

ENROLLED ACT NO. 59, SENATE

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING
2018 BUDGET SESSION

AN ACT relating to economic development and diversification; establishing the Wyoming workforce development-priority economic sector partnership program; providing for funding of specified workforce training programs pursuant to agreements with employers, training providers and the department of workforce services; specifying conditions for funding; providing for administration of the program; providing for subaccounts within the economic diversification account; providing an appropriation; providing a reappropriation of funds as specified; modifying other appropriations; providing for rulemaking; and providing for effective dates.

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

Section 1. W.S. 9-2-2609 through 9-2-2611 are created to read:

9-2-2609. Purpose.

(a) The Wyoming Workforce Development-Priority Economic Sector Partnership Act is created to meet the training needs of existing businesses in the state and to provide incentives to businesses to locate and expand within the state through government assisted new jobs training.

(b) It is the intent of the legislature to provide training funds to train and educate employees, which will result in the production of high wage and high skilled jobs that will increase the earning potential and employment opportunities for Wyoming employees and enhance and diversify the state's economy.

9-2-2610. Definitions.

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(a) As used in this act:

(i) "Applicant" means an employer seeking funding under this act;

(ii) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity;

(iii) "Department" means the department of workforce services created in W.S. 9-2-2018;

(iv) "ENDOW council" means the economically needed diversity options for Wyoming executive council;

(v) "Eligible training provider" means:

(A) The University of Wyoming;

(B) A Wyoming community college district;

(C) An entity operated by a tribal government of either the Northern Arapaho or Eastern Shoshone tribes on the Wind River Indian Reservation;

(D) An entity approved to provide workforce training that is included on the eligible training provider list.

(vi) "Eligible training provider list" means the list maintained by the department of those eligible training providers who may be used to provide workforce training under this act;

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(vii) "Employee" means an individual employed in a new job;

(viii) "Employer" means an individual or business entity providing new jobs and entering into a contract under this act;

(ix) "Full-time job" means a predominantly year-round position requiring an average of at least thirty-five (35) hours of work each week;

(x) "New job" means a newly created full-time or part-time job in a priority economic sector business. The term does not include:

(A) Jobs for recalled employees returning to positions held previously, for replacement employees, or for employees newly hired as a result of a labor dispute, seasonal jobs, or other jobs that previously existed within the employment of the employer in the state; or

(B) Jobs created by an employer as the result of an acquisition of a Wyoming entity if those jobs previously existed in the state of Wyoming in the acquired company or entity unless it is demonstrated that the jobs:

(I) Are substantially different as a result of the acquisition; and

(II) Will require new training for the employee to meet new job requirements.

(xi) "Part-time job" means a predominantly year-round position requiring an average of twenty-five (25) to thirty-four (34) hours of work each week;

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(xii) "Priority economic sector business" means an employer engaged in establishing or expanding operations within a priority economic sector identified in the twenty (20) year comprehensive economic diversification strategy approved by the governor pursuant to W.S. 9-12-1402 in Wyoming that through the employment of knowledge or labor add value to a product, process or export service that results in the creation of new wealth;

(xiii) "Program" means a workforce training program implemented in accordance with the provisions of this act;

(xiv) "Program costs" means all necessary and incidental costs of providing program services. The term does not include the cost of equipment to be owned or used by the eligible training provider beyond the term of the contract with the department unless the eligible training provider is an entity specified in subparagraphs (v) (A) through (C) of this subsection and the department determines the equipment likely will be used to provide subsequent training in a priority economic sector program under this act or other program funded by the department;

(xv) "Program services" means training and education specifically directed to the new jobs, including:

(A) All direct training costs, such as:

(I) Program promotion;

(II) Instructor wages, per diem and travel;

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(III) Curriculum development and training materials;

(IV) Lease of training equipment and training space;

(V) Purchase of training equipment subject to the limitations provided in paragraph (xiv) of this subsection;

(VI) Miscellaneous direct training costs;

(VII) Administrative costs; and

(VIII) Assessment and testing.

(B) In-house or on-the-job training; and

(C) Subcontracted services with eligible training providers.

(xvi) "Wyoming workforce development-priority economic sector partnership subaccount" or "subaccount" means the subaccount created in W.S. 9-12-1404(a)(i);

(xvii) "Wyoming workforce development-priority economic sector partnership program" means the workforce training program authorized by this act;

(xviii) "This act" means W.S. 9-2-2609 through 9-2-2611.

9-2-2611. Priority economic sector business workforce training programs; eligibility.

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(a) The department, in consultation with the coordinator of economic diversification shall administer the Wyoming workforce development-priority economic sector partnership program. Using available monies within the Wyoming workforce development-priority economic sector partnership subaccount, the department may contract to provide training funds for education or skills based training for employees for priority economic sector businesses in new jobs. The funds shall be provided to eligible training providers in accordance with contracts between the department, priority economic sector business employers and eligible training providers, for the purpose of providing employees with education and training required for jobs in new or expanding priority economic sector businesses in the state.

