

SENATE FILE NO. SF0070

Government abuse, fraud and waste reporting.

Sponsored by: Senator(s) James, Biteman and Bouchard and
Representative(s) Jennings, Laursen and
Salazar

A BILL

for

1 AN ACT relating to the administration of government;
2 establishing a reporting system for governmental abuse,
3 fraud and waste; authorizing enforcement actions; amending
4 provisions governing employee protections related to
5 reporting of government abuse, fraud and waste; requiring
6 posted notice of employee protections as specified; and
7 providing for an effective date.

8

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

10

11 **Section 1.** W.S. 9-1-514 is created to read:

12

13 **9-1-514. Abuse, waste and fraud reporting system;**
14 **review and referral system.**

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1 (a) In addition to other duties prescribed under this
2 article, the director of the department of audit shall
3 establish and maintain a system through which Wyoming
4 residents can report abuse, fraud and waste in the
5 operation of governmental entities. The director shall make
6 available a toll-free telephone number and an online form
7 for Wyoming residents to make reports of abuse, fraud or
8 waste. The identity of any person making a report on the
9 telephone or online system shall be kept confidential to
10 the extent reasonably possible. The system may allow
11 anonymous reporting. It shall endeavor to encourage and
12 allow fully identified reporting under the employment
13 protections provided by W.S. 9-11-103.

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15 (b) The director shall initially review each report
16 submitted through the system established and maintained
17 pursuant to subsection (a) of this section. Upon completion
18 of an initial review, the director shall:

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20 (i) Analyze and verify the information received;
21 or

22

1 (ii) Refer the information for appropriate
2 action to the governmental entity that is or appears to be
3 the subject of the report or to the attorney general if
4 there is an apparent violation of criminal law.

5
6 (c) A governmental entity that receives information
7 referred to it by the director pursuant to this section
8 shall take adequate and appropriate action to investigate
9 and remedy any abuse, fraud or waste discovered as a result
10 of the referral. The governmental entity shall report in
11 writing to the director concerning the results of its
12 investigation and those measures, if any, taken to correct
13 any abuse, fraud or waste discovered as a result of the
14 referral. If, after a reasonable period, the director
15 determines that the governmental entity to which
16 information was referred has not taken adequate and
17 appropriate action to remedy any abuse, fraud or waste that
18 violates law, the director through the attorney general may
19 seek an injunction in the district court to enjoin any
20 person from further causing the abuse, fraud or waste that
21 violates law. If any person violates such an injunction and
22 continues to cause the abuse, fraud or waste, the person
23 shall be individually liable to the applicable governmental

1 entity for the harm inflicted. In coordination with the
2 director, the attorney general shall prosecute such
3 actions.

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5 (d) The director, not less than quarterly, shall post
6 to the department's website in a conspicuous location the
7 results of reviews, verifications and referrals conducted
8 pursuant to this section and any corrective action taken as
9 a result.

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11 (e) The director shall, on or before September 1 of
12 each even numbered year, report to the governor and the
13 legislature on the use of the system established and
14 maintained pursuant to subsection (a) of this section, the
15 results of reviews, verifications and referrals conducted
16 pursuant to this section and any corrective action taken as
17 a result.

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19 (f) The director may employ investigative,
20 administrative and other specialized personnel to carry out
21 the purposes of this section, subject to legislative
22 appropriation for those purposes.

23

1 (g) All records and information collected and
2 generated pursuant to this section which are not otherwise
3 matters of public record are investigation records and may
4 be withheld from public inspection pursuant to W.S.
5 16-4-203(b)(i).

6

7 (h) As used in this section:

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9 (i) "Abuse" means excessive or improper use of a
10 thing or to use something in a manner contrary to the
11 natural or legal rules for its use. Abuse can occur in
12 financial or non-financial settings;

13

14 (ii) "Fraud" means wrongful or criminal
15 deception intended to result in financial or personal gain.
16 Fraud includes false representation of fact, making false
17 statements or by concealment of information;

18

19 (iii) "Governmental entity" means the state of
20 Wyoming and any authority, board, commission, department,
21 division or separate operating agency of the executive,
22 legislative or judicial branch of the state of Wyoming. The
23 term also means political subdivisions of the state,

1 including any county, municipal or special district
2 governing body or any combination thereof, school district
3 or municipal corporation or a board, department,
4 commission, council, agency or any member thereof;

5

6 (iv) "Waste" means the thoughtless or careless
7 expenditure, mismanagement or abuse of resources to the
8 detriment of the governmental agency or incurring
9 unnecessary costs resulting from inefficient or ineffective
10 practices, systems or controls.

11

12 **Section 2.** W.S. 9-11-101, 9-11-102(a)(i),
13 9-11-103(a)(intro), (i), (iv), (v), by creating a new
14 paragraph (vi) and (b) through (d) are amended to read:

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16 **9-11-101. Short title.**

17 This chapter may be cited as the "~~State~~ Government Fraud
18 Reduction Act."

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20 **9-11-102. Definitions; applicability.**

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22 (a) As used in this chapter:

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1 (i) "Employee" means any person who works an
2 average of twenty (20) hours or more per week during any
3 six (6) month period and who is employed by the state or a
4 political subdivision thereof performing a service for
5 wages or other remuneration, excluding an independent
6 contractor;

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8 **9-11-103. Discrimination against certain employees**
9 **prohibited; civil action against employer.**

10

11 (a) No state or political subdivision employer may
12 discharge, discipline or retaliate against an employee by
13 unreasonably altering the terms, location or conditions of
14 employment because the employee acting in good faith and
15 within the scope of duties of employment:

16

17 (i) Reports in writing to the employer what the
18 employee has reasonable cause to believe is a demonstration
19 of fraud, waste or gross mismanagement in a state
20 government office or political subdivision office;

21

22 (iv) Participates or is requested to participate
23 in any investigation, hearing or inquiry; ~~or~~

1

2 (v) Has refused to carry out a directive which
3 is beyond the scope, terms and conditions of his employment
4 that would expose the employee or any individual to a
5 condition likely to result in serious injury or death,
6 after having sought and been unable to obtain a correction
7 of the dangerous condition from the employer ~~i-~~ or

8

9 (vi) Submits a report to the department of
10 audit's abuse, fraud or waste reporting system, operated
11 pursuant to W.S. 9-1-514. No employee submitting a report
12 to the reporting system shall be required to comply with
13 the provisions of subsection (b) of this section as a
14 condition of receiving the protections provided by this
15 subsection.

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17 (b) Except as provided by paragraph (a)(vi) of this
18 section, subsection (a) of this section does not apply to
19 an employee who has reported or caused to be reported a
20 violation or unsafe condition or practice, unless the
21 employee has first brought the alleged violation, condition
22 or practice to the attention of a person having supervisory
23 authority over the employee and has allowed the state or

1 political subdivision employer a reasonable opportunity to
2 correct that violation, condition or practice. Prior
3 notice to a person having supervisory authority is not
4 required if the employee reasonably believes that the
5 report may not result in prompt correction of the
6 violation, condition or practice. In such cases, the
7 employee shall report the violation, condition or practice
8 to the department or agency director of the state or
9 political subdivision entity with which he is employed or
10 to the office of the governor. In the event the alleged
11 violation, condition or practice occurred within the office
12 of the governor, the employee may report the violation,
13 condition or practice to the office of the secretary of
14 state.

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16 (c) Any employee who is discharged, disciplined or
17 otherwise penalized by a state or political subdivision
18 employer in violation of this section may after exhausting
19 all available administrative remedies, bring a civil action
20 within ninety (90) days after the date of the final
21 administrative determination or within ninety (90) days
22 after the violation, whichever is later, in the district
23 court for the judicial district in which the violation is

1 alleged to have occurred or where the ~~state~~—employer has
2 its principal office. An employee's recovery from any
3 action under this section shall be limited to reinstatement
4 of his previous job, payment of back wages and
5 re-establishment of employee benefits to which he would
6 have otherwise been entitled if the violation had not
7 occurred. In addition, the court may allow the prevailing
8 party his costs together with reasonable attorney's fees to
9 be taxed by the court. Any employee found to have
10 knowingly made a false report shall be subject to
11 disciplinary action by his employer up to and including
12 dismissal.

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14 (d) A state or political subdivision employer shall
15 ensure that its employees are aware of their rights under
16 this chapter. Each employer shall conspicuously post and
17 maintain in each of the employer's establishments a notice
18 explaining its employees' rights under this chapter. If
19 possible, the notice shall be posted in a public location.

20

21 **Section 3.** This act is effective July 1, 2020.

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(END)