

## HOUSE BILL NO. HB0299

Investment of public funds.

Sponsored by: Representative(s) Nicholas

A BILL

for

1 AN ACT relating to administration of government; creating a  
2 Wyoming investment council; specifying powers and duties of  
3 the council; requiring retention of an investment coordinator  
4 within the state treasurer's office; modifying investment  
5 related duties and functions of the state treasurer, state  
6 treasurer's office and state loan and investment board;  
7 requiring a report and providing for further reorganization  
8 and transfer of investment functions by state entities;  
9 amending public meetings, public records and administrative  
10 procedures provisions in relation to the Wyoming investment  
11 council; specifying legislative intent; providing an  
12 appropriation; and providing for effective dates.

13

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

15

1           **Section 1.** It is the goal of the legislature to maximize  
2 the total net return on investment of state funds while  
3 protecting principal in a manner consistent with fiduciary  
4 and constitutional duties. This act establishes an  
5 investment council comprised of investment professionals to  
6 provide review of state investments and appropriate  
7 consultation with the elected state treasurer, the  
8 treasurer's office and the state loan and investment board in  
9 carrying out investment related duties. In establishing the  
10 Wyoming investment council, the legislature intends to shield  
11 the investments of permanent and nonpermanent funds from  
12 political influence and to ensure that investments comply  
13 with the prudent investor standard, other legal requirements  
14 and best practices of the investment industry. The  
15 legislature further intends to conduct a comprehensive review  
16 of state investment policies, duties and functions and to  
17 make appropriate statutory changes in order to accomplish the  
18 goals set forth in this section.

19

20           **Section 2.** W.S. 9-4-722 and 9-4-723 are created to  
21 read:

22

23           **9-4-722. Wyoming investment council created.**

1

2           (a) There is created as a separate operating agency of  
3 state government a Wyoming investment council consisting of  
4 five (5) voting members and four (4) nonvoting members. The  
5 state treasurer shall be the chairman of the council. The  
6 remaining voting council members shall be appointed by a  
7 majority vote of the members of the state loan and investment  
8 board other than the state treasurer. In addition to the  
9 voting members, the investment coordinator within the state  
10 treasurer's office retained pursuant to W.S. 9-4-715(a) as  
11 designated by the state treasurer and the chief investment  
12 officer of the Wyoming retirement system shall be ex officio  
13 nonvoting members. Two (2) members appointed by the  
14 management council of the legislature shall serve as  
15 nonvoting members of the investment council. Nonvoting  
16 members shall not be included for purposes of determining a  
17 quorum of the council. The appointed voting council members  
18 shall meet the qualifications specified in W.S. 9-4-721(c).  
19 It is not incompatible for a person to be a member of the  
20 investment council and the investment funds committee created  
21 by W.S. 9-4-720.

22

1           (b) The terms of the appointed voting members shall be  
2 for three (3) years, except that on the initial appointment,  
3 members' terms shall be as follows: two (2) shall serve for  
4 two (2) years and two (2) shall serve for three (3) years, as  
5 designated by the initial appointment. Members appointed by  
6 the management council shall serve for terms concurrent with  
7 the legislative term during which they were appointed.  
8 Appointed members' terms shall commence on March 1 of the  
9 year of appointment.

10

11           (c) The council shall annually elect from its voting  
12 membership a vice-chairman and a secretary, each for a term  
13 of one (1) year.

14

15           (d) The council shall hold not less than four (4)  
16 regularly scheduled meetings each year. Special meetings may  
17 be called by the chairman and shall be called by the chairman  
18 upon a written request submitted by three (3) or more voting  
19 members. All matters shall be decided by a majority vote of  
20 a quorum of the voting members of the council.

21

22           (e) Each appointed member of the council, other than ex  
23 officio members, shall receive a salary of three hundred

1 dollars (\$300.00) together with per diem and mileage at the  
2 rate paid to members of the Wyoming legislature for each day  
3 of attending and traveling to and from meetings, hearings and  
4 other activities necessary to the performance of the duties  
5 of the council.

6

7 (f) The council may contract with consultants having  
8 special expertise to assist in the performance of its duties.

9

10 (g) The Wyoming state treasurer's office and the office  
11 of state lands and investments shall provide the council with  
12 meeting facilities, secretarial or clerical assistance,  
13 supplies and such other assistance as the council may require  
14 in the performance of its duties.

15

16 (h) Upon request, the attorney general shall provide  
17 legal assistance as the council may require.

