ORIGINAL HOUSE ENGROSSED
BILL NO. HB1004

ENROLLED ACT NO. 1, HOUSE OF REPRESENTATIVES

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

AN ACT relating to the emergency expenses of government related to business relief; providing legislative findings; authorizing emergency governmental programs related to economic development and business relief as specified; providing appropriations; providing a sunset date for created emergency programs; providing rulemaking authority; authorizing transfers of appropriations as specified; and providing for an effective date.

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

Section 1.

(a) The legislature finds that:

(i) In December 2019, a novel coronavirus known as severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) was first detected in China, leading to outbreaks of novel coronavirus disease (COVID-19) that have now spread globally;

(ii) On March 13, 2020, the president of the United States and the governor of Wyoming declared emergencies in anticipation of the spread of COVID-19 and following nationwide cancellations, suspensions, and growing cases of COVID-19;

(iii) The governor, the state health officer, local health officers, local officials and tribal leaders responded with swift measures to contain the spread of COVID-19, minimize the public's exposure to COVID-19 and protect the health, safety and well-being of Wyoming residents;

(iv) Among other actions, the governor and the state health officer enacted statewide orders that limited gatherings to ten (10) people or less and that required many Wyoming businesses to close or to severely curtail their operations in order to protect the health and safety of all Wyoming residents;

(v) The public health crisis and the required closures have caused Wyoming businesses to experience an unprecedented and unforeseen loss of revenue and income. Accordingly, it is unclear whether those businesses will be able to adequately recover and continue contributing to Wyoming's economy;

(vi) The Wyoming businesses that have been affected by the public health crisis and required closures also help provide critical products, supplies and services to Wyoming residents and industries;

(vii) While it is not currently possible to fully assess the scope, duration and severity of the impact of the public health crisis to Wyoming businesses, the recovery efforts will require a dedicated response by Wyoming's state government, tribal governments and local governments of Wyoming's counties, cities, towns and political subdivisions;

(viii) The federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. No. 116-136, has provided the state government of Wyoming with relief funds of one billion two hundred fifty million dollars ($1,250,000,000.00) to cover costs that are necessary expenditures incurred due to the public health crisis with respect to COVID-19. Further federal stimulus aid may be

forthcoming to the states from the federal government to address this crisis;

(ix) Due to the extraordinary circumstances of the COVID-19 public health crisis and resulting economic devastation, joint action of the legislature and executive branches in determining how the CARES Act relief funds are expended will result in the greatest benefit to the state;

(x) Among other things, payments to state and local programs to support Wyoming businesses and economic development projects are a priority need requiring funding from these and any future federal stimulus funds.

(b) In order to address the harms that Wyoming businesses experienced because of the public health crisis and to ensure the availability of and an adequate supply of goods and services to Wyoming's residents and industries, the legislature finds that the state has an obligation to use a portion of the CARES Act relief funds and any other federal stimulus funds made available to the state to ensure that Wyoming businesses can remain open and contribute to Wyoming's economy.

Section 2.

(a) As used in this section:

(i) "Council" means the Wyoming business council;

(ii) "Eligible business" means a business that:

(A) Was established on or before the date of enactment of any order issued by the state or any local

government of Wyoming that required closures of businesses in response to the COVID-19 pandemic;

(B) Is independently owned and operated;

(C) Is headquartered in Wyoming or has its principal operations located in Wyoming; and

(D) On March 31, 2020, had employed fifty (50) full-time employees or less.

(iii) "Required closure" means the closure of a business that was ordered by the state or any local government of Wyoming in an order issued or in effect beginning March 15, 2020 in response to the COVID-19 pandemic. "Required closure" shall also include the interruption of a business's normal business as a result of any closures or state or local public health orders associated with the COVID-19 pandemic.

(b) The Wyoming business interruption stipend program is hereby created. The Wyoming business council shall establish and administer this temporary program to reimburse eligible businesses for the costs of business interruptions caused by required closures. Stipends awarded under this section shall:

(i) Not be awarded until an eligible business submits, and the council approves, an application. The application shall be developed by the council and shall require each applicant to certify that the business is an eligible business as defined by this section and that knowingly making a false statement to the council on the application is prohibited and may result in the applicant

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;

(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

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

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 3.

