

SENATE FILE NO. SF0138

Investment of state funds-2.

Sponsored by: Senator(s) Bebout, Dockstader, Driskill,  
Gierau, Hicks, Kinskey, Perkins and Rothfuss

A BILL

for

1 AN ACT relating to the investment of state funds;  
2 authorizing the purchase of real property assets and  
3 associated interests as specified; specifying reporting and  
4 other requirements for the purchase; specifying sources of  
5 funding for the purchase; authorizing the retention of  
6 consultants; authorizing payments to local governments in  
7 lieu of property taxes as specified; establishing a  
8 property tax reimbursement account; providing  
9 appropriations; and providing for an effective date.

10

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

12

13 **Section 1.** W.S. 9-4-715.1 and 39-13-113 are created  
14 to read:

15

1           **9-4-715.1. Permissible purchases of investment**  
2 **assets.**

3  
4           (a) The state loan and investment board is authorized  
5 to make one (1) or more purchases of assets for investment  
6 that are located within the state of Wyoming or within  
7 states with contiguous borders to Wyoming. Assets that may  
8 be purchased under this section shall be limited to surface  
9 interests, mineral interests with or without the surface  
10 estate and any equity, contract or other interests  
11 associated with the surface or mineral interests purchased.  
12 Any purchase under this section shall be subject to the  
13 following requirements:

14  
15           (i) Before a purchase is completed, the state  
16 loan and investment board shall complete due diligence that  
17 analyzes the fair market value of the assets purchased and  
18 the feasibility and impacts of the purchase on the state  
19 and on the funds used to complete the purchase;

20  
21           (ii) Any purchase under this section shall:

22

1                   (A) Be in accordance with all applicable  
2 investment policies established by the state loan and  
3 investment board and with the prudent investor rule  
4 established in the Wyoming Uniform Prudent Investor Act,  
5 W.S. 4-10-901 through 4-10-913;

6

7                   (B) Be subject to the requirements for  
8 alternative investments under W.S. 9-4-715;

9

10                   (C) Be evaluated as provided in W.S.  
11 9-4-715(d) and (e) in addition to other provisions of this  
12 section for the particular source of funds expended.

13

14                   (iii) Immediately upon filing the report  
15 required by subsection (j) of this section, the state loan  
16 and investment board shall:

17

18                   (A) Make available to the public on its  
19 website the details of the proposed purchase including the  
20 locations of the assets, the purchase price, the funding  
21 source for the purchase, the projected costs to manage the  
22 land and projected revenue streams from the assets  
23 purchased;

1

2                   (B) Establish an open public comment period  
3 to review the details of the proposed purchase, during  
4 which members of the public may submit written comments  
5 electronically, by mail or both;

6

7                   (C) During the comment period provided by  
8 subparagraph (B) of this paragraph, hold at least one (1)  
9 informational public hearing within a geographic area in  
10 Wyoming that would be affected by the proposed purchase,  
11 which is duly noticed in local and statewide newspapers, at  
12 which hearing the board shall present the terms of the  
13 proposed purchase and take public testimony. If more than  
14 one (1) meeting is held, the information presented at each  
15 meeting may be the same.

16

17                   (iv) Before the state loan and investment board  
18 enters into a purchase agreement under this section, the  
19 legislature shall convene to consider the proposed purchase  
20 in a special, general or budget session, and before  
21 execution of the purchase agreement, legislation  
22 authorizing the proposed purchase of assets shall be passed

1 by a majority vote of the members of both houses and  
2 approved by the governor.

3

4 (b) Two (2) members of the house of representatives  
5 appointed by the speaker of the house and two (2) members  
6 of the senate appointed by the president of the senate  
7 shall act as liaisons to the state loan and investment  
8 board during the investigation of a purchase under this  
9 section and completion of due diligence and negotiations  
10 for any purchase under this section.

11

12 (c) A purchase made under this section shall be made  
13 using only funds from one (1) or more of the following  
14 sources:

15

16 (i) The legislative stabilization reserve  
17 account, provided that the total amount expended from the  
18 account for the purchase under this section shall not  
19 exceed seventy-five percent (75%) of the total expenditures  
20 for all purchases pursuant to this section;

21

22 (ii) The permanent Wyoming mineral trust fund  
23 under W.S. 9-4-204(u)(iii);

1

2 (iii) The common school account within the  
3 permanent land fund;

4

5 (iv) Other unobligated and unencumbered funds  
6 appropriated to the state loan and investment board for  
7 investment, or to the board of land commissioners to  
8 execute its duties, to the extent the funds are not  
9 restricted by law to be expended only for other specified  
10 purposes. The state loan and investment board may accept  
11 federal grants and other contributions, grants, gifts,  
12 bequests and donations from any source designated to be  
13 used to make purchases pursuant to this section which will  
14 impose no financial obligation upon the state. Any grants  
15 and other contributions received under this paragraph are  
16 continuously appropriated to the board to be used for  
17 purchases authorized under this section.

