unless by Flex authority	<p>“(c) The governor shall not:</p> <p>(i) Authorize an increase in the amount appropriated to any agency from the general fund by any legislative appropriation act excluding allocations from the governor's emergency appropriation, if any;</p> <p>(ii) 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.”</p>
W.S. 9-2-1005(o)	Reporting Requirement	<p>“(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 appropriations and authorized positions transferred during the biennium, including transfers between expenditure series, programs and agencies with a detailed written description of the transfer.”</p>

Source: Legislative Service Office

Prior Notification and Auditing Re: B-11 Processes

Citation	Authorizing Actions	Language
W.S. 9-1-208	Prior approval of Governor for new revenue (NAFR)	<p><i>“(a) No state department, board, commission or agency whose director, board or commission members are appointed by the governor shall, without prior approval of the governor:</i></p> <p style="padding-left: 40px;"><i>(i) Apply for federal funds or private endowment funds;</i></p> <p style="padding-left: 40px;"><i>(ii) Contract with the federal government or any private association;</i></p> <p style="padding-left: 40px;"><i>(iii) Effectuate and put into force any plan. “</i></p>
W.S. 9-2-1005(d)	Auditing provisions for B-11 processes	<p><i>“(d) The state auditor, state treasurer and director of the state department of audit shall assist the governor and the department in carrying out legislative appropriation acts with respect to the audit, record keeping and control of budgets approved thereunder.”</i></p>

Source: Legislative Service Office



APPENDIX A-2

Budget Bill Language (Session Laws)

Flex Authority

Citation	Authorizing Actions	Language
Session Laws, 2012, Chapter 26, Section 309	Transfer of percentage of appropriation	<p><i>“(a) Notwithstanding W.S. 9-2-1005(a) and (c), the governor is authorized to transfer:</i></p> <p><i>(i) Between programs within any executive branch agency, excluding the university of Wyoming, ten percent (10%) of the total appropriation for the agency;</i></p> <p><i>(ii) Between executive branch agencies, excluding the university of Wyoming, five percent (5%) of the total appropriation for the agency from which the funds are transferred.</i></p> <p><i>(b) All transfers authorized under this section shall be approved by the governor and reported to the joint appropriations committee through the B-11 process as authorize by W.S. 9-2-1005(b)(ii).</i></p> <p><i>(c) The authority granted under this section is effective for the period beginning July 1, 2012 and ending June 30, 2014.</i></p> <p><i>(d) Any provision of this act or any other legislation enacted which specifies that an appropriation shall not be transferred or expended for any other purpose, or containing language of like effect, shall prevail over this section and no such funds so appropriated shall be subject to subsection (a) of this section.”</i></p>
Session Laws, 2010, Chapter 39, Section 308	Transfer of percentage of appropriation	Same provisions as 2012 Flex Authority.
Session Laws,	Transfer of percentage of	Same general provisions as 2012 Flex Authority.

Citation	Authorizing Actions	Language
2008, Chapter 48, Section 307	appropriation	However, subsection (d) provides a caveat related to notwithstanding language. It states <i>“Any provision of this act or any other legislation enacted which specifies that an appropriation shall not be transferred or expended for any other purpose, or containing language of like effect, shall prevail over this section and no such funds so appropriated shall be subject to subsection (a) of this section.”</i>
Session Laws, 2006, Chapter 35, Section 309	Transfer of percentage of appropriation	Same provisions as 2012 Flex Authority.
Session Laws, 2004, Chapter 95, Section 319	Transfer of percentage of appropriation	Same provisions as 2012 Flex Authority. In addition, Section 319 (b) provided additional authority as follows: <i>“In utilizing the flex authority authorized in this section, the governor may expend funds appropriated in his budget for the flex equity program.”</i>
Session Laws, 2002, Chapter 83, Section 312	Transfer of percentage of appropriation	Same provisions as 2004 Flex Authority.
Session Laws, 2000, Chapter 76, Section 314	Transfer of percentage of appropriation	Same provisions as 2002 Flex Authority, with the exception of allowing the Governor to move up to 20% of the total appropriation for each agency between programs and 10% of the total appropriation between executive branch agencies.
Session Laws, 1998, Chapter 30, Section 301	Transfer of percentage of appropriation	<p><i>“(a) [There is created within the governor’s budget, the flex equity account program.] Notwithstanding any other provision of law, the governor may transfer funds within [the account to] any executive branch agency or program within any executive branch agency excluding the University of Wyoming. This authority extends from July 1, 1998, through June 30, 2000. Any such transfers approved under this program shall be approved by the Governor and be reported to the joint appropriations committee monthly through the B-11 process. (BRACKETED MATERIAL VETOED BY Governor MARCH 10, 1998.)</i></p> <p><i>“(b) There is appropriated from the general fund to the governor one million five hundred thousand dollars (\$1,500,000.00) for purposes of implementing this section. Any funds remaining in this account at the end of the fiscal period beginning July 1, 1998, and ending June 30, 2000, shall revert to the general</i></p>

Citation	Authorizing Actions	Language
		<i>fund.”</i>
<p>Session Laws, 1996, Chapter 1, Section 318</p>	<p>Transfer of percentage of appropriation</p> <p>Transfer of positions</p>	<p>“9-2-1005. Payment of warrants; budget powers of governor; agency budgets; federal funds; new employees.</p> <p><i>(k) Notwithstanding subsections (a) and (c) of this section, the governor is authorized to transfer between programs within any executive branch agency, excluding the University of Wyoming (Section 067):</i></p> <p style="padding-left: 40px;"><i>(i) Any portion of the total appropriation for the agency. This authority extends from July 1, 1992 through June 20, 1996, and any such transfers approved under this subsection shall be approved by the governor and presented annually to the legislature;</i></p> <p style="padding-left: 40px;"><i>(ii) Fifty percent (50%) of the total appropriation for the agency. This authority extends from July 1, 1996, through June 30, 1998, and any such transfers approved under this subsection shall be approved by the governor and presented monthly to the legislature.</i></p> <p><i>(m) Notwithstanding subsections (a) and (c) of this section, the governor is authorized to transfer between executive branch agencies, excluding the University of Wyoming (Section 067), not to exceed twenty percent (20%) of the total appropriation for each agency. This authority extends from July 1, 1992 through June 30, 1996. From July 1, 1996, through June 30, 1998, this transfer authority shall be limited to not to exceed ten percent (10%) of the total agency budget. Any such transfers approved under this subsection shall be approved by the governor and reported to the joint appropriations interim committee through the B-11 process. This authority is conditioned upon and subject to the governor's authority under this subsection. <u>The governor may authorize transfers under this subsection if he finds:</u></i></p> <p><i>(o) The governor shall report monthly to the legislature on the use of the flex authority authorized under subsections (k) and (m) of this section during each biennium. The report shall specify appropriations and authorized positions transferred during the biennium, including transfers between expenditure series, programs and agencies with a detailed written description of the transfer.”</i></p>