(a) As used in this section:

(i) "Business required to close" means any business ordered to close because of the novel coronavirus or COVID-19 pursuant to an order by the governor or the state health officer that was promulgated between March 13, 2020 and May 15, 2020, provided that the business that closed is a type of business specified in the closure order;

(ii) "Council" means the Wyoming business council;

(iii) "Eligible business" means a business that:

(A) Was established on or before the date of enactment of any order issued by the state or any local government of Wyoming that required closures of businesses in response to the COVID-19 pandemic;

(B) Is independently owned and operated;

(C) Is headquartered in Wyoming or has its principal operations located in Wyoming; and

(D) On March 31, 2020, had employed one hundred (100) full-time employees or less. The employee

requirement of this subparagraph shall not apply to stipends awarded under this section upon good cause shown by the eligible business to the council as provided by rule of the council.

(iv) "Required closure" means the closure of a business that was ordered by the state or any local government of Wyoming in an order issued or in effect beginning March 15, 2020 in response to the COVID-19 pandemic. "Required closure" shall also include the interruption of a business's normal business as a result of any closures or public health orders or as a result of the public health crisis with respect to COVID-19.

(b) The coronavirus business relief stipend program is hereby created. The Wyoming business council shall establish and administer this temporary program for the purpose of providing stipends to eligible businesses adversely impacted by the COVID-19 pandemic or by required closures. Stipends shall be awarded under this section in accordance with the following:

(i) Any eligible business may apply to the council for a stipend under this section. The application shall require the applicant to certify that it is an eligible business as defined by this section. The application shall also provide that knowingly making a false statement to the council on the application is prohibited and may result in the applicant being required to repay all funds awarded under this section;

(ii) The council may contract with financial institutions and other businesses to carry out the program created by this section and distribute stipends awarded under this section;

(iii) No stipend shall be awarded under this section without the applicant first submitting an expenditure plan on a simple form provided by the council. The council may request that the applicant provide any additional information necessary to determine the adequacy of the applicant's submitted plan;

(iv) Stipends awarded under this section shall be used by the eligible business for the following expenditures and expenses associated with the COVID-19 pandemic:

(A) Payroll costs;

(B) Business supplies;

(C) Business equipment including equipment necessary to resuming normal business operations and equipment necessary to modify business operations in response to the COVID-19 pandemic or to public health guidelines;

(D) Other business expenses, including but not limited to rent or mortgage payments, utilities and other operational costs;

(E) Any other expenditure or expense related to business interruption due to the COVID-19 pandemic.

(v) Before making a stipend under this section, the applicant shall demonstrate to the council's satisfaction the actual losses that the eligible business has incurred as a result of the COVID-19 pandemic or as a

result of business interruptions due to a required closure or a public health order;

(vi) Stipends awarded under this section shall not exceed three hundred thousand dollars ($300,000.00) for each eligible business;

(vii) Stipends shall 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 stipends awarded under this section;

(viii) Subject to federal law, stipends awarded under this section shall be conditioned upon the eligible business agreeing to:

(A) Continue to maintain a meaningful nexus to the state of Wyoming for not less than three (3) years after receiving a stipend under this section;

(B) Provide a report to the council not later than December 30, 2020 that describes how the funds were expended as authorized by paragraph (iv) of this subsection in response to the COVID-19 public health crisis;

(C) Repay all funds provided under this section plus interest at the rate of two percent (2%) per annum if the eligible business uses stipend funds for expenses not authorized by this section.

(ix) In awarding stipends under this section, the council shall take into consideration any funds received through the program created by Section 2 of this

act, the federal paycheck protection program and any other funding available through the CARES Act and other state and federal programs in response to the COVID-19 pandemic.

