

SENATE FILE NO. SF0050

Government waste, fraud, abuse and whistleblower protection.

Sponsored by: Senator(s) James, Biteman, Bouchard, French, McKeown and Salazar and Representative(s) Fortner, Laursen and Rodriguez-Williams

A BILL

for

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

9

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

11

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

13

1 **9-1-514. Waste, fraud and abuse reporting system;**
2 **review and referral system; confidentiality; liability;**
3 **employment consequences; reporting; enforcement;**
4 **definitions.**

5
6 (a) In addition to other duties prescribed under this
7 article, the director of the department of audit or the
8 director's designee shall establish and maintain a system
9 through which persons can report waste, fraud and abuse in
10 the operation of governmental entities. The director shall
11 make available a toll-free telephone number and an online
12 form for persons to report waste, fraud or abuse. The
13 system shall clearly define and provide examples of waste,
14 fraud or abuse in the operation of a governmental entity.
15 The system shall provide resources related to common types
16 of reporting for which the department does not have
17 jurisdiction.

18
19 (b) In all reports of waste, fraud or abuse pursuant
20 to subsection (a) of this section, all reasonable steps
21 shall be taken to protect the identity of the person making
22 the report. In addition, a person making a report may elect
23 to have the person's identity kept confidential and not

1 disclosed to any person not employed by the department of
2 audit. Except when required by law, a department of audit
3 employee who knowingly discloses the identity of a person
4 making a report under this section to a person not employed
5 by the department of audit shall be subject to discipline,
6 including and up to termination in accordance with rules of
7 the department of administration and information, for the
8 unauthorized disclosure.

9

10 (c) The director of the department of audit shall
11 initially review each report submitted through the system
12 established and maintained pursuant to subsection (a) of
13 this section. Upon completion of an initial review, the
14 director shall, as appropriate:

15

16 (i) Classify the report as unfounded if the
17 evidence shows the person or entity reported did not commit
18 the waste, fraud or abuse alleged or that the action
19 reported does not constitute waste, fraud or abuse as
20 defined by law. If a report is classified as unfounded, the
21 director shall take no further action on the report other
22 than to include it in appropriate summary statistics and,
23 if practical, inform the person filing the report of the

1 disposition. If the investigation shows that waste, fraud
2 or abuse was committed by a person or entity other than the
3 person or entity first identified, the investigation of the
4 incident shall continue as provided by this section;

5

6 (ii) Continue to analyze and verify the
7 information received;

8

9 (iii) Refer the information for appropriate
10 action to the governmental entity that is or appears to be
11 the subject of the report; or

12

13 (iv) Refer the information for appropriate
14 action to the prosecuting attorney with proper jurisdiction
15 if there is an apparent violation of criminal law. The
16 information referred from the department of audit pursuant
17 to paragraph (iii) of this subsection or this paragraph
18 shall include a statement of the supporting facts and a
19 statement informing any governmental employee named in the
20 report of the right to a contested case hearing before a
21 hearing officer from the office of administrative hearings
22 in accordance with the Wyoming Administrative Procedure

1 Act. The director may refer a report under both paragraph
2 (iii) of this subsection and this paragraph.

3

4 (d) A governmental entity that receives information
5 referred to it by the director of the department of audit
6 or the director's designee pursuant to this section shall
7 take adequate and appropriate action to investigate and
8 remedy any waste, fraud or abuse discovered as a result of
9 the referral. The governmental entity shall report in
10 writing to the director concerning the results of its
11 investigation and those measures, if any, taken to correct
12 any waste, fraud or abuse discovered as a result of the
13 referral.

14

15 (e) No person convicted of a felony that arises from
16 waste, fraud or abuse as defined in this section shall be
17 employed by a governmental entity.