Citation	Authorizing Actions	Language
		<p>Note: It should be noted that prior to the repeal of 9-2-1005 (k-m) in 2003, W.S. 9-2-1005 (m) allowed the Governor to transfer positions under certain circumstances within his Flex authority. More specifically, the Governor was authorized to transfer positions under subsection (m) if:</p> <ul style="list-style-type: none"> (i) For an agency from which funds are to be transferred, that through management practices or other changed circumstances, the agency will be able to perform its statutory programs, duties and responsibilities during the biennium without expending its entire appropriation; and (ii) For an agency to which funds are to be transferred, the expenditure is necessary to satisfy any of the following criteria: <ul style="list-style-type: none"> a. The continuance of the proper functioning of state government when the legislature is not in session; or b. The continuance of essential state services when the legislature is not in session; or c. Contingencies, emergencies or requirements which were not foreseeable or predictable at the time of the preparation and adoption of the budget and the passage of appropriations measures during the session of the legislature immediately preceding the occurrence of the contingency, emergency or requirement; or d. Needs for which other money is unavailable or is insufficient. <p>It should also be noted that W.S. 9-2-1005 (n) was repealed in 2003, which stated the following: <i>“The governor’s exercise of his authority under subsection (k) or (m) of this section is final and not subject to judicial review under W.S. 16-3-114.”</i></p>
<p>Session Laws, 1994, Chapter 15, Section 310</p>	<p>Transfer of percentage of appropriation</p>	<p>“9-2-1005. Payment of warrants; budget powers of governor; agency budgets; federal funds; new employees.</p> <p><i>(k) Notwithstanding subsections (a) and (c) of this section, the governor is authorized to transfer between programs within any executive branch agency, excluding the University of Wyoming (Section 067 and 267) any portion of the total appropriation for the agency. This authority extends from July 1, 1992 through June 20, 1996, and any such transfers approved under this subsection shall be approved by the governor and presented annually to the legislature.</i></p>

Citation	Authorizing Actions	Language
		<p><i>(m) Notwithstanding subsections (a) and (c) of this section, the governor is authorized to transfer between executive branch agencies, excluding the University of Wyoming (Section 067 and 267), not to exceed twenty percent (20%) of the total appropriation for each agency. This authority extends from July 1, 1992 through June 30, 1996, And any such transfers approved under this subsection shall be approved by the governor and reported to the joint appropriations interim committee through the B-11 process. This authority is conditioned upon and subject to the governor's authority under this subsection. <u>The governor may authorize transfers under this subsection if he finds:</u></i></p> <p><i>(o) The governor shall report monthly to the legislature on the use of the flex authority authorized under subsections (k) and (m) of this section during each biennium. The report shall specify appropriations and authorized positions transferred during the biennium, including transfers between expenditure series, programs and agencies. [THE WORDS "EXPENDITURE SERIES," IN LAST SENTENCE VETOED BY GOVERNOR MARCH 15, 1994—HOUSE AND SENATE VETO OVERRIDE MARCH 17, 1994.]</i></p>
<p>Session Laws, 1994, Chapter 15, Section 311</p>		<p><i>"On or before October 31, 1994, the governor shall report to the Joint Appropriations Committee on the use of the flex authority during the 1993-1994 biennium. The report shall specify appropriations and authorized positions transferred during this biennium, including transfers between expenditure series, programs and agencies. [THE WORDS "EXPENDITURE SERIES," IN LAST SENTENCE VETOED BY GOVERNOR MARCH 15, 1994—HOUSE AND SENATE VETO OVERRIDE MARCH 17, 1994.]</i></p> <p>Note: It should be noted that prior to the repeal of 9-2-1005 (k-m) in 2003, W.S. 9-2-1005 (m) allowed the Governor to transfer positions under certain circumstances within his Flex authority. More specifically, the Governor was authorized to transfer positions under subsection (m) if:</p> <p>(i) For an agency from which funds are to be transferred, that through management practices or other changed circumstances, the agency will be able to perform its statutory programs, duties and responsibilities</p>

Citation	Authorizing Actions	Language
		<p>(ii) during the biennium without expending its entire appropriation; and For an agency to which funds are to be transferred, the expenditure is necessary to satisfy any of the following criteria:</p> <ul style="list-style-type: none"> a. The continuance of the proper functioning of state government when the legislature is not in session; or b. The continuance of essential state services when the legislature is not in session; or c. Contingencies, emergencies or requirements which were not foreseeable or predictable at the time of the preparation and adoption of the budget and the passage of appropriations measures during the session of the legislature immediately preceding the occurrence of the contingency, emergency or requirement; or d. Needs for which other money is unavailable or is insufficient.
		<p>It should also be noted that W.S. 9-2-1005 (n) was repealed in 2003, which stated the following: <i>“The governor’s exercise of his authority under subsection (k) or (m) of this section is final and not subject to judicial review under W.S. 16-3-114.”</i></p>

Source: Legislative Service Office.

Other Authority and Restrictions

Citation	Authorizing Actions or Restrictions	Language
Session Laws, 2012, Chapter 26, Section 311	Restricts moving nonfederal fund appropriations for 100 series	<p>(a) Notwithstanding any other provision of this act, nonfederal appropriations for 100 series personal services contained in this act shall not be transferred to any other series or expended for any purpose other than personal services. The department of health is exempted from this section.</p> <p>(b) The department of health shall report quarterly to the joint appropriations committee and the joint labor, health and social services interim committee regarding the department's exercise of authority under subsection (a) of this section and shall include in the report the specific uses and dollar amounts for each exception.</p>
Session Laws, 2012, Chapter 26, Section 312	Position freezes and filling vacant positions	No legislative appropriation of general fund monies shall be used to hire new employees from July 1, 2012 through June 30, 2014, except to fill a vacancy within the authorized number of positions as indicated by the agency's appropriation act or otherwise specified by legislation enacted in the 2012 budget session or the 2013 general session. The governor may authorize additional positions in any agency, even if in excess of the positions authorized by the legislature, provided that at least an identical number of vacant positions existing in other agencies are terminated. The additional positions shall be funded using money authorized for the vacant positions.
Session Laws, 2012, Chapter 26, Section 313	Creation of at-will contract employees	Effective July 1, 2012 through June 30, 2014, no at-will contract employee position shall be renewed or created unless specifically authorized by legislation enacted during or after the 2012 budget session or approved by the governor. Any such position so authorized by the legislature or approved by the governor shall be reported to the joint appropriations committee through the B-11 process as authorized by W.S. 9-2-1005 (b)(ii). As used in this section "at-will contract employee position" means any position existing pursuant to the provision of W.S. 9-2-1022(a)(xi)(F).
Session Laws, 2012, Chapter 26,	Adjustments to agency budgets because of	The governor shall periodically review agency budgets and expenditures. If the governor determines during the review that the probably receipts from taxes or

Citation	Authorizing Actions or Restrictions	Language
Section 314	deficits	<p>other sources of revenue of 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 reviewing the budget, shall give notice to the state agencies concerned and reduce the amount appropriated to prevent a deficit. This section shall apply to all appropriations in this act regardless of whether the appropriation is for a specified project or purpose, including but not limited to capital construction projects. This section shall apply whether the appropriation is to be expended directly by an agency or is made to an agency for distribution to another entity. As used in this section "agency" includes an authority, board, commission, council, department, institution, instrumentality, office and other separate operating agency or unit of the executive and judicial department of state government and includes the University of Wyoming and each community college. Any reductions made pursuant to this section shall be reported through the B-11 process as authorized by W.S. 9-2-1005(b)(ii).</p>

Source: Legislative Service Office.

