



March 10, 2022

The Honorable Dan Dockstader
President of the Wyoming Senate
Wyoming Senate
200 W. 24th St. Capitol Building, E201
Cheyenne, Wyoming 82002

Re: Line-item vetoes of SF0066/SEA No. 20 American Rescue Plan Act
Recovery Funds Appropriations

Dear President Dockstader:

This act is the culmination of months and months of work by many Wyoming people to develop ideas for how to maximize the long-term benefits of some fleeting federal funds. The American Rescue Plan's State and Local Fiscal Recovery Funds were meant to help states and localities mitigate and offset the impacts of the COVID-19 pandemic. Fortunately, provisions of the federal act allow us to create benefits for future generations as we recover from this crisis. Thus, I believe we should be very strategic in our spending of these funds.

This Act, as it was enrolled, would obligate nearly all of the funds available to the State of Wyoming. This is after I proposed obligating about half of the funds. My approach was for the Legislature to add ideas but aimed to also hold some funds back for next year, when together the people of Wyoming could develop and hone some proposals that will have added impacts, but require more detail. An example of this is expenditures for affordable and workforce housing, which is a pressing concern. I agree with lawmakers that more specifics are necessary before lawmakers agree to this spending proposal. Accordingly, I am line-item vetoing some sections of this act so we can have some dollars left next year to make additional investments for our future.

I thank you, Speaker Barlow, the Joint Appropriations Committee, and other members of the 66th Legislature for all the cooperation on this effort and look forward to that continuing in the months to come. I have signed Senate File 0066/Senate Enrolled Act No. 20 with the following line-item vetoes:

Section 2 - Section 400. American Rescue Plan Direct (ARPD) Appropriations Agency 29

Funding for water and sewer projects are important to me, but I have stricken this funding at this time, knowing that these funds will be available for reconsideration next year when the

Legislature returns. At that time, we will have a better idea of the actual utilization of these funds under the eligible State Revolving Fund programs, and lawmakers can then evaluate other competing priorities. For the upcoming year, this leaves \$50 million available through the State Loan and Investment Board for eligible water and sewer projects as well as \$50 million for local government support, which can also be used for water and sewer projects. ARPA Direct funds of \$100 million should be ample for the next 12 months while providing us time to better understand other water and sewer funding opportunities that are part of the Infrastructure Investment and Jobs Act.

Section 2 - Section 400. American Rescue Plan Direct (ARPD) Appropriations Agency Agency 49

The funding for crisis beds and stabilization services is not eligible for ARPA Direct funds. In conjunction with the Legislature, I will replace the spending in this footnote. I believe this reflects the intent and desire of the Legislature but ensures we are in compliance with federal law and guidance.

Section 2 - Section 400. Footnote 1

There are hundreds of pages of guidance from the federal government constraining the uses of these funds. This language is unnecessary because the Governor's Office will still be held to all of those federal requirements. Removing this language means that it will be easier for Wyoming to respond to any emerging issues more adeptly in the coming months with this appropriation to the Governor's Office.

Section 2 - Section 400. Footnote 10

Many of Wyoming's emergency medical systems are struggling financially and operationally at this time. My Health Task Force has put a high priority on examining options to better stabilize this system and developing recommendations on efficiency and financial sustainability. Even so, I am worried that in the coming months we could have some parts of the state lose their EMS service if we are unable to use this stabilization funding to prolong those services. The language I have stricken will help them maintain services until long-term solutions are in place.

Section 2 - Section 400. Footnote 11

The funding in this footnote is to develop examples of the long-term solutions referenced above. I agree a matching requirement would be beneficial, but in some rural areas, it may not be possible. With this line-item, I am committed to ensuring the Department of Health considers

matches and prioritizes those projects, but I do not want to preclude other options that may emerge in the coming months.

Section 2 - Section 400. Footnote 14

The funding for crisis beds and stabilization services is not eligible for ARPA Direct funds. In coordination with the Legislature, I will replace the spending in this footnote.

