

SENATE FILE NO. SF0065

Government waste, fraud and abuse.

Sponsored by: Senator(s) James, Biteman, Bouchard, French,
McKeown and Salazar and Representative(s)
Fortner, Gray, Laursen, Neiman and Wharff

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

14 **9-1-514. Waste, fraud and abuse reporting system;**
15 **review and referral system.**

1

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

14

15 (b) In all reports all reasonable steps shall be
16 taken to protect the identity of the person making the
17 report. In addition, a person making a report may elect to
18 have the person's identity kept confidential and not
19 disclosed to any person not employed by the department of
20 audit. Except when required by law, a department of audit
21 employee who discloses the identity of a person making a
22 report under this section to a person not employed by the

1 department of audit shall be terminated from the department
2 of audit for the unauthorized disclosure.

3

4 (c) The director shall initially review each report
5 submitted through the system established and maintained
6 pursuant to subsection (a) of this section. Upon completion
7 of an initial review, the director shall:

8

9 (i) Analyze and verify the information received;
10 or

11

12 (ii) Refer the information for appropriate
13 action to the governmental entity that is or appears to be
14 the subject of the report or to the attorney general if
15 there is an apparent violation of criminal law.

16

17 (d) A governmental entity that receives information
18 referred to it by the director or the director's designee
19 pursuant to this section shall take adequate and
20 appropriate action to investigate and remedy any waste,
21 fraud or abuse discovered as a result of the referral. The
22 governmental entity shall report in writing to the director
23 concerning the results of its investigation and those

1 measures, if any, taken to correct any waste, fraud or
2 abuse discovered as a result of the referral. If, after a
3 reasonable period, the director determines that the
4 governmental entity to which information was referred has
5 not taken adequate and appropriate action to remedy any
6 waste, fraud or abuse that violates law, the director
7 through the attorney general may seek an injunction in a
8 district court to enjoin any person from further causing
9 the waste, fraud or abuse that violates law. If any person
10 violates the injunction and continues to cause the waste,
11 fraud or abuse, the person continuing to cause the waste,
12 fraud or abuse shall be individually liable to the
13 applicable governmental entity for the harm inflicted. In
14 coordination with the director, the attorney general may
15 prosecute such actions.

16

17 (e) No person convicted of a crime that constitutes
18 waste, fraud or abuse shall be employed by a governmental
19 entity.

20

21 (f) Consistent with the limitations on the disclosure
22 of information imposed by this section, the director or the
23 director's designee, not less than quarterly, shall post to

1 the department's website in a conspicuous location the
2 results of finalized reviews, verifications and referrals
3 conducted pursuant to this section and any corrective
4 action taken as a result. The homepage of the department's
5 website shall contain a link to this information. These
6 posts shall include:

7

8 (i) The name, position and governmental entity
9 of any person who has engaged in waste, fraud or abuse in
10 the operation of a governmental entity;

11

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

15

16 (iii) Penalties imposed; 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 for those purposes.

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).

16

17 (k) As used in this section:

18

19 (i) "Abuse" means excessive or improper use of
20 government property in a manner contrary to its lawful use.
21 Abuse can occur in financial or nonfinancial settings;

22

1 (ii) "Fraud" means wrongful or criminal
2 deception intended to result in financial or personal gain.
3 Fraud includes false representation of fact, making false
4 statements or by concealment of information;

5

6 (iii) "Governmental entity" means:

7

8 (A) The state of Wyoming and any authority,
9 board, commission, department, division or separate
10 operating agency of the executive, legislative or judicial
11 branch of the state of Wyoming;

12

13 (B) Political subdivisions of the state,
14 including any county, municipal or special district
15 governing body or any combination thereof, school district
16 or municipal corporation or a board, department,
17 commission, council, agency or any member thereof; or

18

19 (C) Any person under a contract with an
20 entity included within subparagraph (A) or (B) of this
21 paragraph for purposes of actions taken pursuant to that
22 contract.

23

1 (iv) "Waste" means the thoughtless or careless
2 expenditure, mismanagement or abuse of resources to the
3 detriment of the governmental entity or incurring
4 unnecessary costs resulting from inefficient or ineffective
5 practices, systems or controls.