APPENDIX B-1

B-11 Data (BFY2005 through BFY2013)

Number of B11s by Type and Year - Based on B-11 Number

	2005	% of all B11s for BFY2005	2007	% of all B11s for BFY2007	2009	% of all B11s for BFY2009	2011	% of all B11s for BFY2011	2013	% of all B11s for BFY2013	Total	% of all B11s
Type 1	635	85.35%	697	90.40%	664	80.48%	646	80.05%	264	66.00%	2906	81.93%
Intra	33	4.44%	38	4.93%	50	6.06%	46	5.70%	14	3.50%	181	5.10%
Inter	30	4.03%	17	2.20%	32	3.88%	70	8.67%	31	7.75%	180	5.07%
Type 5	0	0.00%	0	0.00%	79	9.58%	18	2.23%	7	1.75%	104	2.93%
Type 6	0	0.00%	0	0.00%	0	0.00%	13	1.61%	0	0.00%	13	0.37%
Carry-over	46	6.18%	5	0.65%	0	0.00%	14	1.73%	84	21.00%	149	4.20%
Blank	0	0.00%	14	1.82%	0	0.00%	0	0.00%	0	0.00%	14	0.39%
Total	744	100.00%	771	100.00%	825	100.00%	807	100.00%	400	100.00%	3547	100.00%

Dollar amounts by B-11 Number - Based on Database

	5*** B-11s	% of all B11s for BFY 2005	7*** B-11s	% of all B11s for BFY 2007	9*** B-11s	% of all B11s for BFY 2009	11*** B-11s	% of all B11s for BFY 2011	13*** B-11s	% of all B11s for BFY 2013	Total	% of all B11s
Type 1	\$445,513,416.21	51.93%	\$984,225,965.30	46.41%	\$2,243,485,623.30	83.39%	\$2,167,536,146.83	91.61%	\$1,795,406,202.39	72.41%	\$7,636,167,354.03	72.62%
Intra	\$83,746,222.00	9.76%	\$63,714,614.00	3.00%	\$33,070,003.00	1.23%	\$47,473,929.53	2.01%	\$31,108,434.38	1.25%	\$259,113,202.91	2.46%
Inter	\$22,007,563.00	2.57%	\$9,421,935.00	0.44%	\$26,121,858.00	0.97%	\$85,741,882.00	3.62%	\$164,689,136.92	6.64%	\$307,982,374.92	2.93%
Type 5	\$0.00	0.00%	\$0.00	0.00%	\$387,771,873.00	14.41%	\$57,226,855.00	2.42%	\$515,371.61	0.02%	\$445,514,099.61	4.24%
Type 6	\$0.00	0.00%	\$0.00	0.00%	\$0.00	0.00%	\$3,448,870.00	0.15%	\$0.00	0.00%	\$3,448,870.00	0.03%
Carry-over	\$306,702,486.91	35.75%	\$25,501,494.00	1.20%	\$0.00	0.00%	\$4,614,214.94	0.20%	\$487,762,251.30	19.67%	\$824,580,447.15	7.84%
Blank	\$0.00	0.00%	\$1,037,928,641.00	48.94%	\$0.00	0.00%	\$0.00	0.00%	\$0.00	0.00%	\$1,037,928,641.00	9.87%
Total	\$857,969,688.12	100.00%	\$2,120,792,649.30	100.00%	\$2,690,449,357.30	100.00%	\$2,366,041,898.30	100.00%	\$2,479,481,396.60	100.00%	\$10,514,734,989.62	100.00%



APPENDIX C-1

Position Movement (funded positions- all B-11 types)

Type 1

*Total Positions Requesting Funding (by Fund and Position Type)

Non-Flex

Position Type	B-11 Request count	Number of Positions	% of Position Count	Federal Funds	% of total \$ by Type	General Fund	% of total \$ by Type	Other Funds	% of total \$ by Type	Total Dollar	% of Total \$
TFT	20	61	53%	\$1,876,635	37%	0	0	\$3,147,043	63%	\$5,023,678	70%
TPT	3	12	8%	0	0	0	0	\$102,781	100%	\$102,781	1%
AWEC	15	42	39%	\$1,630,436	81%	\$232,578	11%	\$159,775	8%	\$2,022,789	28%
Total	38	115	100%	\$3,507,071	49%	\$232,578	3%	\$3,409,599	48%	\$7,149,248	99%**

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

*Includes creation, transfer, and extension of positions.

**Does not equal 100% due to rounding.

Type 1
***Federally Funded Positions**
Non-Flex

Position Type	Count of B-11 Requests	Number of Positions	Dollar Amount	% of Total Federal Dollar Amount	% of Total Federal Positions	% of Total Funds**
PFT	0	0	0	0	0	
PPT	0	0	0	0	0	
TFT	13	23	\$1,876,635	54%	59%	26%
TPT	0	0	0	0	0	
AWEC	8	16	\$1,630,436	47%	41%	23%
Total	21	39	\$3,507,071	100%	100%	49%

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

*Includes creation, transfer, and extension of positions.

**Total funded positions for \$7,149,248.

Type 1
***General Fund Positions**
Non-Flex

Position Type	Count of B-11 Requests	Number of Positions	Dollar Amount	% of total Dollar Amount Position Type	% of Total GF Positions	% of total Funds**
PFT	0	0	0	0	0	0
PPT	0	0	0	0	0	0
TFT	0	0	0	0	0	0
TPT	0	0	0	0	0	0
AWEC	1	1	\$232,578	100%	100%	3%
Total	1	1	\$232,578	100%	100%	3%

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

*Includes creation, transfer, and extension of positions.