(c) Any eligible business that is a business required to close as defined by paragraph (a)(i) of this section may apply to the council on a form provided by the council for a supplemental closure stipend under the program as provided by this subsection. The council shall award supplemental closure stipends to businesses required to close after consideration of the following factors for each applicant:

(i) The loss of income and revenue as a result of the ordered closures;

(ii) The change in the amount of expenses as a result of the ordered closures;

(iii) Whether the business received any state or federal funds in support of the business to reduce expenses or costs during the COVID-19 pandemic;

(iv) Any other factor established by rule of the council.

(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 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.

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(a) As used in this section:

(i) "Council" means the Wyoming business council;

(ii) "COVID-related expenses" means actual expenses incurred in Wyoming for the health and safety of Wyoming employees and expenses incurred by Wyoming employers to comply with public health guidelines for the health and safety of Wyoming employees as a result of the COVID-19 pandemic and include cleaning products, sanitizers, personal protection equipment, other safety equipment, expenses related to training to implement necessary and required protocols to continue operating the business and expenses related to hiring and paying employees necessary to implement protocols associated with screening, safety, security, cleaning and sanitizing business premises;

(iii) "Eligible business" means a business that was established on or before the date of enactment of any order issued by the state or any local government of Wyoming that established required closures of businesses in response to the COVID-19 pandemic.

(b) The coronavirus mitigation stipend program is hereby created. The Wyoming business council shall establish and administer this temporary program for the purpose of providing stipends to reimburse eligible businesses adversely impacted by the COVID-19 pandemic for COVID-related expenses. Stipends issued under this section shall:

(i) Not be awarded until an eligible business submits, and the council approves, an application. The application shall be developed by the council and shall require each applicant to certify that the business is an eligible business as defined by this section and that knowingly making a false statement to the council on the application is prohibited and may result in the applicant being required to repay all funds awarded under this section;

(ii) Be made only to reimburse COVID-related expenses that an eligible business actually incurred between March 1, 2020 and December 1, 2020;

(iii) Be conditioned upon the eligible business demonstrating to the council's satisfaction in the application that it has incurred COVID-related expenses reimbursable by the stipend provided in this section;

(iv) Be in an amount not to exceed five hundred thousand dollars ($500,000.00);

(v) 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 to pay stipends awarded under this section.

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

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

(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.

(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

with the effective date of this act and ending December 30, 2020:

(i) Between the programs created by Sections 2, 3 and 4 of this act and between any programs created by 2020 House Bill 1002 or 2020 Senate File 1002 if enacted into law, twenty-five percent (25%) of the total appropriation for the individual program when determined by the governor as beneficial or necessary for the state to respond to the public health crisis and the impacts caused by COVID-19;

(ii) Between any other agency or program receiving funds appropriated in 2020 House Bill 1001, Section 2(b) or in 2020 Senate File 1001, Section 2(b), and between any of the programs created by Sections 2, 3 and 4 of this act, twenty-five percent (25%) of the total appropriation for the individual program created by Sections 2, 3 and 4 and for the individual program created by 2020 House Bill 1002, Section 4 or by 2020 Senate File 1002, Section 4, when determined by the governor as beneficial or necessary for the state to respond to the public health crisis and the impacts caused by COVID-19. Any transfer made under this paragraph shall be subject to the limitations on the authorization for expenditure of the appropriation in 2020 House Bill 1001, Section 2(b) as provided by 2020 House Bill 1001, Section 2(c) and to the limitations on the authorization for expenditure of the appropriation in 2020 Senate File 1001, Section 2(b) as provided by 2020 Senate File 1001, Section 2(c).

(b) All transfers authorized under this section shall be approved by the governor and reported to the joint appropriations committee and the joint minerals, business and economic development interim committee through the B-11

process as authorized by W.S. 9-2-1005(b)(ii) and reported pursuant to W.S. 9-2-1013(b). The transfers authorized by this section shall be separately tracked and reported.

Section 6. If 2020 House Bill 1001 and 2020 Senate File 1001 are not enacted into law, then the appropriations in Sections 2(h), 3(h) and 4(g) of this act shall be appropriated from any federal funds made available for expenditure through the Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. No. 116-136, or from any other available federal funds related to the COVID-19 emergency response.

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Section 7. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

_____ _____
Speaker of the House President of the Senate

_____
Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

_____
Chief Clerk