

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

Emergency expenses of government-COVID-19.

Sponsored by: Management Council

A BILL

for

1 AN ACT relating to the emergency expenses of government;
2 providing legislative findings; creating an account;
3 providing an appropriation; authorizing emergency
4 governmental programs as specified; providing for carryover
5 and reappropriation of certain funds as specified;
6 temporarily amending the computation of school district
7 operating balances and cash reserves; authorizing the
8 transfer of appropriations and positions; and providing for
9 an effective date.

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

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1 the specified officials to determine specific allocations.
2 Dollar figures were included as placeholders and may be
3 subject to further revision by the Management Council.

4
5 Subsection (c) provides board authority to the Governor to
6 establish programs necessary to carry out the expenditures.
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9 (b) Subject to the limitations provided in subsection
10 (c) through (f) of this section, there is appropriated two
11 hundred thirty-eight million dollars (\$238,000,000.00) from
12 the COVID-19 relief fund to the office of the governor for
13 the emergency expenses of government specified in this
14 subsection. This appropriation shall not be transferred or
15 expended for any other purpose. It is the intent of the
16 legislature that this appropriation not be included in the
17 office of the governor's standard budget for the
18 immediately succeeding fiscal biennium. Expenditure of
19 this appropriation shall be documented through the B-11
20 process described under W.S. 9-2-1005(b)(ii), (iii) and (g)
21 and reported pursuant to W.S. 9-2-1013(b) but need not
22 constitute a supplemental addition to an approved budget.
23 This appropriation shall be expended for the following
24 purposes:

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1 (i) Any expenses incurred by state agencies to
2 respond to the public health emergency and the impacts
3 caused by COVID-19 as determined by the governor in a total
4 amount not to exceed one hundred million dollars
5 (\$100,000,000.00). Expenses may include any costs incurred
6 in implementing 2020 Special Session House Bill/Senate File
7 00XX [20LSO-0701];

8
9 (ii) Any expenses incurred by cities and towns
10 to respond to the public health emergency and the impacts
11 caused by COVID-19 in a total amount not to exceed forty
12 million dollars (\$40,000,000.00). The allocation of
13 distributions to cities and towns under this paragraph
14 shall be subject to the approval of the state loan and
15 investment board;

16
17 (iii) Any expenses incurred by counties to
18 respond to the public health emergency and the impacts
19 caused by COVID-19 in a total amount not to exceed twenty
20 million dollars (\$20,000,000.00). The allocation of
21 distributions to counties under this paragraph shall be
22 subject to the approval of the state loan and investment
23 board;

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STAFF COMMENT
 Paragraph (iv) below tentatively includes distributions to political subdivisions. The Management Council may wish to review this paragraph further.

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(iv) Any expenses incurred by political subdivisions to respond to the public health emergency and the impacts caused by COVID-19 in a total amount not to exceed ten million dollars (\$10,000,000.00). The allocation of distributions to political subdivisions under this paragraph shall be subject to the approval of the state loan and investment board. No political subdivision shall receive a distribution under this paragraph if it receives any other grant, aid or distribution of funds under this section;

(v) To provide grants to Wyoming public hospitals and public health care facilities to improve the state's capacity to respond to the public health emergency caused by COVID-19 and the state's health care infrastructure in a total amount not to exceed fifty million dollars (\$50,000,000.00). Grants provided under

1 this paragraph shall be subject to the approval of the
2 state loan and investment board;

3

4 (vi) For operational or capital construction
5 expenses at the Wyoming life resource center and the
6 Wyoming state hospital to improve the state's capacity to
7 respond to the public health emergency caused by COVID-19
8 in a total amount not to exceed fifteen million dollars
9 (\$15,000,000.00);

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11 (vi) For any COVID-19 related expenses and
12 expenditures of the judicial branch in a total amount not
13 to exceed two million dollars (\$2,000,000.00);

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15 (vii) For any COVID-19 related expenses and
16 expenditures of the legislative branch in a total amount
17 not to exceed one million dollars (\$1,000,000.00).