**Total funded positions for \$7,149,248.

Type 1
***Other Fund Positions**
Non-Flex

Position Type	Count of B-11 Requests	Number of Positions	Dollar Amount	% of total Dollar Amount Position Type	% of Total of Positions	% of total Funds**
PFT	0	0	0	0	0	0
PPT	0	0	0	0	0	0
TFT	7	38	\$3,147,043	92%	51%	44%
TPT	3	12	\$102,781	3%	16%	1%
AWEC	6	25	\$159,775	5%	33%	2%
Total	16	75	\$3,409,599	100%	100%	48%

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

*Includes creation, transfer, and extension of positions.

**Total funded positions for \$7,149,248.

Type 3
***Total Positions Requesting Funding (by Fund and Position Type)**
Intra-Flex

Position Type	B-11 Request count	Number of Positions	% of Position Count	Federal Funds	% of total \$ by Type	General Fund	% of total \$ by Type	Other Funds	% of total \$ by Type	Total Dollar	% of Total \$
PFT	3	5	71%	\$0	0%	\$427,064	92%	\$0	0%	\$427,064	92%
Unspecified	1	2	29%	\$0	0%	\$35,930	8%	\$0	0%	\$35,930	8%
Total	4	7	100%	\$0	0%	\$462,994	100%	\$0	0%	\$462,994	100%

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

*Includes creation, transfer, and extension of positions.

Type 3
***General Fund Positions**
Intra-Flex

Position Type	Count of B-11 Requests	Number of Positions	Dollar Amount	% of total Dollar Amount Position Type	% of Total GF Positions	% of total Funds**
PFT	3	5	\$427,064	92%	92%	92%
PPT	0	0	\$0	0%	0%	0%
TFT	0	0	\$0	0%	0%	0%
TPT	0	0	\$0	0%	0%	0%
AWEC	0	0	\$0	0%	0%	0%
Unspecified	1	2	\$35,930	8%	8%	8%
	4 Request	7	\$462,994	100%	100%	100%

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

*Includes creation, transfer, and extension of positions.

**Total funded positions for \$462,994.

Type 4
***Total Positions Requesting Funding (by Fund and Position Type)**
Inter-Flex

Position Type	B-11 Request count	Number of Positions	% of Position Count	Federal Funds	% of total \$ by Type	General Fund	% of total \$ by Type	Other Funds	% of total \$ by Type	Total Dollar	% of Total \$
PFT	14	46	90%	\$0	0%	796,862**	79%	\$3,571,511	99.85%	\$4,368,373	93%
TFT	1	1	2%	\$117,000	100%	0	0%	\$0	0.00%	\$117,000	2%
AWEC	3	4	8%	\$0	0%	206,128***	21%	\$5,340	0.15%	\$211,468	5%
Total	18	51	100%	\$117,000	100%	1,002,990	100%	\$3,576,851	100.00%	\$4,696,841	100%

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

*Includes creation, transfer, and extension of positions.

**All funding for B-11 #11729 included in PFT row

***Only the GF for the position included for B-11 #11404

Type 4
***Federally Funded Positions**
Inter-Flex

Position Type	Count of B-11 Requests	Number of Positions	Dollar Amount	% of Total Federal Dollar Amount	% of Total Federal Positions	% of Total Funds**
PFT	0	0	0	0	0	0
PPT	0	0	0	0	0	0
TFT	1	1	\$117,000	100%	100%	2%
TPT	0	0	0	0	0	0
AWEC	0	0	0	0	0	0%
Total	1	1	\$117,000	100%	100%	2%

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

*Includes creation, transfer, and extension of positions.

**Total funded positions for \$4,696,841.

Type 4
***General Fund Positions**
Inter-Flex

Position Type	Count of B-11 Requests	Number of Positions	Dollar Amount	% of total Dollar Amount Position Type	% of Total GF Positions	% of total Funds**
PFT	14	46	\$796,862	79%	92%	17%
PPT	0	0	\$0	0%	0%	
TFT	0	0	\$0	0%	0%	
TPT	0	0	\$0	0%	0%	
AWEC	3***	4	\$206,128	21%	8%	4%
Total	17	50	\$1,002,990	100%	100%	21%

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

*Includes creation, transfer, and extension of positions.

**Total funded positions for \$4,696,841.

***AWEC funding for #11729 included in PFT row

**** Only the GF for the position included for B-11 #11404

Type 4
***Other Fund Positions**
Inter-Flex

Position Type	Count of B-11 Requests	Number of Positions	Dollar Amount	% of total Dollar Amount Position Type	% of Total of Positions	% of total Funds**
PFT	2	6	\$3,571,511	99.85%	86%	76.04%
PPT	0	0	\$0	0.00%	0%	0.00%
TFT	0	0	\$0	0.00%	0%	0.00%
TPT	0	0	\$0	0.00%	0%	0.00%
AWEC	1	1	\$5,340	0.15%	14%	0.11%
Total	3	7	\$3,576,851	100.00%	100%	76.15%

Source: Legislative Service Office from information provided in the Budget Division's B-11 Access database.

*Includes creation, transfer, and extension of positions.

**Total funded positions for \$4,696,841.

*** Only the GF for the position included for B-11 #11404

APPENDIX D-1

Denied B-11

BFY	B-11 #	B-11 Final Disposition	Type	Agency	Requested Amount	Requested Positions	B-11 Narrative Comments (Includes Budget Division rationale for denial recommendation)	Full File Comments (Includes Governor's reason for denial)
BFY2013	13022	Approved	Non-Flex	Attorney General's Office	\$0.00	1 AWEC	Request to extend their 2013-2014 budget position authority for the AWEC through 6/30/14. The Budget Division recommends denial because the grant funding ends 9/30/12 and recommends the Agency resubmit the request through the grant period date only. The Agency notes that on going funding is reasonably assured but the timing of the federal award varies.	No comments from the Governor's Office
BFY2011	11636	Approved	Non-Flex	Attorney General's Office	\$0.00	1 AWEC	The position was approved through a NAFR for federal grant funding; however, the funds have not yet been received. The Division recommends denial until agency funds are received.	Letter from the Agency submit after the Budget Division's review clarifying that they will not ask to convert the position to GF at any time and any employment offer will states that the funding supporting the position is time limited based in availability of federal funding.
BFY2011	11503	Denied	Non-Flex	Board of Medicine	\$13,305.00	1 TFT	Request to convert the Executive Director position from an AWEC to an at-will executive position. No change in salary; however, additional funds are needed to pay the standard employer contributions to State Retirement and health insurance.	Note on B-11 request from the Governor's office advising a decision to convert from an AWEC to a TFT will be made by the Governor and Legislature through the 2013/2014 budget request.
BFY2011	11609	Denied	Intra-Flex	Community College Commission	\$250,000.00	0	Request to transfer from their State Aid Health Insurance Reimbursement Program Grants object code to their Veteran's Tuition Program Scholarships object code. The Budget Division recommended approval based on B-11 #9606.	Note on the B-11 request from the Governor's office explaining pursuant to 2010 Session Laws, Chapter 39, Section 307(e), health insurance funding cannot be transferred or expended for any other purpose.
BFY2011	11575	Denied	Non-Flex	Department of Education	\$11,019,067.00	0	The Agency requests moving E-rate funds out of the a deferred revenue account into three components. No explanation is provided as to the reason for the Budget Division denial recommendation but it is noted that the funds where previously moved into a deferred account at the recommendation of the Division.	No explanation for denial.
BFY2011	11800	Denied	Inter-Flex	Department of Education	\$446,920.00	0	Agency request to access monies from the Education Testing and Assessment Account for an MOU with UW to develop end-of-course assessments and work with school districts for graduation requirements. The Budget Division recommends denial due to the fact the MOU has not been signed by both parties and the Agency will be unable to encumber the funds.	Letter from the Governor's office advises the request is denied pending submission and revision of MOU. The MOU conflicts with the stated purpose of the request, the amount in the MOU and request differ, and MOU is not consistent with the charge of 2012SEA 65.
BFY2013	13182	Denied	Non-Flex	Department of Education	\$0.00	1 PFT	Request to move one position from Title 1 program to Federal Special Education program. No funding is transferred since the transfer of federal funding is prohibited and the Agency proposes leaving an AWEC position in the Federal Special Education program vacant and utilize the funding from the vacant position to fund the transferred position. The Budget Division recommends denial based insufficient funds from the vacant AWEC position to support the requested transferred position.	No comments from the Governor's Office