Section 2 - Section 400. Footnote 16 paragraph c (i)

The State Loan and Investment Board will develop rules for this program. Discretion is important when the Board considers its rules so that it may consider factors like the needs of the entity applying. I believe the rules, which will be aided by the notice and comment procedures of the rulemaking process, should establish the maximum award so that the board has the authority to set a higher amount if necessary. However, I do not believe any single project should receive more than \$10,000,000, and that is why I am leaving the language in paragraph (a)(i).

Section 2 - Section 400. Footnote 22 paragraph a (ii)

Through this act, Wyoming now has access to several hundreds of millions of dollars for improving broadband access across the state. This investment of government money should be done prudently and in a manner which does not pick winners and losers. Our first priority as a state should be to get service to those who do not have it or do not have access that allows them to work remotely, receive education, or get health care.

Section 2 - Section 400. Footnote 22 paragraph a (iii)

As stated, through this act Wyoming now has access to several hundreds of millions of dollars for broadband. Given that the government is paying for most or large portions of the broadband infrastructure, I do not want Wyoming to create monopolies by paying one company to provide access and then limiting other competitors from serving those customers. With time, we can better understand the needs in this area and can thoughtfully consider language and bills in future legislative sessions.

Section 2 - Section 400. Footnote 27

As I have stated, additional water and sewer projects are important to me, but I have stricken one pot of funding for these projects at this time, knowing that there will be more than \$100 million available this year for this purpose. I appreciate the work of the Legislature's Select Water

Committee. I too know that the Water Development Commission and Department of Environmental Quality are essential for administering grants and prioritizing them. However, I want elected officials to make the final decision about who receives a grant and who does not.

Section 4. Paragraph (b)

I support the concept of having some grants available to children's museums across the state, however, I do not believe that they qualify for Section 604 of the American Rescue Plan Act capital funds. Local communities could apply for these funds through the allocation to SLIB.

Section 5.

The restrictions in this section run contrary to our ongoing partnership to responsibly spend federal COVID-19 relief funding. These dates restrict my authority to expend funds on emergency programs, and take away flexibility and adaptability, which is especially important given the ongoing economic hardships caused by the pandemic. Now is not the time for the Legislature to tie the hands of the Executive to respond to the needs of our citizens.

Please do not confuse my use of my line-item authority for a plan to spend recklessly. In the almost nine months when I had the flexibility and authority to spend American Rescue Plan Act dollars, I did that judiciously and in line with my commitment to and partnership with the Legislature. Thus, the limitations of this section are unnecessary.

We should continue to partner in crafting responsible spending plans for the federal funds directed to our state.

Sincerely,



Mark Gordon
Governor

MG:rm:kh

cc: The Honorable Edward Buchanan, Secretary of State
The Honorable Eric Barlow, Speaker of the House
Chief Clerk, Wyoming Senate
Chief Clerk, Wyoming House of Representatives

ORIGINAL SENATE
FILE NO. SF0066

ENGROSSED

ENROLLED ACT NO. 20, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
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APPROPRIATION FOR	OTHER FUNDS \$
Section 400. AMERICAN RESCUE PLAN DIRECT (ARPD) APPROPRIATIONS	
AGENCY & PROGRAM	
001 - Discr. Health Response ^{1.}	50,000,000 ARPD
001 - Workforce Prgms ^{2.}	10,000,000 ARPD
024 - Outdoor Rec. Grant Prgm ^{3.}	10,000,000 ARPD
024 - Outdoor Rec. & Tourism ^{4.}	2,000,000 ARPD
029 - Eligible Water Projects ^{27.}	45,000,000 ARPD
045 - Tech. Needs for WyoLink ^{5.}	35,000,000 ARPD
045 - Air Service Financial Assistance ^{25.}	8,832,058 ARPD
048 - HHS Staffing Stabilization ^{6.}	13,000,000 ARPD
048 - HHS Innovation Fund ^{7.}	5,000,000 ARPD
048 - EMS Dispatch Cert. ^{8.}	84,000 ARPD
048 - 2-1-1 Capacity Building ^{9.}	1,750,000 ARPD
048 - EMS Stabilization Fund ^{10.}	5,000,000 ARPD
048 - EMS Regionalization Pilot ^{11.}	10,000,000 ARPD
048 - WYHS (FY2023) ^{12.}	2,749,894 ARPD
048 - HHS Cap. Imprv. & Provider Relief ^{13.}	5,000,000 ARPD
048 - 24-7 Suicide Prevention ^{26.}	2,100,000 ARPD
048 - Mental Health Provider Training Phase II ^{28.}	200,000 ARPD
048 - First Responder & Law Enforcement Mental Health Support ^{29.}	1,000,000 ARPD
049 - Crisis Beds/ Stabilization Svcs	750,000 ARPD
049 - Food Insecurity - Network Evaluation ^{30.}	250,000 ARPD
057 - WYIN Loan & Grant Prgm ^{15.}	6,427,477 ARPD
060 - HHS Capital Construction ^{16.}	85,000,000 ARPD
060 - Local Gov. Support Projects ^{17.}	50,000,000 ARPD
060 - Eligible Water & Sewer Projects ^{18.}	50,000,000 ARPD
067 - Family Medicine	