(b) To be eligible for funding under the Wyoming employer-workforce partnership program, an applicant shall demonstrate that it is a priority economic sector business.

(c) An applicant shall provide a match of at least one dollar (\$1.00) for every one dollar (\$1.00) requested from the subaccount. The match may include new loans and investments and expenditures for direct project related costs such as new equipment and buildings. The department may consider recent purchases of fixed assets directly related to the proposal on a case-by-case basis. A purchase of fixed assets directly related to the proposed training activities that have been made within ninety (90) days after submission of the application may be considered eligible by the department.

(d) Except as provided in subsection (e) of this section, funding provided under this section may not exceed

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five thousand dollars (\$5,000.00) for each full-time position and two thousand five hundred dollars (\$2,500.00) for each part-time position for which an employee is being trained. Funding may be provided only for a new job that has an average weekly wage that meets or exceeds the current average weekly wage of the county in which the employees are to be principally employed, provided minimum wage requirements are met. The department may consider the value of employee benefits in calculating the expected annual wage.

(e) The department may, in exceptional circumstances, consider a higher funding ceiling for jobs that will pay high wages and benefits if the need for higher training costs is documented in the application.

(f) Funding under this section shall be proportional to the number of jobs provided, the expected average annual wage of all jobs provided, and the underlying economic indicators of the region where the majority of the jobs will be created.

(g) Funding ceilings shall be determined by the availability of funding, the cost for each job and the quality of the priority economic sector business proposal.

(h) The funding application, at a minimum, shall contain:

(i) A business plan containing information that is sufficient for the department to obtain an adequate understanding of the business to be assisted, including the products or services offered, estimated market potential, management experience of principals, current financial position, and details of the proposed venture. In lieu of a

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business plan, the department may consider a copy of the current loan application to entities such as the federal business and industry guarantee program or the small business administration;

(ii) Financial statements and projections for the two (2) most recent years of operation and projections for each of the two (2) years following the distribution of funds, including but not limited to balance sheets, profit and loss statements, and cash flow statements. A business operating for less than two (2) years shall provide all available financial statements. Information provided under this paragraph shall be considered confidential and not subject to inspection as provided by W.S. 16-4-203(a)(i);

(iii) A hiring and training plan, which shall include:

(A) A breakdown of the jobs to be created or retained, including the number and type of jobs that are full-time, part-time, skilled, semiskilled or unskilled positions;

(B) A timetable for creating the positions and the total number of employees to be hired;

(C) An assurance that the business will comply with equal opportunity and nondiscrimination laws;

(D) Procedures for outreach, recruitment, screening, training and placement of employees;

(E) A description of the training curriculum and resources;

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(F) Written commitments from any agency or organization participating in the implementation of the hiring plan; and

(G) A description of the type and method of training to be provided to employees, the starting wage and wages to be paid after training for each position, the job benefits to be paid or provided, and any payment to eligible training providers.

(j) A contract under this act shall contain provisions:

(i) Certifying that the amount of the funding already expended, together with interest at a rate of four percent (4%) per annum compounded annually from the date the matching funds were provided, will be reimbursed in the event that the priority economic sector business ceases operation in the state of Wyoming within the funding contract period, which may be up to two (2) years;

(ii) Specifying that funding will be provided over the contract period only upon the department verifying the creation of eligible jobs, the hiring of employees for the jobs or the incurring of eligible training expenses; and

(iii) Providing the department with annual reports and a final closeout report that documents the wages paid to an employee upon completion of the training.

(k) The contract shall be signed by the person in the priority economic sector business who is assigned the duties and responsibilities for training and the overall

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success of the program and by the business's chief executive.

(m) The Wyoming business council shall assist the department with review of information provided under paragraphs (h)(i) and (ii) of this section, as requested by the department. If the department determines that an applicant meets the criteria established in this section and has complied with the applicable procedures and review processes established by the department, the department may recommend funding for a priority economic sector business workforce development program and the disbursement of funds under contract to the eligible training provider. The recipient eligible training provider shall use funds received under the program in accordance with the provisions of the contract. No funding shall be provided for any program without the written opinion of the attorney general certifying the legality of the transaction and all documents connected therein. Upon recommendation of the department, certification by the attorney general, and approval by the governor or his designee, funding from the Wyoming workforce development-priority economic sector partnership subaccount may be distributed to the eligible training provider.

(n) The department shall provide employers assistance in accessing workforce and education services outside the scope of this act for which employees may be eligible. These additional services shall not be used to replace funding provided under this act after the contract has been finalized.