BFY	B-11 #	B-11 Final Disposition	Type	Agency	Requested Amount	Requested Positions	B-11 Narrative Comments (Includes Budget Division rationale for denial recommendation)	Full File Comments (Includes Governor's reason for denial)
BFY2013	13224	Denied	Non-Flex	Department of Education	\$796,900.90	0	Request to realign 28 positions within the Department to align with the department payroll of the legislatively appropriated budget. The Budget Division comments that a fiscal review has been completed; however, a programmatic review conducted by and independent 3rd party, is needed to review the duties of the re-aligned positions. The Budget Division further comments that there is an immediate need to address the potential loss of federal funding and WDE is accountable for compliance regarding the use of federal funds; however, the Budget Division recommends denial of the request to transfer 100 series funding to 900 series funding (as recommended by the Agency) pursuant to 2012 Session Law Section 311 which prohibits such action.	Letter from the Governor advising the denial is based on: 1) the requested changes are not fully tracked, 2) the Governor's Office supports the Budget Division's recommendation for an independent program review despite the Agency's reluctance to this request, and 3) supports submitting the Agency's realignment plan to the Legislature in a supplemental budget request for a more permanent solution to the mis-alignment issue. It is acknowledged in the letter that there is potential loss of federal funding resulting from non-compliance and advises the State has an overriding interest in the correct use of federal funds and in compliance with federal requirements.
BFY2013	13252	Denied	Non-Flex	Department of Education	\$295,200.00	0	Request for funds from the Education Testing and Assessment Account to be used for activities of a MOU with UW for Instructional Foundations for Kindergarten. The Budget Division recommends denial because the scope and details have not been finalized.	Letter from the Governor's office explain the request is denied because the MOU with UW is not current and the Dean of the College of Education from UW advises they are not prepared to support the MOU without review. The Dean further advised that there were recent discussions with WDE staff about revising the MOU but nothing has been shared with the University by way of revised MOU.
BFY2013	13300	Denied	Non-Flex	Department of Education	\$295,200.00	0	Request for funds from the Education Testing and Assessment Account to be used for activities of a MOU with UW for Instructional Foundations for Kindergarten. The Budget Division recommends denial based on the programmatic review.	Letter from the Governor's Office explains the request lacks relevant information including: explanation of the funding approach for the ETS contract, evidence of administration of the assessment as noted in the MOU, evidence of assessed students in 2011, updated MOU action plan for available funding, and additional details on the contract to collect data.
BFY2013	13307	Denied	Non-Flex	Department of Education	\$13,800.00	0	Request for funds from the Education Testing and Assessment Account to be used to match their projection of expenditures for Q3 FY2013 for Assessing English Learners. The Budget Division recommends denial based on the programmatic review.	Letter from the Governor's Office advising the request is in direct violation of legislative instructions regarding the 'Teacher to Teacher' program eliminated by the 2012 Legislature.
BFY2011	11444	Denied	Intra-Flex	School Finance	\$250,000.00	0	Request for School Finance to pay the Military Department \$250,000.00 out of its Foundation Basic budget to supplement the WY Youth Challenge Program. The Budget Division recommended denial stating the request is contrary statute which requires legislative appropriation.	No comments from the Governor's office.
BFY2011	11801	Denied	Inter-Flex	School Finance	\$264,350.00	0	Agency request for \$264,350 from the Education Testing and Assessment Account in the SAO to School Finance. The Budget Division amended to \$350.00 because an MOU related to the requested funds had not yet been executed.	Letter from the Governor's office advising the request is denied in full stating the requests seeks to use BFY11 funds to costs for BFY13 and the purpose listed is not allowable by the footnote language.
BFY2011	11563	Denied	Carry Forward	Fire Prevention & Electrical Safety	\$7,167.00	0	Request to move funds from BFY09 to BFY11. The funding source is special revenue and transfer of funds from the 400 and 500 series to object code 230 (supplies) and Carry Forward of funds in object code 103 to help prevent a shortfall.	Sticky note from Governor's Office stating this should be an increase in spending authority and not to transfer BFY2009 funds.
BFY2011	11564	Denied	Non-Flex	Fire Prevention & Electrical Safety	\$90,000.00	0	Request to extract \$90,000 from the cash balance of \$1,094,110.59 in other revenue (electrical contractor licensing revenue) to be used for contractual services to complete the agency's Safety Information System for Fire and Electrical Safety computer system.	No explanation for denial.
BFY2011	11222	Denied	ACA	Health Dept.	\$562,864.00	0	Request for receipt of funding from an ACA grant. Previously approved NAFR.	No explanation for denial.
BFY2011	11366	Denied	Non-Flex	Health Dept.	\$0.00	1 AWEC	Request for an part-time AWEC position to support grant funding. The Agency has 34 authorized AWECs with 28 filled, but would like to keep the remaining 6 position open for 'unforeseen situations, that are not tied to federal programs'.	Letter from the Governor advising other approved vacant AWEC positions are available and should be used.
BFY2011	11701	Denied	Non-Flex	Health Dept.	\$34,498.00	0	Agency requests to purchase lab supplies pursuant to 2010 Chapter 39, Section 48, Footnote 6 generated from testing services fees. Recommendation to deny based on the last sentence of the footnote which states 'No monies deposited into this account shall be expended until appropriated by the legislature'.	E-mail from the Governor's office to the Budget Division that funds in the created holding account would need to be legislatively appropriated and the Agency would need to promulgate rules to include a fee schedule before fees can be changed.