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Residency Program ¹⁹ .	708,407 ARPD
067 - WWAMI T&F Inflation ²⁰ .	1,579,948 ARPD
067 - College of Health Sciences ³¹ .	500,000 ARPD
080 - SUD Treatment Backlog ²¹ .	1,200,000 ARPD
085 - Connect Wyoming 2 ²² .	25,000,000 ARPD
101 - Circuit Court eFiling ²³ .	2,140,000 ARPD
101 - PPE & Tests ²⁴ .	150,000 ARPD
101 - Equal Justice Wyoming ³² .	817,900 ARPD
TOTAL	<u>431,239,684</u>

1. This appropriation to the governor's office ~~is for purposes of responding to the COVID-19 public health emergency.~~ 

2. (a) This appropriation to the governor's office is for distribution to or through the Wyoming business council, department of workforce services, University of Wyoming or Wyoming community college commission and community colleges for:

- (i) Pre-apprenticeships and apprenticeships;
- (ii) Targeted healthcare workforce programs;
- (iii) Targeted early childhood workforce programs;
- (iv) Dislocated and underemployed talent transition programs;
- (v) Workforce development for targeted populations who do not qualify for other assistance, including prisoners released on parole;
- (vi) Assistance to former Wyoming residents who have intent to return to Wyoming for careers;
- (vii) Economic development training for state, local and private economic development professions.

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9. This appropriation to the department of health is for purposes of enhancing the capacity of the Wyoming 2-1-1 directory of resources to provide comprehensive information and referrals to improve the emergency response to the COVID-19 public health emergency.

10. This appropriation to the department of health is for purposes of providing grants to stabilize emergency medical services. ~~The department shall not provide any grant under this footnote if the grant will prolong a business entity that otherwise does not have the resources needed to continue to operate during the period of the grant.~~ *Me*

11. This appropriation to the department of health is for purposes of establishing an emergency medical services regionalization pilot opportunity for the five (5) trauma regions across Wyoming and investigating alternative options for emergency medical services that improve access and reduce costs. Expenditure of this appropriation is conditioned upon a match of funds ~~in the ratio of one dollar (\$1.00) of appropriated funds to not less than one dollar (\$1.00) from any other source.~~ *Me*

12. This appropriation to the department of health, aging division, is for the Wyoming home services program. This appropriation shall be used in lieu of expenditure of state general funds for any qualifying ARPD expenditures for the Wyoming home services program.

13. This appropriation to the department of health is for purposes of providing grants to health and human services providers to improve existing infrastructure and to provide financial relief to providers who are at imminent risk of closure. Grants shall be distributed to providers as determined by the department.