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20 **STAFF COMMENT**

21 **The Management Council may wish to authorize expenditure of**
22 **the remainder of the federal funds provided to the state**
23 **for COVID-19 related purposes absent further legislative**
24 **action. The provision could provide:**

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26 (b) Absent enactment of legislation appropriating the
27 unexpended or unappropriated funds in the COVID-19 relief

1 account on [MONTH DAY, 2020], the governor is authorized to
2 expend all remaining funds in the account for any purpose
3 that is consistent with the terms of the federal gift,
4 grant or appropriation or this act.

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7 (c) To carry out the expenditures authorized by
8 subsection (b) of this section, the governor is authorized
9 to establish by order or rule any emergency program that is
10 consistent with the terms of the federal gift, grant or
11 appropriation if the program can be fully supported by
12 federal funds appropriated under this act or other existing
13 appropriations. Any emergency program created under the
14 authority granted in this subsection shall expire on
15 December 30, 2020 unless expressly continued by act of the
16 legislature.

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18 (d) The attorney general shall review in writing the
19 legality of any emergency program established under
20 subsection (c) of this section and the provisions thereof
21 relating to distribution, expenditure and accounting of
22 federal funds. No expenditure of funds shall be made under
23 this section except in accordance with state and federal
24 laws, regulations and orders.

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1 (e) As a condition of receiving any grant, aid or
2 distribution authorized under this section, the recipient
3 shall report to the governor and legislature the amount of
4 all federal loans, grants or aid provided for COVID-19
5 related purposes including from the Coronavirus, Aid,
6 Relief and Economic Security (CARES) Act, Public Law 116-
7 136, or other federal act for which the recipient:

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9 (i) Is eligible, as determined by the recipient;

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11 (ii) Has applied; or

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13 (iii) Has received.

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15 (f) The governor shall implement reporting
16 requirements on the recipient of any grant, distribution or
17 aid authorized under this section sufficient to comply with
18 all federal reporting requirements.

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20 **Section 3.** 2020 Wyoming Session Laws, Chapter 80,
21 Section 305(a) by creating a new paragraph (iv), (b) and
22 (c) is amended to read:

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Section 305.

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

(iv) In addition to the authority granted under paragraphs (i) through (iii) of this subsection and 2018 Wyoming Session Laws, Chapter 134, Section 305(a), for the period beginning with the effective date of this paragraph and ending December 30, 2020:

(A) Between programs within any executive branch agency, excluding [agencies/institutions], X percent (X%) of the total appropriation for the agency when determined by the governor as beneficial or necessary for the state to respond to the public health emergency and the impacts caused by COVID-19, including to conserve or reallocate prior appropriations;

1 (B) Between executive branch
2 agencies, excluding [agencies/institutions], X
3 percent (X%) of the total appropriation for the
4 agency from which the funds are transferred when
5 determined by the governor as beneficial or
6 necessary for the state to respond to the public
7 health emergency and the impacts caused by COVID-
8 19, including to conserve or reallocate prior
9 appropriations. Transfers authorized under this
10 subparagraph may include additions to active
11 capital construction projects receiving prior
12 appropriations from the general fund or strategic
13 investments and projects account;

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15 (C) This paragraph is effective
16 immediately.

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19 **STAFF COMMENT**

20 **The current level of Flex Authority is 10% between programs**
21 **within an agency and 5% between agencies for the biennium.**
22 **As drafted, the authority specified in this bill would be**
23 **in addition to the existing Flex Authority for the**
24 **specified period and would be separately tracked. It would**
25 **also authorize additions to budgets for approved capital**
26 **construction projects.**

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1 (b) All transfers authorized under this
2 section shall be approved by the governor and
3 reported to the joint appropriations committee
4 through the B-11 process as authorized by W.S.
5 9-2-1005(b)(ii) and reported pursuant to W.S.
6 9-2-1013(b). The transfers authorized by
7 paragraph (a)(iv) of this section shall be
8 separately tracked and reported for purposes of
9 determining total amounts transferred under that
10 authority.

11
12 (c) Except as provided in paragraph (a)(iv)
13 of this section, the authority granted under this
14 section is effective for the period beginning
15 July 1, 2020 and ending June 30, 2022.