BFY	B-11 #	B-11 Final Disposition	Type	Agency	Requested Amount	Requested Positions	B-11 Narrative Comments (Includes Budget Division rationale for denial recommendation)	Full File Comments (Includes Governor's reason for denial)
BFY2011	11058**	Denied	Non-Flex	Livestock Board	\$0.00	3 AWEC	Denial of 3 AWEC: <ul style="list-style-type: none"> Regarding two of the positions, the Budget Division recommended denial because the agency received appropriated funds for this purpose in the 900 series (professional fees) and the work should be completed using the contract process and not through AWEC positions. Additionally it is noted that the agency was granted additional personnel in the 2009 general session for this purpose. The Budget Division recommends denial of 1 position which is stated to perform routine office duties because the position does not meet the requirement of short term assistance and the Agency has 20 full-time positions accessible to deal with office operations. 	No comments from the Governor's office.
BFY2011	11505	Denied	Inter-Flex	Livestock Board	\$325,000.00	0	Request for receipt of funds held by the SAO to be expended for expenses related to brucellosis. The Budget Division recommended denial stating the Agency has a budget for this purpose and has historically reverted significant amounts within this budget. The Budget Division further recommends that funds available through the SAO should remain available in the event of an outbreak.	Note on the B-11 request from the Governor's Office that the agency should use their existing budget.
BFY2011	11134	Denied	Non-Flex	Professional Teach Standards Board	\$0.00	1 AWEC	Request for one AWEC who will receive reallocated duties of current staff to allow the agency to meet the demands of transferring all current files to the electronic data system.	Note on B-11 request from the Governor's office stating ' <i>please consider resubmitting without AWEC request</i> '
BFY2011	11142	Denied	Non-Flex	State Lands and Investments	\$0.00	2 AWEC	Two AWEC position are requested to complete an internal data conversion project.	No explanation for the denial.
BFY2011	11259	Approved	Non-Flex	State Parks and Cultural Resources	\$0.00	1 AWEC	Agency requests to hire temporary staff to replace a permanent employee who has been on sick leave with an undetermined return to work date. No explanation is included in the narrative regarding the Division's denial recommendation.	Approved by Governor's Office- no notes included in the file.
BFY2011	11583	Denied	Non-Flex	State Parks and Cultural Resources	\$160,000.00	0	Request for an increase in the Agency's Trust based on anticipated revenues and an anticipated donation. A previously approved NAFR is referenced.	Note on B-11 request from the Governor's office explaining the request to increase spending authority will be delayed until funds are actually received.
<i>Total</i>		<i>3 Approved 21 Denied</i>	<i>17 Non-Flex 3 Inter-Flex 2 Intra-Flex 1 Carry-Forward 1 ACA</i>	<i>11 Agencies</i>	<i>\$14,824,271.90</i>	<i>10 AWEC 1 TFT 1 PFT</i>		

Source: Legislative Service Office from information provided by the Budget Division

*BFY13 through 6/11/13 only

**Mismaked in database as approved by the Governor



APPENDIX D-2

NAFRs in violation of W.S. 9-1-208

NAFR #	Agency	Amount	Funding Source	NAFR Submission Date	Grant Application Deadline or Date Applied or Notice Date of Grant Award
2104	Department of Agriculture	\$13,200.00	Federal	7/1/2011	4/1/2011
2187	Department of Agriculture	\$12,680.00	95% Federal; 5% General Funds	12/14/2011	12/9/2011
2341	Department of Agriculture	\$205,501.72	Federal	2/11/2013	7/11/2012
2296	Department of Corrections	\$142,000.00	Federal	9/4/2012	7/6/2012
2199	Department of Education	\$25,000.00	Foundation Grant	2/2/2012	12/16/2011
2144	Department of Environmental Quality	\$10,000.00	Federal	9/23/2011	9/21/2011
2126	Department of Family Services	\$227,520.00	90% Federal; 10% Other Funds	8/12/2011	11-Feb
2087	Fire Prevention & Electrical Safety	\$384,700.00	Federal	5/25/2011	2/3/2011
2082	Livestock Board	\$318,338.00	Federal	5/25/2011	1/30/2011
2083	Livestock Board	\$12,000.00	Federal	5/25/2011	1/30/2011
2084	Livestock Board	\$20,000.00	Federal	5/25/2011	1/30/2011
2085	Livestock Board	\$22,250.00	Federal	5/25/2011	1/30/2011
2120	Military Department	\$25,000.00	Pass through grant	8/8/2011	6/16/2011
2165	Military Department	\$55,767.00*	Pass through grant	10/24/2011	11-Feb
2092	Office of the Attorney General	\$200,000.00	Federal	6/9/2011	5/19/2011
2093	Office of the Attorney General	\$168,000.00	Federal	6/9/2011	5/20/2011
2234	Office of the Attorney General	\$150,778.00	Federal	5/1/2012	3/15/2011
2307	Office of the Attorney General	\$5,000.00	Other Funds	10/8/2012	9/10/2012
2300	State Engineer's Office	\$124,295.00	Federal	9/17/2012	9/12/2012
2119	State Parks and Cultural Resources	\$30,742.06*	Federal	8/8/2011	8/28/2010
2154	State Parks and Cultural Resources	\$146,000.00	30% Federal; 70% Other Funds in-kind	10/3/2011	11-Jul
2155	State Parks and Cultural Resources	\$100,000.00	Federal	10/3/2011	11-Aug

NAFR #	Agency	Amount	Funding Source	NAFR Submission Date	Grant Application Deadline or Date Applied or Notice Date of Grant Award
2288	State Parks and Cultural Resources	\$63,000.00	50% Federal; 50% OF in-kind	8/29/2012	7/16/2012
2290	State Parks and Cultural Resources	\$50,000.00	50% Federal; 50% OF in-kind	8/29/2012	7/2/2012
Total		\$2,425,262.72			

Source: Legislative Service Office from information provided by the Budget Division and Governor's Office

*Funds received prior to NAFR approval (#2119 and #2165)