~~14. This appropriation to the department of family services is for crisis beds and stabilization services, provided that the department shall not expend funds from this total appropriation to support the overall capacity of residential and group home beds in excess of the number of certified beds on January 1, 2020.~~ *Me*

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(c) Of this appropriation to the office of state lands and investments, fifteen million dollars (\$15,000,000.00) ARPD shall be for the purpose of providing grants to rural health clinics. Grants from this appropriation shall be determined by the state loan and investment board. The following conditions shall apply to this appropriation:

(i) Up to thirteen million dollars (\$13,000,000.00) ARPD may be expended to provide grants related to costs incurred by rural health clinics for qualifying infrastructure and capital construction investments. ~~The maximum grant for any single project shall be one million five hundred thousand dollars (\$1,500,000.00);~~ 

(ii) Up to two million dollars (\$2,000,000.00) ARPD may be expended to provide grants for rural telehealth pilot projects.

17. This appropriation to the office of state lands and investments is for administrative costs and merit based allocations of competitive grant funding to cities, counties and tribal governments to address the COVID-19 public health emergency or its negative economic impacts. Applications for eligible water and wastewater projects shall receive a lower priority from this appropriation than other eligible applications. Subject to the limitations provided in this footnote, the allocations of the competitive grant funding shall be determined by the state loan and investment board.

18. (a) This appropriation to the office of state lands and investments is for the allocation of competitive grant funding to cities, counties, special districts and tribal governments for eligible water and wastewater projects. The allocation of the competitive grant funding shall be determined by the state loan and investment board. The following conditions shall apply to all grants provided under this footnote:

(i) The maximum grant for any single project shall be seven million five hundred thousand dollars (\$7,500,000.00);

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(ii) Expenditure of the grant by the recipient is conditioned upon a match of funds in the ratio of eighty-five cents (\$0.85) of grant funds to not less than fifteen cents (\$0.15) from matching funds provided by the project sponsor.

19. This appropriation to the University of Wyoming is for the family medical residency program.

20. This appropriation to the University of Wyoming WWAMI medical education program is to be expended solely for student tuition and fees if determined in writing by the Wyoming attorney general to be permissible under state and federal law. The Wyoming attorney general's written determination shall be provided to the state auditor's office before funds are released for the university from this appropriation.

21. This appropriation to the department of corrections is for purposes of resolving the substance use disorder treatment backlog created by the COVID-19 public health emergency.

22. (a) This appropriation to the Wyoming business council is for purposes of increasing broadband connectivity to improve access to and meet the increased need for reliable high-speed internet service. In administering funds distributed and expended under this footnote, the Wyoming business council shall:

(i) Include performance requirements in its contracts with grant recipients, which performance requirements shall, at a minimum, require the grant recipient and any successor in interest to offer and provide continuous service to broadband customers during at least the first seven (7) years after substantial completion of the relevant project for which grant funds were expended;

(ii) Strive to increase the availability of broadband services available in Wyoming rural, unserved and underserved areas ~~and in Wyoming cities, towns and counties that lack competition in broadband services;~~ *Ma*

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(iii) For middle-mile broadband projects as defined by W.S. 9-12-1501(h)(ii) that receive or expend funds from this appropriation, require project recipients to allow last-mile broadband providers access to those middle-mile conduits at a reasonable rate as determined by the council. ~~Equitable rates shall be determined by the council by comparing the maintenance costs, investment and any subsidy involved in the particular middle-mile conduit at issue;~~ *Ms*

(iv) For any projects that receive or expend funds from this appropriation, implement buildout requirements that include milestones and network performance testing requirements, as determined by the council.

(b) Of the appropriation in subsection (a) of this footnote, expenditure of fifteen million dollars (\$15,000,000.00) ARPD is conditioned upon a match of funds in the ratio of one dollar (\$1.00) of appropriated funds to not less than fifty cents (\$0.50) of private sector matching funds from project participants. Private sector matching funds provided under this subsection shall be accounted for in the aggregate of appropriated funds expended and not on a per project basis. Private sector matching funds provided under this subsection shall include future maintenance commitments that will be expended within the first three (3) years of the life of the project and any other allowable expense authorized by the Infrastructure Investment and Jobs Act, P.L. 117-58.

(c) It is the intent of the legislature that the appropriation in subsection (a) of this footnote leverage additional federal funds for broadband connectivity under the Infrastructure Investment and Jobs Act, P.L. 117-58 to the maximum extent possible and not less than one dollar (\$1.00) of appropriated funds to four dollars (\$4.00) of federal matching funds.