18

19 (d) Before entering into an agreement to purchase  
20 under this section, the board of land commissioners shall  
21 have given final approval for any purchase under this  
22 section that is negotiated by the state loan and investment  
23 board that provides for the expenditure of funds from the

1 common school account within the permanent land fund or  
2 from other funds appropriated to the board of land  
3 commissioners.

4

5 (e) No purchase shall be completed under this section  
6 without the written opinion of the attorney general  
7 certifying the legality of the transaction and all  
8 documents connected therein.

9

10 (f) A purchase made under this section shall:

11

12 (i) Not be considered a public purpose  
13 investment under W.S. 9-4-715(n);

14

15 (ii) Not be considered for purposes of the  
16 authority granted under W.S. 9-4-715(k).

17

18 (g) The board of land commissioners shall manage all  
19 surface and mineral interests purchased under the authority  
20 of this section. The state loan and investment board shall  
21 manage other assets purchased under the authority of this  
22 section in accordance with its management of other state  
23 investments.

1

2 (h) If the board of land commissioners determines  
3 that the sale of purchased real property assets located  
4 outside of Wyoming is in the best interests of the  
5 beneficiaries of the fund used to purchase the assets, or  
6 the state in the case of purchases using funds of the  
7 legislative stabilization reserve account, it may sell the  
8 asset in accordance with the provisions of W.S. 36-9-101  
9 through 36-9-117, subject to the following:

10

11 (i) Advertisement of the sale under W.S.  
12 36-9-104 shall be provided in the county in which the real  
13 property is situated and in a newspaper of statewide  
14 circulation in Wyoming;

15

16 (ii) The sale shall be conducted in Wyoming.

17

18 (j) The state loan and investment board shall report  
19 to the legislature not less than sixty (60) days before  
20 entering into an agreement to purchase assets under this  
21 section. The report shall include a description of the  
22 assets to be purchased including the location of the  
23 assets, the purchase price and the funding source or



1 sources for the purchase and the specific location of all  
2 assets located outside of the state and their total fair  
3 market value.

4

5 **39-13-113. State payments in lieu of taxes for local**  
6 **governments; account created; distribution of funds.**

7

8 (a) The property tax reimbursement account is  
9 created.

10

11 (b) Any county in which property purchased or  
12 acquired by exchange pursuant to W.S. 9-4-715.1 is located  
13 shall be eligible for payment from the property tax  
14 reimbursement account to the extent the property would have  
15 been taxed if not used primarily for a governmental  
16 purpose. On or before September 1, county assessors shall  
17 certify the exemptions granted for such property to the  
18 department. On or before October 1, the state treasurer out  
19 of funds within the property tax reimbursement account  
20 shall reimburse each county treasurer for the amount of  
21 taxes that would have been collected if the property was  
22 not exempt. The county treasurer shall distribute the

1 revenue to each governmental entity in the actual amount of  
2 taxes lost due to the exemption.

3

4 (c) Funds within the property tax reimbursement  
5 account are hereby continuously appropriated to the state  
6 treasurer for purposes of this section.

7

8 **Section 2.** W.S. 9-4-219(a) and 9-4-715(q) by creating  
9 a new paragraph (i), by renumbering (i) as (ii), by  
10 amending and renumbering (ii) and (iii) as (iii) and (iv)  
11 and by renumbering (iv) as (v) are amended to read:

12

13 **9-4-219. Legislative stabilization reserve account**  
14 **created; purposes; legislative deficit control account.**

15

16 (a) The legislative stabilization reserve account  
17 created by 2005 Wyoming Session Laws, Chapter 191, Section  
18 4, Section 301(d) is continued and codified. Funds within  
19 the account shall only be expended by legislative  
20 appropriation. ~~All~~ Funds within the account shall be  
21 invested by the state treasurer as authorized under W.S.  
22 9-4-715(a), (d), (e) and (q) and all investment earnings  
23 from the account attributable to those investments shall be

1 credited to the general fund. Funds within the account may  
2 also be invested by the state loan and investment board as  
3 provided in W.S. 9-4-715.1.

4  
5 **9-4-715. Permissible investments.**

6  
7 (q) The state treasurer, or his designee, which shall  
8 be registered under the Investment Advisor's Act of 1940 as  
9 amended if required to be registered by the terms of that  
10 act as amended shall invest the legislative stabilization  
11 reserve account created in W.S. 9-4-219 in a manner to  
12 obtain the highest return possible subject to the  
13 following:

14  
15 (i) The treasurer shall consult with the state  
16 loan and investment board to identify funds within the  
17 account that the board has identified as funds potentially  
18 necessary to complete a purchase authorized by W.S.  
19 9-4-715.1 and separately invest those funds for the period  
20 as recommended by the board in order to provide the  
21 liquidity needed to effectuate the purchase. Until March  
22 31, 2021, the funds identified by the board shall not be

1 subject to paragraph (ii) of this subsection and shall be  
2 separately invested.