APPENDIX E-1

B-11 File Reviews

B-11 File Checklist results

Documentation	Yes	% of Yes	No	% of No	NA	% of NA
1. B-11 Request by Agency	6	8.96%	61	91.04%		0.00%
2. B-11 Memo or Other Request	51	76.12%	16	23.88%		0.00%
a. Date stamped	49	73.13%	15	22.39%	3	4.48%
b. Date tracking number assigned	2	2.99%	65	97.01%		0.00%
c. Evidence of agency following Division's requirements per B-11 instructions to include:						
i. Spending authority	43	64.18%	17	25.37%	7	10.45%
ii. Position changes	18	26.87%	12	17.91%	37	55.22%
iii. Grant periods	9	13.43%	8	11.94%	50	74.63%
iv. NAFR control number	10	14.93%	5	7.46%	52	77.61%
v. Impact on appropriated budgets versus modified budgets	19	28.36%	40	59.70%	8	11.94%
vi. Grant award letter	6	8.96%	10	14.93%	51	76.12%
vii. Relevant statutes or legislation	12	17.91%	37	55.22%	18	26.87%
viii. Relevant WOLFS documents include budget authority and current expenditure or revenues	12	17.91%	50	74.63%	5	7.46%
ix. Agency generated documents to include budget authority and current expenditure or revenues	50	74.63%	12	17.91%	5	7.46%
x. Purpose of the funds	48	71.64%	10	14.93%	9	13.43%
xi. How funds will be applied	42	62.69%	16	23.88%	9	13.43%
xii. Personnel impact	22	32.84%	10	14.93%	35	52.24%

Documentation	Yes	% of Yes	No	% of No	NA	% of NA
d. Evidence of Budget Division Review						
i. Compliance with state laws	5	7.46%	62	92.54%		0.00%
ii. Compliance with state regulations	1	1.49%	66	98.51%		0.00%
iii. Compliance with federal laws	1	1.49%	46	68.66%	20	29.85%
iv. Compliance with federal regulations	1	1.49%	46	68.66%	20	29.85%
v. Compliance with budget bill provisions	7	10.45%	60	89.55%		0.00%
vi. Calculation of 5% and 10% appropriation (Flex)	1	1.49%	11	16.42%	55	82.09%
vii. Additional spending authority source	8	11.94%	32	47.76%	27	40.30%
e. Evidence of Governor's Office Review						
i. Compliance with state laws	1	1.49%	66	98.51%		0.00%
ii. Compliance with state regulations		0.00%	67	100.00%		0.00%
iii. Compliance with federal laws		0.00%	47	70.15%	20	29.85%
iv. Compliance with federal regulations		0.00%	47	70.15%	20	29.85%
v. Compliance with budget bill provisions	1	1.49%	66	98.51%		0.00%
vi. Calculation of 5% and 10% appropriation (Flex)	1	1.49%	10	14.93%	56	83.58%
f. Evidence of Other Documentation						
i. Agency memorandum	31	46.27%	35	52.24%	1	1.49%
ii. Other (if checked, note below)	37	56.06%	29	43.94%		0.00%
g. Evidence of SAO involvement						

Documentation	Yes	% of Yes	No	% of No	NA	% of NA
in processing						
i. Correspondence		0.00%	67	100.00%		0.00%
ii. Emails	1	1.49%	66	98.51%		0.00%
iii. Other		0.00%	67	100.00%		0.00%
h. Evidence of interaction between analyst and agency						
i. Correspondence	5	7.46%	62	92.54%		0.00%
ii. Emails	14	20.90%	53	79.10%		0.00%
iii. Other		0.00%	67	100.00%		0.00%
3. Final B-11						
a. Budget analyst signature	64	95.52%	1	1.49%	2	2.99%
b. Budget analyst signature date	64	95.52%	1	1.49%	2	2.99%
c. Budget administrator signature	66	98.51%	1	1.49%		0.00%
d. Budget administrator date	67	100.00%		0.00%		0.00%
e. Date stamp forwarded to the Governor's Office		0.00%	67	100.00%		0.00%
f. Date stamp when received by the Governor's Office	34	50.75%	33	49.25%		0.00%
g. Date stamp when received from the Governor's Office	59	88.06%	8	11.94%		0.00%
h. Signature on behalf of the Governor	66	98.51%	1	1.49%		0.00%

Source: LSO summary of information identified in the Budget Division's B-11 files



APPENDIX E-2

NAFR File Reviews

NAFR File Checklist results

Document	Yes	% of Yes	No	% of No	NA	% of NA
1. NAFR Request Included in File	10	100.00%		0.00%		0.00%
a. NAFR control number	10	100.00%		0.00%		0.00%
b. Division date stamp	10	100.00%		0.00%		0.00%
c. Evidence of review by Division	9	90.00%	1	10.00%		0.00%
d. Evidence of comments by Division	9	90.00%	1	10.00%		0.00%
e. Evidence of recommendations by Division	9	90.00%	1	10.00%		0.00%
2. Evidence of agency following Division's requirements per NAFR instructions to include:						
a. Agency Name	10	100.00%		0.00%		0.00%
b. Agency Number	10	100.00%		0.00%		0.00%
c. Agency Contact	10	100.00%		0.00%		0.00%
d. Grant information and amount	10	100.00%		0.00%		0.00%
e. Personnel impact	10	100.00%		0.00%		0.00%
f. Cash or in-kind match ration and/or maintenance of efforts requirements	7	70.00%	2	20.00%	1	10.00%
g. Federal Form 424 or other applicable forms	3	30.00%	6	60.00%	1	10.00%
h. Copy of grant application	6	60.00%	4	40.00%		0.00%
i. Agency Director signature	8	80.00%	2	20.00%		0.00%
j. Agency Chief Fiscal Officer signature	2	20.00%	8	80.00%		0.00%
3. Formal Recommendation from the Division to the Governor's Office						
a. Date submitted to the Governor's Office for review	9	90.00%	1	10.00%		0.00%
b. Date submitted back to the agency after approval	3	30.00%	7	70.00%		0.00%
4. Approved NAFR Form	10	100.00%		0.00%		0.00%
5. Approved NAFR Form to include						
a. Date stamp by the Governor's Office	4	40.00%	6	60.00%		0.00%

Document	Yes	% of Yes	No	% of No	NA	% of NA
b. Signature on behalf of the Governor's Office	10	100.00%		0.00%		0.00%
c. Date of approved NAFR is not after						
i. B-11 request date	1	10.00%	7	70.00%	2	20.00%
ii. Federal grant application submission date	1	10.00%	7	70.00%	2	20.00%
iii. Federal grant application approval date	4	40.00%	6	60.00%		0.00%

Source: LSO summary of information identified in the Budget Division's B-11 files

APPENDIX F-1

Other States Information

State	Session Frequency	Budget Frequency	Intra-Program Transfers Permitted	Intra-Agency Transfers Permitted	Inter-Agency Transfers Permitted	Authorizing Entity for Excess Funds	Authorizing Entity for New Funds	Committee that authorizes interim budget modifications	Encumbrance Time Limit	Carry Forward Permitted
Alaska	Annual	Annual	Yes	Yes	No	Legislative Committee*	Legislative Committee*	Yes	One Year	No
Montana	Biennial	Biennial	Yes	Yes	No	Agency & Legislative Committee	Agency & Legislative Committee	Yes	30 days for PO, 1 year for contract or grant**	Yes
North Dakota	Biennial	Biennial	Yes	Yes	Yes	Agency & Legislative Committee	Agency & Legislative Committee	Yes	Two Years	Yes
South Dakota	Annual	Annual	Yes	Yes	Yes	Budget Office	Legislative Committee	Yes	Two Years	Yes
Vermont	Annual	Annual	Yes	Yes	No	Governor	Legislative Committee	Yes	None	Yes
Wyoming	Annual	Biennial	Yes	Yes	Yes	Governor	Governor	No	None	Yes

Source: Legislative Service Office Survey of Other States

*Review function only- Governor can override

**Approval beyond one year period is made by the state's accounting office



APPENDIX G-1

Survey Result Summary- State Agency Responses

Question #2: Generally, how do you describe the B-11 process?				
<i>Extremely Informal</i>	<i>Informal</i>	<i>Neutral</i>	<i>Formal</i>	<i>Very Formal</i>
0% (0/32)	0% (0/32)	15.63% (5/32)	65.63% (21/32)	18.75% (6/32)

Source: Legislative Service Office from information provided by the surveys.

Question #3: Overall, how do you rate the written guidance provided by the Budget Division related to the submission of B-11s?				
<i>Very Satisfied</i>	<i>Satisfied</i>	<i>No Guidance Provided</i>	<i>Dissatisfied</i>	<i>Very Dissatisfied</i>
23.33% (7/30)	46.67% (14/30)	20% (6/30)	10% (3/30)	0% (0/30)

Source: Legislative Service Office from information provided by the surveys.

*Two did not provide a response

Question #4: Overall, how do you rate the verbal guidance provided by the Budget Division related to the submission of B-11s?				
<i>Very Satisfied</i>	<i>Satisfied</i>	<i>No Guidance Provided</i>	<i>Dissatisfied</i>	<i>Very Dissatisfied</i>
35.48% (11/31)	38.71% (12/31)	19.35% (6/31)	3.23% (1/31)	3.23% (1/31)

Source: Legislative Service Office from information provided by the surveys.

*One did not provide a response

Question #5: How clear are the statutes and session laws related to the use of a Flex-B-11 versus a non-Flex B-11?				
<i>Very Clear</i>	<i>Clear</i>	<i>Somewhat Clear</i>	<i>Unclear</i>	<i>Very Unclear</i>
10% (3/30)	43.33% (13/30)	20% (6/30)	20% (6/30)	6.67% (2/30)

Source: Legislative Service Office from information provided by the surveys.

*Two did not provide a response

Question #6: For BFY2011, please list the number of B-11 requests that your agency withdrew after submitting them to the Budget Division.				
<i>None</i>	<i>1-5</i>	<i>6-10</i>	<i>11-15</i>	<i>15 or more</i>
90% (27/30)	10% (3/30)	0% (0/30)	0% (0/30)	0% (0/30)

Source: Legislative Service Office from information provided by the surveys.

*Two did not provide a response

Question #7: What type of guidance does the Budget Division provide to your agency for decisions related to the use of B-11s for moving funds and/or appropriation authority into future biennia?			
<i>Written</i>	<i>Verbal</i>	<i>Combination of Written and Verbal</i>	<i>None</i>
0% (0/31)	25.81% (8/31)	48.39% (15/31)	25.81% (8/31)

Source: Legislative Service Office from information provided by the surveys.

*One did not provide a response

Question #8: How do you rate the guidance provided to you as discussed in Question #7?				
<i>Very Satisfied</i>	<i>Satisfied</i>	<i>Neutral</i>	<i>Dissatisfied</i>	<i>Very Dissatisfied</i>
40% (12/30)	20% (6/30)	30% (9/30)	6.67% (2/30)	3.33% (1/30)

Source: Legislative Service Office from information provided by the surveys.

*Two did not provide a response

Question #9: What type of guidance does the Budget Division provide to your agency related to the use of a B-11 for movement of FTEs?			
<i>Written</i>	<i>Verbal</i>	<i>Combination of Written and Verbal</i>	<i>None</i>
0% (0/30)	20% (6/30)	43.33% (13/30)	36.67% (11/30)

Source: Legislative Service Office from information provided by the surveys.

*Two did not provide a response

Question #10: How do you rate the guidance provided to you as discussed in Question #9?				
<i>Very Satisfied</i>	<i>Satisfied</i>	<i>Neutral</i>	<i>Dissatisfied</i>	<i>Very Dissatisfied</i>
25% (7/28)	28.57% (8/28)	42.86% (12/28)	0% (0/0)	3.57% (1/28)

Source: Legislative Service Office from information provided by the surveys.

*Four did not provide a response



Recent Program Evaluations

Wyoming State Archives	May 2000
Turnover and Retention in Four Occupations	May 2000
Placement of Deferred Compensation	October 2000
Employees' Group Health Insurance	December 2000
State Park Fees	May 2001
Childcare Licensing	July 2001
Wyoming Public Television	January 2002
Wyoming Aeronautics Commission	May 2002
Attorney General's Office: Assignment of Attorneys and and Contracting for Legal Representation	November 2002
Game & Fish Department: Private Lands Public Wildlife Access Program	December 2002
Workers' Compensation Claims Processing	June 2003
Developmental Disabilities Division Adult Waiver Program	January 2004
Court-Ordered Placements at Residential Treatment Centers	November 2004
Wyoming Business Council	June 2005
Foster Care	September 2005
State-Level Education Governance	December 2005
HB 59: Substance Abuse Planning and Accountability	January 2006
Market Pay for State Employees	July 2006
Wyoming Drug Courts	July 2006
A&I HRD Role in State Hiring	December 2006
Kid Care CHIP: Wyoming's State Children's Health Insurance Program	June 2007
Wyoming Retirement System: Public Employee Plan	August 2007
WYDOT and General Fund Appropriations for Highways	May 2008
Wyoming Child Protective Services	September 2008
Department of Fire Prevention and Electrical Safety	December 2008

Office of Health Care Licensing and Surveys	July 2009
Victim Services Division: Phase I	August 2009
Victim Services Division: Phase II	February 2010
Reading Assessment and Intervention Program	February 2010
Office of State Lands & Investments: Management of State Trust Lands	June 2010
Proficiency Assessments for Wyoming Students (PAWS)	December 2010
Wyoming Unemployment Insurance Program	December 2010
Department of Administration and Information: Information Technology Division and Office of Chief Information Officer	July 2011
Wyoming Department of Health: Veterans' Home of Wyoming	November 2011
Wyoming Aeronautics Commission	September 2012
Wyoming Boards and Commission	June 2013

Evaluation reports can be obtained from:

Wyoming Legislative Service Office
 213 State Capitol Building Cheyenne, Wyoming 82002
 Telephone: 307-777-7881 Fax: 307-777-5466
 Website: <http://legisweb.state.wy.us>