6

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

11

12 **9-11-101. Short title.**

13

14 This chapter may be cited as the "~~State~~ Government Fraud
15 Reduction Act."

16

17 **9-11-102. Definitions; applicability.**

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19 (a) As used in this chapter:

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21 (i) "Employee" means any person who works an
22 average of twenty (20) hours or more per week during any
23 six (6) month period and who is employed by ~~the state~~ a

1 governmental entity performing a service for wages or other
2 remuneration, excluding an independent contractor;

3

4 (iii) "State" means the state of Wyoming and any
5 authority, board, commission, department, division or
6 separate operating agency of the executive, legislative or
7 judicial branch of the state of Wyoming; ~~excluding its~~
8 ~~political subdivisions.~~

9

10 (iv) "Governmental entity" means the state, a
11 political subdivision or any person under a contract with
12 the state or a political subdivision for purposes of
13 actions taken pursuant to that contract.

14

15 **9-11-103. Discrimination against certain employees**
16 **prohibited; civil action against employer.**

17

18 (a) No ~~state~~ governmental entity employer may
19 discharge, discipline, intimidate, harass or retaliate
20 against an employee by unreasonably altering the terms,
21 location or conditions of employment because the employee
22 acting in good faith and within the scope of duties of
23 employment:

1

2 (i) Reports in writing to the employer what the
3 employee has reasonable cause to believe is a demonstration
4 of fraud, waste or gross mismanagement in ~~state government~~
5 office-a governmental entity;

6

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

9

10 (v) Has refused to carry out a directive which
11 is beyond the scope, terms and conditions of his employment
12 that would expose the employee or any individual to a
13 condition likely to result in serious injury or death,
14 after having sought and been unable to obtain a correction
15 of the dangerous condition from the employer;~~or~~ or

16

17 (vi) Submits a report to the department of
18 audit's reporting system, operated pursuant to W.S.
19 9-1-514. No employee submitting a report to the reporting
20 system shall be required to comply with the provisions of
21 subsection (b) of this section as a condition of receiving
22 the protections provided by this subsection.

23

1 (b) Except as provided by paragraph (a)(vi) of this
2 section, subsection (a) of this section does not apply to
3 an employee who has reported or caused to be reported a
4 violation or unsafe condition or practice, unless the
5 employee has first brought the alleged violation, condition
6 or practice to the attention of a person having supervisory
7 authority over the employee and has allowed the state
8 governmental entity employer a reasonable opportunity to
9 correct that violation, condition or practice. Prior
10 notice to a person having supervisory authority is not
11 required if the employee reasonably believes that the
12 report may not result in prompt correction of the
13 violation, condition or practice. In such cases, the
14 employee shall report the violation, condition or practice
15 to the ~~department or agency director~~administrative head of
16 the ~~state~~governmental entity with which ~~he~~the employee is
17 employed or, if a state employee, to the office of the
18 governor. In the event the alleged violation, condition or
19 practice occurred within the office of the governor, the
20 employee may report the violation, condition or practice to
21 the office of the secretary of state.

22

1 (c) Any employee who is discharged, disciplined or
2 otherwise penalized by a ~~state~~governmental entity employer
3 in violation of this section may after exhausting all
4 available administrative remedies, bring a civil action
5 within ninety (90) days after the date of the final
6 administrative determination or within ninety (90) days
7 after the violation, whichever is later, in the district
8 court for the judicial district in which the violation is
9 alleged to have occurred or where the ~~state~~ employer has
10 its principal office. An employee's recovery from any
11 action under this section shall be limited to reinstatement
12 of ~~his~~the employee's previous job, payment of back wages
13 and re-establishment of employee benefits to which ~~he~~the
14 employee would have otherwise been entitled if the
15 violation had not occurred. In addition, the court may
16 allow the prevailing party his costs together with
17 reasonable attorney's fees to be taxed by the court. Any
18 employee found to have knowingly made a false report shall
19 be subject to disciplinary action by ~~his~~the employer up to
20 and including dismissal.

21

22 (d) A ~~state~~governmental entity employer shall ensure
23 that its employees are aware of their rights under this

1 chapter. Each employer shall post and maintain in each of
2 the employer's establishments in a conspicuous location a
3 notice explaining its employees' rights under this chapter.
4 If possible, the notice shall be posted in a public
5 location.

6
7 **42-4-304. Investigations and prosecutions; powers of**
8 **prosecuting authority; remedies for retaliation; venue; no**
9 **private right of action.**

10
11 (e) The remedies provided in this act are separate
12 from and additional to any remedies available under the
13 ~~State~~ Government Fraud Reduction Act.

14
15 **Section 3.** This act shall not apply to any actions
16 taken pursuant to any contract entered into prior to the
17 effective date of this act.

18
19 **Section 4.** This act is effective July 1, 2021.

20
21 (END)