



March 26, 2020

The Honorable Edward Buchanan, Secretary of State  
Herschler Building East,  
122 W. 25<sup>th</sup> Street, Suites 100  
Cheyenne, Wyoming 82002

Re: Veto of SF0140/ SEA No. 0068 - Banking Division-Classification and Salary Exemptions

Dear Secretary Buchanan,

I would like to compliment the Legislature for embracing a leadership role in the emerging financial ecosystem of digital assets. Over the last two years, our state has established a most sophisticated, far-reaching, and elegant regulatory ecosystem for the incipient digital financial services industry. It is an industry primed to innovate through distributed ledger technology, blockchain and digital assets, and owing to Wyoming's good efforts, there is no better place for this industry to thrive than right here in Wyoming.

South Dakota was successful in the early 1980s in crafting legislation that attracted credit card businesses and trust companies, and similarly Wyoming's new legal framework has attracted international attention from financial services companies worldwide. Many will seek to relocate to Wyoming. I expect that the first special purpose depository institutions (SPDIs) will be chartered and operational later this year. More importantly, I expect a nucleus of this new financial services industry will begin to take shape in our state over the next few years.

A key aspect of Wyoming's ascendancy in the area of digital asset management, has been the ability to attract appropriate talent to the Division of Banking and assuring that the Division has sufficient resources to implement Wyoming's new laws with legal certainty, responsive regulations, and the flexibility to innovate. In doing so Wyoming must still ensure high levels of customer protection and the safety and soundness of these nascent financial institutions.

Senate Enrolled Act 68 is well-intentioned, as it recognizes the dramatically increased workload of the Division of Banking as well as its new role as an international leader in the regulation of digital assets and financial technology. Nevertheless, this legislation raises concerns for two reasons:

First, the enrolled act contains constitutional questions. As highlighted in the veto letter for Senate File 1, this legislation "raises a separation of powers issue because it involves the legislative branch infringing on the executive branch's authority." Executive branch employee position classifications and compensation are the province of the executive branch and are thus, best managed, by the Department of Administration & Information. Additionally, the enrolled act does not clearly define the role of the Joint Appropriations Committee in the proposed process.

The issue arises because the Legislature generally can only act through what the Constitution describes as the "single, finely wrought and exhaustively considered, procedure" of bicameralism and presentment of a bill. Thus a constitutional question exists because SEA 68 does not clearly limit the extent of the approvals required from the Joint Appropriations Committee acting outside the confines of the regular legislative process.

Secondly, SF 140 is unnecessary. SF 140 establishes a cumbersome procedure by which the Division of Banking must make recommendations to the State Banking Board, which must subsequently obtain both my approval and a certain permission from the Legislature. Additionally, the State Banking Board would likely have to promulgate new rules surrounding the position classifications and salaries of Division employees. This process is extensive and the antithesis of the nimble and efficient character we have sought to establish for this class of assets. Current executive branch procedures relating to employee classifications and compensation are more than sufficient to meet the needs of this program.

For these reasons, I have vetoed SEA 68. Moreover, current economic and budgetary conditions in Wyoming mean that we must be cautious in authorizing new expenditures of public funds. My veto letter for SF 1 noted that "I am committed to limiting salary increases and only authorizing proposals that have a proven benefit to the state, regardless of the source of funding."

Based on existing authority and the clear wishes expressed by the Legislature in SEA 68, I have instructed the Department of Administration & Information to work closely with Director Vogel and Commissioner Forkner to identify needs and opportunities relating to the Division's position classifications and compensation, based on that office's expanded and prominent role. The Division's function as a financial regulator means it may not be a good fit for existing auditor position classifications and compensation policies.

Consequently, I will make a determination that prudently uses state funds and ensures that the Division has the resources to skillfully implement our new laws. I will keep the Legislature fully updated on any developments, and will, of course, place any requested statutory or appropriations changes before you in advance of the 2021 General Session.

Thank you again for ensuring Wyoming's leadership in financial services innovation, and as always, for you and your colleagues' continued service to our great state.

Sincerely,



Mark Gordon  
Governor

cc: Honorable Steve Harshman, Speaker of the House  
Honorable Edward Buchanan, Secretary of State  
Ellen Thompson, Chief Clerk, Senate  
Wendy Harding, Chief Clerk, House of Representatives