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17 **Section 4.** W.S. 21-13-313(e) is amended to read:

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19 **21-13-313. Distribution of funds from foundation**
20 **account; property tax and cash reserve adjustment;**
21 **regulations.**

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1 (e) Except as provided under this subsection, not
2 later than January 31 of each fiscal year, the department
3 shall compute the amount by which each district's operating
4 balance and cash reserves at the end of the preceding
5 fiscal year exceed fifteen percent (15%) of the total
6 foundation program amount computed under W.S. 21-13-309 for
7 the preceding fiscal year. For fiscal year 2020-21, the
8 department shall compute the amount by which each
9 district's operating balance and cash reserves at the end
10 of the preceding fiscal year exceed twenty-five percent
11 (25%) of the total foundation program amount computed under
12 W.S. 21-13-309 for the preceding fiscal year. In making
13 this calculation, the entire operating balance and cash
14 reserves for each district for the fiscal year ending June
15 30, 1997, as computed by the department, shall be
16 separately accounted for and excluded, until it has been
17 completely expended by the district. Revenues from
18 settlements of protested amounts attributable to levies
19 assessed under W.S. 21-13-102(a)(i)(A) and (ii)(A) and 21-
20 13-201, regardless of the assessment year, shall be
21 accounted for and excluded from the calculation under this
22 subsection for a period of not more than one (1) year
23 following that fiscal year in which the revenue was

1 received by a district, as verified in writing by the
2 district and certified by the county treasurer. Except as
3 otherwise provided in 1997 Special Session Laws, chapter 3,
4 section 306(e), as amended, and except as excluded under
5 this subsection, that excess shall be deemed to be a state
6 revenue under W.S. 21-13-310(a) for the purpose of
7 determining distributions under W.S. 21-13-311 and amounts
8 to be rebated under W.S. 21-13-102. The department shall
9 promulgate rules, including reporting requirements and
10 procedures for districts, to implement this subsection. As
11 used in this section, "operating balance and cash reserves"
12 means those financial resources of the district which are
13 not encumbered by the district board of trustees for
14 expenditure to meet an existing legal obligation or
15 otherwise restricted by law or regulation for expenditure
16 on specific educational programs. For purposes of this
17 subsection, any balance within a district's separate
18 account established under W.S. 21-15-109(e) for major
19 building and facility repair and replacement shall be
20 deemed restricted by law for expenditure as provided by
21 W.S. 21-15-109(e) and shall not be considered an operating
22 balance and cash reserve under this section.

23

1 **Section 5.**

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3 (a) After all transfers and reappropriations authorized
4 under 2020 Wyoming Session Laws, Chapter 80, Sections 303
5 and 312 are complete and notwithstanding W.S. 9-2-1008, 9-
6 2-1012(e) and 9-4-207, **XX percent (XX%)** of the unexpended,
7 unobligated monies appropriated from the general fund to
8 any governmental unit or branch of government receiving an
9 appropriation under 2018 Wyoming Session Laws, Chapter 134,
10 as amended by 2019 Wyoming Session Laws, Chapter 80, shall
11 not revert on June 30, 2020 and are hereby reappropriated
12 to the governmental unit or branch of government receiving
13 the appropriation for purposes of funding a budget
14 shortfall or structural budget deficit during the period
15 beginning July 1, 2020 and ending June 30, 2022. Not later
16 than October 15, 2020, the state auditor shall report to
17 the legislature the amount of general funds that did not
18 revert under this section, by governmental unit or branch
19 of government.

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21 (b) Any unexpended, unobligated funds remaining from
22 the appropriations for capital construction projects under
23 2018 Wyoming Session Laws, Chapter 136, Section 4(a)(i), as

1 amended by 2019 Wyoming Session Laws, Chapter 205, Section
2 2 that would otherwise revert to the accounts from which
3 they were appropriated during the period beginning with the
4 effective date of this act and ending December 30, 2020,
5 are hereby reappropriated for active capital construction
6 projects receiving prior appropriations from the general
7 fund or strategic investments and projects account as
8 approved by the state building commission.

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10 **Section 6.** This act is effective immediately upon
11 completion of all acts necessary for a bill to become law
12 as provided by Article 4, Section 8 of the Wyoming
13 Constitution.

14

15 (END)