23. This appropriation to the supreme court is for the implementation of electronic filing of court documents in the Wyoming circuit courts and for associated maintenance and support as a mechanism to employ technology to limit the number of members of the public who are present in courthouses as a mitigation strategy to slow the spread of COVID-19.

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24. This appropriation to the supreme court is for purposes of implementing COVID-19 mitigation measures including, but not limited to acquisition of personal protective equipment to slow the spread of COVID-19.

25. This appropriation to the department of transportation is to provide aid to commercial air providers to mitigate financial hardship, including supporting payroll costs, lost pay and benefits for returning employees, support of operations and maintenance of existing equipment and facilities.

26. This appropriation to the department of health is to procure twenty-four (24) hours per day suicide prevention services.

~~27. (a) This appropriation to the Wyoming water development office is for the allocation of competitive grant funding to cities, counties, special districts and tribal governments for eligible water projects. The final allocation of the competitive grant funding shall be determined by the Wyoming water development commission. The office of state lands and investments and department of environmental quality shall consult with and provide technical assistance to the Wyoming water development office in the application process and administration of grants pursuant to this footnote. The Wyoming water development commission and the directors of the Wyoming water development office, the office of state lands and investments and the department of environmental quality may establish an informal working group to facilitate any consultation and technical assistance among the agencies. The Wyoming water development office, or the working group if created, shall forward the determination of eligibility and potential prioritization, including funding recommendation, to the Wyoming water development commission. The following conditions shall apply to all grants provided under this footnote:~~

~~(i) The maximum grant awarded for any single eligible project shall not exceed eighty-five percent (85%) of the estimated project costs or seven million five hundred thousand dollars (\$7,500,000.00), whichever is less;~~

~~(ii) Subject to federal law, a grant awarded under this footnote shall be conditioned upon the recipient agreeing to be responsible for:~~

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(A) Compliance with all applicable requirements of the American Rescue Plan Act of 2021, P.L. No. 117-2; <i>Mr</i>	
(B) The operation and maintenance of the project; <i>Mr</i>	
(C) All project expenditures in excess of the total project grant award amount; <i>Mr</i>	
(D) Repaying the entirety, or a portion, of the grant award if the recipient abandons completion of the project, or if a portion of the project is ultimately determined to be ineligible for American Rescue Plan Act funds; <i>Mr</i>	
(E) Any additional consideration deemed necessary by the Wyoming water development office to protect the use of public funds; <i>Mr</i>	
(F) Expending grant funds before December 1, 2026. <i>Mr</i>	
(iii) Decisions of the Wyoming water development commission, Wyoming water development office, office of state lands and investments and department of environmental quality relating to determinations of project eligibility and prioritization, including recommendations relating to grant award amounts, are specifically exempt from all provisions of the Wyoming Administrative Procedure Act including provisions for judicial review under W.S. 16-3-114 and 16-3-115; <i>Mr</i>	
(iv) The Wyoming water development commission and Wyoming water development office shall report the approved projects and awarded grant amounts to the select water committee and joint appropriations committee. <i>Mr</i>	

28. This appropriation to the department of health is for the purpose of training one hundred three (103) mental health first aid trainers across the state to include two (2) trainers in each county, one (1) trainer in each school district, one (1) trainer in each community college district and one

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(e) The governor shall report to the joint appropriations committee on a monthly basis on all of the following:

- (i) The aggregate allocation of funds, appropriated in this act, by program;
- (ii) Program expenditures;
- (iii) Grant awards;
- (iv) Grant expenditures.

Section 4.

(a) Beginning March 27, 2022 and ending December 31, 2026, any American Rescue Plan Act capital project funds that the state applies for and receives, and which are not otherwise appropriated in the 2022 legislative budget session, are appropriated to the office of the governor for purposes that are consistent with the terms of the American Rescue Plan Act.