3

4 ~~(i)~~(ii) Investments shall be made in accordance  
5 with investment policy statements adopted by the board  
6 under W.S. 9-4-716. In adopting investment policy  
7 statements for the legislative stabilization reserve  
8 account, the board shall seek to preserve the balance of  
9 the account as necessary to address:

10

11 (A) A budget shortfall or structural budget  
12 deficit through contingent appropriations and expenditures  
13 under W.S. 9-2-1014(d)(ii) and (iii);

14

15 (B) A published consensus revenue  
16 estimating group estimate of revenues that is less than  
17 existing legislative appropriations for state government  
18 operations or support of public schools;

19

20 (C) Other emergencies and needs identified  
21 or authorized by the legislature under Wyoming statutes and  
22 session laws.

23

1           ~~(ii)~~(iii) To the extent funds are available and  
2 prior to making any other investments, five hundred million  
3 dollars (\$500,000,000.00) shall be invested in short term  
4 fixed income investment grade securities. The provisions of  
5 this paragraph shall not be applicable through March 31,  
6 2021;

7  
8           ~~(iii)~~(iv) After consultation with the budget  
9 division of the department of administration and  
10 information, up to fifty-five percent (55%) of the  
11 unobligated, unencumbered balance of the legislative  
12 stabilization reserve account in excess of the amount  
13 specified in paragraph ~~(ii)~~(iii) of this subsection, as  
14 calculated by the state auditor on October 1 of each fiscal  
15 year, may be invested in equities, including stocks of  
16 corporations. Funds identified pursuant to paragraph (i) of  
17 this subsection shall not be considered as obligated or  
18 encumbered funds for purposes of this paragraph and for  
19 purposes of W.S. 9-4-219(b) until the state loan and  
20 investment board executes a purchase agreement pursuant to  
21 W.S. 9-4-715.1. Investments under this paragraph shall be  
22 made in compliance with subsections (c) and (d) of this  
23 section;

1

2           ~~(iv)~~(v) Not later than November 1 of each year,  
3 the state treasurer shall report to the joint  
4 appropriations committee and the select committee on  
5 capital financing and investments regarding the annual  
6 review of the investment policy statement for the  
7 legislative stabilization reserve account and the  
8 investment performance of the account.

9

10           **Section 3.**

11

12           (a) In executing a purchase under W.S. 9-4-715.1, as  
13 created by section 1 of this act, the state loan and  
14 investment board is authorized to assume all leases,  
15 contracts and other agreements related to the purchased  
16 assets as they exist regardless of whether the lease,  
17 contract or other agreement complies with the provisions of  
18 title 36 of the Wyoming statutes applicable to state lands.  
19 The board may renegotiate leases, contracts and other  
20 agreements as the board deems necessary or appropriate to  
21 fulfill the state's fiduciary duties and that would be in  
22 the best interests of the state.

23

1           (b) Subject to existing lease and contract rights  
2 assumed in accordance with subsection (a) of this section,  
3 all state laws governing the management of state lands  
4 shall be applicable to assets purchased pursuant to W.S.  
5 9-4-715.1 unless otherwise provided in this act.

6

7           **Section 4.**

8

9           (a) The office of state lands and investments, upon  
10 the direction and approval of the state loan and investment  
11 board, may retain consultants to support the board's  
12 investigation and due diligence as required under this act.  
13 There is appropriated from the state building commission  
14 contingency account to the state loan and investment board  
15 such funds as are necessary to retain consultants under  
16 this subsection. This appropriation shall be for the  
17 period beginning with the effective date of this act and  
18 ending June 30, 2021. This appropriation shall not be  
19 transferred or expended for any other purpose.

20

21           (b) There is appropriated from the legislative  
22 stabilization reserve account to the property tax  
23 reimbursement account created in W.S. 39-13-113, as created

1 by section 1 of this act, such funds as are necessary to  
2 provide reimbursement payments to counties as provided in  
3 W.S. 39-13-113. This appropriation shall be for the period  
4 beginning with the effective date of this act and ending  
5 June 30, 2021. This appropriation shall not be transferred  
6 or expended for any other purpose and any unexpended,  
7 unobligated funds remaining from this appropriation shall  
8 revert as provided by law on June 30, 2021.

9

10 (c) There is appropriated seventy-five thousand  
11 dollars (\$75,000.00) from the general fund to the state  
12 loan and investment board for purposes of completing the  
13 tasks required by W.S. 9-4-715.1(a)(iii), as created by  
14 section 1 of this act. This appropriation shall be for the  
15 period beginning with the effective date of this act and  
16 ending June 30, 2021. This appropriation shall not be  
17 transferred or expended for any other purpose and any  
18 unexpended, unobligated funds remaining from this  
19 appropriation shall revert as provided by law on June 30,  
20 2021.

21



1           **Section 5.** This act is effective immediately upon  
2 completion of all acts necessary for a bill to become law  
3 as provided by Article 4, Section 8 of the Wyoming  
4 Constitution.

5

6

(END)