18

19 **9-4-723. Powers and duties of Wyoming investment**  
20 **council.**

21

22 (a) The Wyoming investment council shall:

23

1           (i) Review state investment policies and  
2 procedures and recommend statutory, rule or policy  
3 modifications as the council deems appropriate to maximize  
4 total net returns while protecting principal in a manner  
5 consistent with fiduciary and constitutional duties;

6

7           (ii) Consult with the state treasurer and state  
8 loan and investment board as required by law and as requested  
9 by each of those entities regarding the establishment and  
10 execution of state investment policies;

11

12           (iii) Oversee the investment of state funds in  
13 alternative investments, and oversee the investment of other  
14 state funds as provided by law;

15

16           (iv) Adopt reasonable rules and regulations  
17 pursuant to the Wyoming Administrative Procedure Act as  
18 necessary to administer its duties;

19

20           (v) Report as required by law, and at such times  
21 as the council deems appropriate, to the legislature's select  
22 committee on capital financing and investments regarding

1 state investment policies, procedures, authority and  
2 execution of the same.

3

4       **Section 3.** W.S. 9-2-1704(d) by creating a new paragraph  
5 (xvii), 9-4-714(a) by creating a new paragraph (vi) and by  
6 amending and renumbering (vi) as (vii), 9-4-715(a)(intro),  
7 (b), (c), (d)(intro) and (n)(intro), 9-4-716(a)(intro) and  
8 (c), 9-4-717 by creating a new subsection (e), 9-4-718(a)(iv)  
9 and (viii), 16-3-101(b)(i), 16-4-203(d) by creating a new  
10 paragraph (xx) and 16-4-402(a)(ii) are amended to read:

11

12       **9-2-1704. Reorganization plan; structure; time frame.**

13

14       (d) The entities of state government specified in this  
15 subsection are designated as separate operating agencies,  
16 which are separate and distinct from the departments and  
17 offices specified in subsection (a) of this section because  
18 of their quasi-judicial responsibility or because of their  
19 unique, specialized function which precludes their inclusion  
20 in another department. This act does not otherwise apply to  
21 separate operating agencies. Separate operating agencies are  
22 as follows:

23

1           (xvii) Wyoming investment council.

2

3           **9-4-714. Definitions.**

4

5           (a) As used in this act:

6

7           (vi) "Council" means the Wyoming investment  
8 council created by W.S. 9-4-722;

9

10           ~~(vi)~~(vii) "This act" means W.S. 9-4-714 through  
11 ~~9-4-721~~9-4-723.

12

13           **9-4-715. Permissible investments; chief investment**  
14 **officer.**

15

16           (a) The state treasurer is the chief investment officer  
17 of the state of Wyoming. The state treasurer shall employ an  
18 investment coordinator who shall have minimum qualifications  
19 including at least ten (10) years of experience managing  
20 institutional investment portfolios, experience with hiring  
21 and managing internal and external investment managers and  
22 extensive experience in any two (2) or more of the following  
23 areas: domestic equity or fixed-income securities,



1 international equity or fixed-income securities, cash  
2 management, alternative investments, managed futures or large  
3 real estate investments. The investment coordinator shall  
4 provide the state treasurer with information and  
5 recommendations regarding the investment of state funds as  
6 provided in this act and additional information as requested  
7 by the state treasurer. The state ~~treasurer's~~treasurer shall  
8 compile an annual report which shall include investment,  
9 income, individual and aggregate gains and losses by fund and  
10 the extent to which the state investment policy is being  
11 implemented. Subject to requirements of subsection (c) of  
12 this section, state funds may be invested in any investment:  
13

14 (b) The state treasurer, or his designee, which shall  
15 be registered under the Investment Advisor's Act of 1940 as  
16 amended if required to be registered by the terms of that act  
17 as amended, may invest up to seventy percent (70%) of the  
18 permanent funds in equities, including stocks of corporations  
19 pursuant to subsections (c) and (d) of this section. The state  
20 treasurer shall report at least annually to the select  
21 committee on capital financing and investments, ~~and~~ the joint  
22 appropriations committee and the Wyoming investment council

1 on the analysis conducted pursuant to paragraph (d)(ii) of  
2 this section and W.S. 9-4-716(b)(ix).

3

4 (c) The state treasurer shall obtain the approval of  
5 the board and council prior to the investment of funds in  
6 alternative investments, provided:

7

8 (i) The approval of the board and council shall be  
9 complete upon ~~the~~each entity's review and written acceptance  
10 ~~by the board~~ of the material terms of the instruments  
11 governing the investment;

12

13 (ii) Any material adverse change to the terms of  
14 instruments governing investments, previously approved by the  
15 board and council, at any time while the investments are held  
16 by the state of Wyoming shall require the renewal of approval  
17 of such investments by the board and council.

18

19 (d) When approving, acquiring, investing, reinvesting,  
20 exchanging, retaining, selling and managing investments of  
21 the state of Wyoming, the members of the board, the members  
22 of the council, the members of the investment funds committee  
23 created by this act, the state treasurer, designees of the

1 state treasurer or any other fiduciary appointed by the state  
2 treasurer, the board or the investment funds committee shall:

3

4 (n) The state treasurer shall not invest state funds  
5 for a specific public purpose authorized or directed by the  
6 legislature in excess of a total of one billion dollars  
7 (\$1,000,000,000.00), excluding investments made pursuant to  
8 W.S. 37-5-406. By November 1 of each calendar year, the state  
9 treasurer, in consultation with the board, the Wyoming  
10 investment council, the Wyoming water development office, the  
11 Wyoming business council and the office of state lands and  
12 investments, shall provide a report to the select committee  
13 on capital financing and investments on all state funds  
14 invested for a specific public purpose authorized or directed  
15 by the legislature. The report shall include:

16

17 **9-4-716. State investment policy; investment**  
18 **consultant.**

19

20 (a) The board in consultation with the council shall  
21 adopt investment policy statements for state funds and shall  
22 review those policy statements at least annually. These  
23 policy statements shall be subject to the following:

1

2 (c) The state treasurer, in consultation with the  
3 investment funds committee ~~created by this act~~ and council,  
4 shall develop and submit proposed investment policy  
5 statements for each grouping of state funds specified in  
6 subsection (a) of this section and may contract for assistance  
7 in developing proposals or in making suggestions for  
8 modifications to existing investment policy statements. The  
9 state treasurer shall report quarterly to the board and  
10 council regarding the performance of investments with respect  
11 to each grouping of state funds specified by the board under  
12 subsection (a) of this section and such other information as  
13 may be required by the board.

14

15 **9-4-717. Additional investment matters.**

16

17 (e) In making any investment of state funds under this  
18 act or investing state or other funds as otherwise authorized  
19 by law, the state treasurer shall consult with the state chief  
20 investment coordinator retained pursuant to W.S. 9-4-715(a)  
21 to confirm that the investment is consistent with the  
22 requirements of this act, including the prudent investor  
23 standard specified in W.S. 9-4-715(d) and other legal

1 requirements and fiduciary standards regarding the investment  
2 of the funds at issue. The state treasurer may, in addition  
3 to other provisions allowing for the delegation of investment  
4 authority in this act or other law, delegate to the investment  
5 coordinator day-to-day decision making in regard to the  
6 investment of state or other funds under the treasurer's  
7 control.

8  
9 **9-4-718. Investment managers.**

10  
11 (a) The state treasurer may contract with investment  
12 managers and pay for investment services and investment  
13 advice subject to the following conditions:

14  
15 (iv) Investment managers shall be selected based  
16 upon a competitive process and with consideration given to  
17 the historical performance of prospective managers. No  
18 investment manager shall be hired unless approved by a  
19 majority vote of the board in consultation with the council  
20 and the investment funds committee created by this act. The  
21 contract with an investment manager may be terminated by a  
22 majority vote of the board;

23

1           (viii) Each investment manager shall at least  
2 quarterly provide a report to the state treasurer and council  
3 describing the manager's performance relative to mutually  
4 agreed upon industry indices and reflecting all brokerage  
5 fees and other fees or expenses paid by or fees earned by the  
6 manager which are paid by the state under the contract.

7  
8           **16-3-101. Short title; definitions.**

9  
10           (b) As used in this act:

11  
12           (i) "Agency" means any authority, bureau, board,  
13 commission, department, division, officer or employee of the  
14 state, a county, city or town or other political subdivision  
15 of the state, except the governing body of a city or town,  
16 the state legislature, the University of Wyoming, the  
17 judiciary, the consensus revenue estimating group as defined  
18 in W.S. 9-2-1002, ~~and~~ the investment funds committee created  
19 by W.S. 9-4-720 and the Wyoming investment council created by  
20 W.S. 9-4-722;

21

1           16-4-203. Right of inspection; grounds for denial;  
2 access of news media; order permitting or restricting  
3 disclosure; exceptions.

4

5           (d) The custodian shall deny the right of inspection of  
6 the following records, unless otherwise provided by law:

7

8           (xx) Any records of the Wyoming investment  
9 council, created by W.S. 9-4-722, that disclose information  
10 considered by the council, council deliberations or tentative  
11 decisions of the council.

12

13           16-4-402. Definitions.

14

15           (a) As used in this act:

16

17           (ii) "Agency" means any authority, bureau, board,  
18 commission, committee, or subagency of the state, a county,  
19 a municipality or other political subdivision which is  
20 created by or pursuant to the Wyoming constitution, statute  
21 or ordinance, other than the state legislature, the  
22 judiciary, the consensus revenue estimating group as defined  
23 in W.S. 9-2-1002, ~~and~~ the investment funds committee created

1 by W.S. 9-4-720 and the Wyoming investment council created by  
2 W.S. 9-4-722;

3

4 **Section 4.**

5

6 (a) The select committee on capital financing and  
7 investments, in light of best achieving the goals set forth  
8 in Section 1 of this act, shall review and report its  
9 recommendations to the legislature on the following:

10

11 (i) A timeline for transferring the duties of the  
12 state loan and investment board relating to the formulation  
13 of investment policies for state funds as provided in W.S.  
14 9-4-716, to the Wyoming investment council;

15

16 (ii) Whether other duties or functions of the  
17 state loan and investment board relating to the investment of  
18 state funds, including those relating to public purpose  
19 investments and those of the state board of deposits, should  
20 be transferred to the Wyoming investment council or be  
21 modified;

22



1           (iii) Whether duties or functions of the state  
2 treasurer's office relating to the investment of state funds  
3 should be transferred to the Wyoming investment council or be  
4 modified. With this recommendation the committee shall  
5 address any transfer of the position of the state treasurer's  
6 coordinator retained pursuant to W.S. 9-4-715(a) and internal  
7 investment unit or other personnel within the state  
8 treasurer's office to the Wyoming investment council;

9

10           (iv) Identification of any other positions,  
11 personnel, appropriations, property, equipment and authority  
12 in agencies supporting investments and investment related  
13 activities by the state loan and investment board and the  
14 state treasurer's office which should be transferred to the  
15 Wyoming investment council;

16

17           (v) Identification of other investment functions  
18 by any state entity, including investments by the Wyoming  
19 retirement system or other state entity, and loan programs  
20 involving state funds that are subject to state loan and  
21 investment board approval, which should be transferred to the  
22 Wyoming investment council or be subject to other  
23 modification to ensure the best use of the funds considering

1 both the direct return on investment and other benefits to  
2 the state;

3

4 (vi) A proposed budget for the Wyoming investment  
5 council for the fiscal biennium commencing July 1, 2020, to  
6 implement any recommendations under this act. The proposed  
7 budget and other recommendations under this section shall be  
8 submitted to the state treasurer and governor and the governor  
9 shall submit a recommended budget for the council in  
10 accordance with W.S. 9-2-1013.

11

12 (b) The report required by this section shall be  
13 developed in consultation with the Wyoming investment council  
14 and submitted to all statewide elected officials not later  
15 than October 1, 2019.

16

17 (c) Each statewide elected official, and the Wyoming  
18 investment council may submit a response to the report, to  
19 the select committee on capital financing and investments not  
20 later than October 15, 2019.

21

22 (d) The select committee on capital financing and  
23 investments shall sponsor legislation for introduction in the

1 2020 legislative budget session as the committee deems  
2 appropriate in light of the report and responses submitted  
3 under this section.

4

5       **Section 5.** There is appropriated thirty-five thousand  
6 dollars (\$35,000.00) from the general fund to the state  
7 treasurer's office for purposes of funding the Wyoming  
8 investment council activities as authorized in this act.  
9 Notwithstanding any other provision of law, this  
10 appropriation shall not be transferred or expended for any  
11 other purpose. This appropriation shall be for the period  
12 beginning with the effective date of this act and ending June  
13 30, 2020 and any unexpended, unobligated funds remaining from  
14 this appropriation shall revert as provided by law on June  
15 20, 2020.

16

17       **Section 6.** Notwithstanding W.S. 9-4-722(b), initial  
18 appointments to the Wyoming investment council created by  
19 this act shall be made not later than March 30, 2019. The  
20 council may exercise its authority under this act upon the  
21 appointment of all voting members.

22

23       **Section 7.**

1

2           (a) Section 6 of this act is effective immediately upon  
3 completion of all acts necessary for a bill to become law as  
4 provided by Article 4, Section 8 of the Wyoming Constitution.

5

6           (b) Except as provided in subsection (a) of this act,  
7 this act is effective April 1, 2019.

8

9

(END)