(b) There is appropriated two hundred fifty thousand dollars (\$250,000.00) from American Rescue Plan Act ~~capital funds~~ to the office of state lands and investments for grants for capital construction projects for children's museums that also serve as community multipurpose facilities as determined by the governor. Distribution of this appropriation is conditioned upon a match of funds in the ratio of four dollars (\$4.00) of appropriated funds to not less than one dollar (\$1.00) of matching funds from any other source.

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(c) As used in this section, "American Rescue Plan Act capital project funds" means any unexpended, unobligated funds allocated to the state of Wyoming from the American Rescue Plan Act of 2021, P.L. 117-2, Section 604 and that were appropriated in 2021 Wyoming Session Laws, Chapter 166, Section 5(b), as amended by this act.

Section 5. 2021 Wyoming Session Laws, Chapter 166, Section 4(a)(vi), Section 5(a) and (b)(intro), Section 6(d) and Section 7 is amended to read:

Section 4.

(a) The legislature finds that:

(vi) In the event that for whatever reason, the legislature does not enact further legislation to appropriate federal funds from the American Rescue Plan Act or the CARES Act ~~by for the period beginning~~ *Mo*
~~September 1, 2021 and ending March 26, 2022,~~ *Mo* the governor is authorized by the terms of this act to implement programs as specified to expend these funds.

Section 5.

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(a) To carry out the expenditure of federal funds authorized by subsection (b) of this section ~~through March 26, 2022~~, the governor is authorized to establish by order or rule any emergency program that is consistent with the terms of this act and the federal gift, grant or appropriation if the program can be fully supported by federal funds appropriated under this act or other existing appropriations and does not obligate the state to any expenditure of State funds not previously appropriated by the legislature. Any emergency program created under the authority granted in this subsection shall expire on ~~December 31, 2024 March 26, 2022~~ unless expressly continued by act of the legislature.

(b) Subject to the limitations provided in subsections (c) through (e) of this section, any federal funds provided to the state for COVID-19 related purposes including from the American Rescue Plan Act, P.L. 117-2, the Coronavirus Aid, Relief and Economic Security (CARES) Act, P.L. 116-136, or other similarly purposed federal act, that do not accrue to any agency under W.S. 9-2-1006(a) and which are not appropriated within sections 4(a) through (c) of this act are appropriated to the office of the governor for the emergency expenses of government that are consistent with the terms of the federal gift, grant or appropriation and subject to the provisions of this subsection. ~~This appropriation shall lapse on March 26, 2022.~~ In accordance with W.S. 9-4-205(a), this appropriation of federal funds shall be subject to further legislative review and appropriation. This appropriation shall only be expended for the following purposes:

Section 6.

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(d) To the extent not appropriated in subsections (a) through (c) of this section, there is appropriated all unexpended, unencumbered and unobligated funds received by the state of Wyoming to the state auditor from the American Rescue Plan Act of 2021, P.L. 117-2, the Coronavirus Aid, Relief and Economic Security (CARES) Act, P.L. 116-136 or other similarly purposed federal act, including funds originally appropriated in 2020 Wyoming Special Session Laws, Chapter 1, Section 2(b), Chapter 2, Section 4(d) and Chapter 3, Sections 2(h), 3(h) and 4(g). ~~Through March 26, 2022,~~ *ML* ~~the~~ governor may transfer funds reappropriated under this section to the state agency or entity designated to approve the project, grant or procurements as provided in section 5 of this act. This appropriation shall not be transferred or expended for any purpose except as provided in this subsection. Any unobligated, unexpended funds remaining from this appropriation upon the expiration of the later of the relevant federal law, related federal legislation, reallocation by the secretary of the United States department of treasury, or any extension granted by the United States department of treasury shall be deposited to the general fund unless otherwise provided by federal law.

Section 7. ~~Except as provided in this section,~~ *ML* ~~the~~ governor at all times retains the authority to expend the federal funds in accordance with W.S. 9-2-1005(b)(ii) and (g), 9-2-1006(a) and 9-4-206. ~~After March 26, 2022, amounts authorized for expenditure by legislative appropriation of federal funds provided to the state from the American Rescue Plan Act, P.L. 117-2, shall not be revised, changed, redistributed or increased by the governor except pursuant to legislative enactment.~~ *ML*