18

19 (f) Consistent with the limitations on the disclosure
20 of information imposed by this section, the director or the
21 director's designee, not less than quarterly, shall post to
22 the department's website in a conspicuous location the
23 results of finalized reviews, verifications and referrals

1 conducted pursuant to this section. The homepage of the
2 department's website shall contain a link to this
3 information. These posts shall include:

4

5 (i) The name, and if applicable, the position
6 and governmental entity of any person who has been
7 convicted of a crime or has been discharged from
8 governmental employment because of a finding of waste,
9 fraud or abuse pursuant to this section;

10

11 (ii) The type of violation perpetrated,
12 including the direct cost to the taxpayers of the waste,
13 fraud or abuse;

14

15 (iii) Penalties imposed or other corrective
16 action taken; and

17

18 (iv) Governmental resources expended to
19 investigate and remedy the waste, fraud or abuse.

20

21 (g) The director or the director's designee shall, on
22 or before September 1 of each even numbered year, report to
23 the governor and the legislature on the use of the system

1 established and maintained pursuant to subsection (a) of
2 this section, the results of reviews, verifications and
3 referrals conducted pursuant to this section and any
4 corrective action taken as a result.

5

6 (h) The director or the director's designee may
7 employ investigative, administrative and other specialized
8 personnel to carry out the purposes of this section,
9 subject to legislative appropriation.

10

11 (j) All records and information collected and
12 generated pursuant to this section that are not otherwise
13 matters of public record are investigation records and may
14 be withheld from public inspection pursuant to W.S.
15 16-4-203(b)(i). No person accused of or investigated for
16 waste, fraud or abuse under this section shall be publicly
17 identified by a governmental agency or employee thereof
18 unless the person is charged with or convicted of a crime
19 or is discharged from governmental employment because of a
20 finding of waste, fraud or abuse pursuant to this section.

21

22 (k) As used in this section:

23

1 (i) "Abuse" means excessive or improper use of
2 government property in a manner contrary to its lawful use.
3 "Abuse" can occur in financial or nonfinancial settings.
4 "Abuse" includes an individual working for a governmental
5 entity and in a position of authority directing a
6 subordinate to improperly use government property in a
7 manner contrary to its lawful use;

8
9 (ii) "Fraud" means wrongful or criminal
10 deception intended to result in financial or personal gain.
11 "Fraud" includes false representation of fact, making false
12 statements or concealment of information;

13
14 (iii) "Governmental entity" means:

15
16 (A) The state of Wyoming and any authority,
17 board, commission, department, division, institution or
18 separate operating agency of the executive, legislative or
19 judicial branch of the state of Wyoming;

20
21 (B) Political subdivisions of the state,
22 including the governing body of any county, municipality or
23 special district or a combination thereof, any school

1 district, community college district or municipal
2 corporation or any governmental board, department,
3 commission, council, agency or any member thereof; or

4

5 (C) Any person under a contract with an
6 entity included within subparagraph (A) or (B) of this
7 paragraph for purposes of actions taken pursuant to that
8 contract.

9

10 (iv) "Waste" means the thoughtless or careless
11 expenditure, mismanagement or abuse of resources to the
12 detriment of the governmental entity. "Waste" includes
13 incurring unnecessary costs resulting from inefficient or
14 ineffective practices, systems or controls.

15

16 (m) This section is repealed July 1, 2025.

17

18 **Section 2.** W.S. 9-11-101, 9-11-102(a)(i), (iii) and
19 by creating a new paragraph (iv), 9-11-103(a)(intro), (i),
20 (iv), (v), by creating a new paragraph (vi) and (b) through
21 (d) and 42-4-304(e) are amended to read:

22

23 **9-11-101. Short title.**

1

2 This chapter may be cited as the "~~State~~" Government Fraud
3 Reduction Act."

4

5 **9-11-102. Definitions; applicability.**

6

7 (a) As used in this chapter:

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9 (i) "Employee" means any person who works an
10 average of twenty (20) hours or more per week during any
11 six (6) month period and who is employed by ~~the state~~ a
12 governmental entity performing a service for wages or other
13 remuneration, excluding an independent contractor;

14

15 (iii) "State" means the state of Wyoming and any
16 authority, board, commission, department, division or
17 separate operating agency of the executive, legislative or
18 judicial branch of the state of Wyoming~~i, excluding its~~
19 political subdivisions.