(o) The department shall:

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(i) Adopt rules to implement this act. At minimum the rules shall establish application procedures, requirements and qualifications for funding under this act. The rules may include provisions for agreements as the department determines consistent with this act and appropriate or necessary to ensure adequate consideration is provided to the state for funding under this act;

(ii) Report annually to the joint appropriations committee on the expenditures made from the Wyoming workforce development-priority economic sector partnership subaccount in the preceding fiscal year and the results of each partnership project's activities.

Section 2. W.S. 9-2-2601(d) and (g)(vii) and 9-12-1404 are amended to read:

9-2-2601. Department of workforce services; duties and responsibilities; agreements with other agencies authorized; definition; merger with department of employment.

(d) The department shall administer expenditures from the workforce development training fund as provided in W.S. 9-2-2604. The department shall administer expenditures from the Wyoming workforce development-priority economic sector partnership subaccount within the economic diversification account as provided in W.S. 9-2-2609 through 9-2-2611 and 9-12-1404.

(g) The department shall take appropriate steps to:

(vii) Administer contracts pursuant to W.S. 9-2-2608 and 9-2-2609 through 9-2-2611.

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**9-12-1404. Economic diversification account created;
authorized expenditures.**

(a) There is created an economic diversification account. All monies in the account are continuously appropriated to the office of the governor to be used ~~solely~~ for the purposes of this article and as otherwise specified by law, including per diem, mileage and other administrative expenses of the ENDOW executive council. Notwithstanding W.S. 9-2-1008 and 9-4-207, funds in the account shall not lapse at the end of the fiscal period. Interest earned on funds in the account shall be deposited to the account or appropriate subaccount. Within the account shall be subaccounts. For accounting and investment purposes only all subaccounts shall be treated as separate accounts. The subaccounts are as follows:

(i) The Wyoming workforce development-priority economic sector partnership subaccount. Funds within this subaccount may be expended:

(A) As approved by director of the department of workforce services for administrative costs incurred by the department of workforce services associated with administration of the Wyoming workforce development-priority economic sector partnership program under W.S. 9-2-2609 through 9-2-2611; and

(B) As approved by the governor or his designee to provide funding for agreements entered into pursuant to W.S. 9-2-2609 through 9-2-2611.

(b) The governor may accept, and shall deposit to the account, or to the appropriate subaccount within the account, any gifts, contributions, donations, grants or

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federal funds specifically designated for purposes of this article or other ENDOW related program.

Section 3. 2017 Wyoming Session laws, Chapter 140, Section 4 is amended to read:

Section 4. There is appropriated two million five hundred thousand dollars (\$2,500,000.00) from the legislative stabilization reserve account to the economic diversification account created by this act. ~~Of this appropriation, not less than one million five hundred thousand dollars (\$1,500,000.00) shall be earmarked for expenditure under this act for workforce development recommended by the ENDOW executive council to carry into effect the state's economic diversification strategy. These earmarked funds may be expended by the governor for other purposes consistent with the provisions of this act should the governor determine an immediate economic diversification opportunity exists and the earmarked funds are necessary to realize that opportunity.~~

Section 4.

(a) There is appropriated three million five hundred thousand dollars (\$3,500,000.00) from the legislative stabilization reserve account to the Wyoming workforce development-priority economic sector partnership subaccount created by W.S. 9-12-1404(a)(i). Notwithstanding any other provision of law, funds appropriated under this section shall not be transferred or expended for any purpose other than as provided in W.S. 9-12-1404(a)(i). Notwithstanding

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W.S. 9-2-1008 and 9-4-207, funds in the subaccount shall not lapse at the end of the fiscal period.

(b) There is reappropriated from unencumbered, unobligated funds appropriated in 2017 Wyoming Session Laws, Chapter 140, Section 4, to the economic diversification account, one million five hundred thousand dollars (\$1,500,000.00) to the Wyoming workforce development-priority economic sector partnership subaccount created by W.S. 9-12-1404(a)(i).

(c) Upon the effective date of this subsection the appropriation contained in 2018 House Bill 0001, section 321(a)(iii) to the economic diversification account created by W.S. 9-12-1404(a) shall be reduced dollar for dollar by the appropriation in subsection (a) of this section.

(d) Upon the effective date of this subsection, 2018 House Bill 0001, section 332 shall not be effective. To the extent any reduction of the appropriation contained in 2017 Wyoming Session Laws, Chapter 140, Section 4 was made pursuant to section 332, the funds shall be redeposited to the economic diversification account, and one million five hundred thousand dollars (\$1,500,000.00) shall be reappropriated as provided in subsection (b) of this section.

Section 5. The department of workforce services may commence rulemaking pursuant to W.S. 9-2-2609 through 9-2-2611 upon the effective date of this section.

Section 6.

(a) Subsections 4(b), (c) and (d) and section 5 of this act are effective immediately upon completion of all

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acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(b) Except as provided in subsection (a) of this section, this act is effective July 1, 2018.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk