

May 20, 2020

The Honorable Edward Buchanan
Secretary of State
Herschler Building
East 122 W. 25th Street, Suite 100
Cheyenne, Wyoming 82002

Re: Line Item Veto HEA0001/HB1004 COVID-19 business relief programs

Dear Secretary Buchanan,

House Enrolled Act 1 / House Bill 1004 "COVID-19 business relief programs" is a much needed piece of legislation. The bill creates three programs to provide relief to Wyoming businesses in connection with losses suffered as a result of the COVID-19 global crisis - the Wyoming business interruption stipend program, the coronavirus business relief stipend program and the coronavirus mitigation stipend program. I appreciate the Legislature's hard work to get CARES Act funds to our businesses to help them recover from the effects of COVID-19 on our economy.

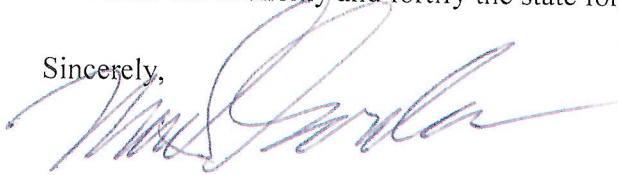
I have exercised my line-item veto authority with regards to two elements of this legislation. My intent is to clarify these programs and better align them with U.S. Treasury guidance. As we deploy CARES Act funds through these programs, we must be mindful to buttress our State's use of these funds from any administrative criticisms in the future.

First, this bill appropriates the entire \$325,000,000 for these programs from the first tranche of CARES Act funds allocated for my use prior to July 15, 2020 in the amount of \$450,000,000 pursuant to Section 2(c) in Senate File 1001. This might constrain the use of the remaining \$125,000,000 when there are other urgent CARES Act programs that were defined by the Legislature during this special session, which might have a greater need prior to July 15. This line-item veto enhances Wyoming's flexibility to distribute these funds in a thoughtful, expeditious, and in the most responsive manner as we begin to better understand where the most urgent needs lie. Accordingly, I have removed the reference to subpart (i) of Section 2(c) of Senate File 1001 in the appropriation for each program under this bill, thus drawing the \$325,000,000 from across all three tranches of funds provided for in Section 2(c). This is flexibility that will be useful as the year proceeds and our responses evolve. Emphatically, these changes are not intended to restrict, reduce, or put out of reach any of our ability to respond quickly to immediate challenges before us today.

Secondarily, there are two competing ideas inherent in Section 2 of the Act wherein "the Wyoming business interruption stipend program" is created. The CARES Act and the accompanying U.S. Treasury guidance are clear that CARES Act funds must be used for COVID related expenses. Section 2(b)(ii) requires an applicant to certify "the eligible business has incurred actual losses as a result of business interruptions due to a required closure". Section 2(b)(iii) sets a minimum award of twenty thousand dollars (\$20,000.00) up to a maximum of fifty thousand dollars (\$50,000.00). The concern involves how a business can account for CARES Act funds received in excess of past losses in the event those losses fall below the \$20,000.00 minimum award; e.g., how a micro business whose losses might be much less than the floor pondered in the Act would account for the surplus reimbursement. While a possible intent of this section of the bill is simply to get money out to businesses post haste with a minimum of complication, it also seems proper that there be some correspondence between the size of the loss and the amount of the reimbursement if not to pass a smell test then to meet the criteria of the CARES Act. I do not believe these concerns are fatal, however. The line-item vetoes I have implemented, fairly preserve the eligibility of any applicant, while making it clear that applicants must be able to point to attested losses consistent with the language of the Act. Applicants can be comforted that their efforts may well be rewarded if audited. I have confidence in the Business Council to develop emergency rules to meet the objectives of this act that will not be overly cumbersome and will respect the intent of this program to get relief to small businesses expeditiously, and effectively. My line-item veto leaves intact the provision that no grant under this program shall exceed \$50,000.

I thank the Legislature again for its efforts, and in particular the Joint Minerals, Business and Economic Development Committee. You wrestled with complicated programs in challenging times under trying circumstances and demonstrated what we in Wyoming do so well -- work together to find solutions. We all agree that the support of Wyoming's small businesses is a priority as we reawaken our economy and fortify the state for the year ahead.

Sincerely,



Mark Gordon
Governor

cc: Drew Perkins, President of the Senate
Steve Harshman, Speaker of the House
Matt Obrecht, Director of LSO

ENROLLED ACT NO. 1, HOUSE OF REPRESENTATIVES

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING
2020 SPECIAL SESSION

being required to repay all funds awarded under this section;

(ii) Be conditioned upon the applicant certifying to the council that the eligible business has incurred actual losses as a result of business interruptions due to a required closure;

Ma
~~(iii) Be twenty thousand dollars (\$20,000.00), plus the greater of an additional two thousand dollars (\$2,000.00) for every one (1) full-time employee and an additional one thousand dollars (\$1,000.00) for every one (1) part-time employee that the eligible business had employed in Wyoming on March 31, 2020 or two thousand dollars (\$2,000.00) for every full-time equivalent employee which for purposes of this paragraph shall be determined by dividing all verifiable Wyoming employee hours worked between April 1, 2019 and March 31, 2020 by two thousand eighty (2080) hours and with the business owner counted as one (1) full-time equivalent employee. In no event shall a stipend issued under this section exceed fifty thousand dollars (\$50,000.00);~~

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

(c) In awarding stipends under this section, the council shall give preference to those eligible businesses that, as of the date of submitting an application for a stipend under subsection (b) of this section, has not received any funding from the paycheck protection program

ORIGINAL HOUSE
BILL NO. HB1004

ENGROSSED

ENROLLED ACT NO. 1, HOUSE OF REPRESENTATIVES
SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING
2020 SPECIAL SESSION

established by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. No. 116-136.

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

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

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

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

(h) There is appropriated to the Wyoming business council fifty million dollars (\$50,000,000.00) from any funds appropriated in 2020 House Bill 1001, Section 2(b) and as authorized and made available for expenditure in Section 2(c) ~~(i)~~, or 2020 Senate File 1001, Section 2(b) and as authorized and made available for expenditure in Section 2(c) ~~(i)~~, if enacted into law. If a COVID-19 relief account or other similarly named account is created for the deposit of COVID-19 related emergency response funds, this appropriation shall be made from that account. This appropriation shall be used only for the establishment and operation of the program authorized by this section. Except as provided by Section 5 of this act, this appropriation shall not be transferred or expended for any other purpose. Any unobligated, unexpended funds remaining from this

ORIGINAL HOUSE
BILL NO. HB1004

ENGROSSED

ENROLLED ACT NO. 1, HOUSE OF REPRESENTATIVES

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING
2020 SPECIAL SESSION

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

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

(h) There is appropriated to the Wyoming business council two hundred twenty-five million dollars (\$225,000,000.00) from any funds appropriated in 2020 House Bill 1001, Section 2(b), and as authorized and made available for expenditure in Section 2(c) ~~(i)~~, or 2020 Senate File 1001, Section 2(b) and as authorized and made available for expenditure in Section 2(c) ~~(i)~~, if enacted into law. If a COVID-19 relief account or other similarly named account is created for the deposit of COVID-19 related emergency response funds, this appropriation shall be made from that account. This appropriation shall be used only for the establishment and operation of the program authorized by this section. Of this federal funds appropriation, fifty million dollars (\$50,000,000.00) shall be expended only on the supplemental closure stipends as provided by subsection (c) of this section. Except as provided in Section 5 of this act, this appropriation shall not be transferred or expended for any other purpose. Any unobligated, unexpended funds remaining from this appropriation on December 30, 2020 shall revert as provided by law.

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

Section 4.

ENROLLED ACT NO. 1, HOUSE OF REPRESENTATIVES
SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING
2020 SPECIAL SESSION

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

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

W
W
(g) There is appropriated to the Wyoming business council fifty million dollars (\$50,000,000.00) from any funds appropriated in 2020 House Bill 1001, Section 2(b) and as authorized and made available for expenditure in Section 2(c) ~~(i)~~, or 2020 Senate File 1001, Section 2(b) and as authorized and made available for expenditure in Section 2(c) ~~(i)~~, if enacted into law. If a COVID-19 relief account or other similarly named account is created for the deposit of COVID-19 related emergency response funds, this appropriation shall be made from that account. This appropriation shall be used only for the establishment and operation of the program authorized by this section. Except as provided in section 5 of this act, this appropriation shall not be transferred or expended for any other purpose. Any unobligated, unexpended funds remaining from this appropriation on December 30, 2020 shall revert as provided by law.

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

Section 5.

(a) Notwithstanding W.S. 9-2-1005(a) and (c), the governor is authorized to transfer for the period beginning