20

21 (iv) "Governmental entity" means as defined in
22 W.S. 9-1-514(k)(iii).

23

1 **9-11-103. Discrimination against certain employees**
2 **prohibited; civil action against employer.**

3

4 (a) No ~~state~~governmental entity employer may
5 discharge, discipline, intimidate, harass or retaliate
6 against an employee by unreasonably altering the terms,
7 location or conditions of employment because the employee
8 acting in good faith and within the scope of duties of
9 employment:

10

11 (i) Reports in writing to the employer what the
12 employee has reasonable cause to believe is a demonstration
13 of fraud, waste or gross mismanagement in ~~state government~~
14 ~~office~~a governmental entity;

15

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

18

19 (v) Has refused to carry out a directive which
20 is beyond the scope, terms and conditions of his employment
21 that would expose the employee or any individual to a
22 condition likely to result in serious injury or death,

1 after having sought and been unable to obtain a correction
2 of the dangerous condition from the employer; ~~or~~ or

3
4 (vi) Submits a report to the department of
5 audit's reporting system, operated pursuant to W.S.
6 9-1-514. No employee submitting a report to the reporting
7 system shall be required to comply with the provisions of
8 subsection (b) of this section as a condition of receiving
9 the protections provided by this subsection. This paragraph
10 is repealed July 1, 2025.

11
12 (b) Except as provided by paragraph (a)(vi) of this
13 section, subsection (a) of this section does not apply to
14 an employee who has reported or caused to be reported a
15 violation or unsafe condition or practice, unless the
16 employee has first brought the alleged violation, condition
17 or practice to the attention of a person having supervisory
18 authority over the employee and has allowed the ~~state~~
19 governmental entity employer a reasonable opportunity to
20 correct that violation, condition or practice. Prior notice
21 to a person having supervisory authority is not required if
22 the employee reasonably believes that the report may not
23 result in prompt correction of the violation, condition or

1 practice. In such cases, the employee shall report the
2 violation, condition or practice to the ~~department or~~
3 ~~agency director~~ administrative head of the ~~state~~
4 governmental entity with which ~~he~~ the employee is employed
5 or, if a state employee, to the office of the governor. In
6 the event the alleged violation, condition or practice
7 occurred within the office of the governor, the employee
8 may report the violation, condition or practice to the
9 office of the secretary of state.

10

11 (c) Any employee who is discharged, disciplined or
12 otherwise penalized by a ~~state~~ governmental entity employer
13 in violation of this section may after exhausting all
14 available administrative remedies, bring a civil action
15 within ninety (90) days after the date of the final
16 administrative determination or within ninety (90) days
17 after the violation, whichever is later, in the district
18 court for the judicial district in which the violation is
19 alleged to have occurred or where the ~~state~~ employer has
20 its principal office. An employee's recovery from any
21 action under this section shall be limited to reinstatement
22 of ~~his~~ the employee's previous job, payment of back wages
23 and re-establishment of employee benefits to which ~~he~~ the

1 employee would have otherwise been entitled if the
2 violation had not occurred. In addition, the court may
3 allow the prevailing party his costs together with
4 reasonable attorney's fees to be taxed by the court. Any
5 employee found to have knowingly made a false report shall
6 be subject to disciplinary action by ~~his~~the employer up to
7 and including dismissal.

8
9 (d) A ~~state~~governmental entity employer shall ensure
10 that its employees are aware of their rights under this
11 chapter. Each employer shall post and maintain in each of
12 the employer's establishments in a conspicuous location a
13 notice explaining its employees' rights under this chapter.
14 If possible, the notice shall be posted in a public
15 location.

16
17 **42-4-304. Investigations and prosecutions; powers of**
18 **prosecuting authority; remedies for retaliation; venue; no**
19 **private right of action.**

20
21 (e) The remedies provided in this act are separate
22 from and additional to any remedies available under the
23 ~~State~~ Government Fraud Reduction Act.

1

2 **Section 3.** This act shall not apply to any actions
3 taken pursuant to any contract entered into before the
4 effective date of this act.

5

6 **Section 4.** This act is effective July 1, 2022.

7

8

(END)