

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Wyoming business council-program amendments and repeal.

Sponsored by: Joint Minerals, Business & Economic
Development Interim Committee

A BILL

for

1 AN ACT relating to the administration of the government;
2 amending the functions, duties and requirements of the
3 Wyoming business council; amending requirements and
4 standards for programs administered by the Wyoming business
5 council; repealing programs of the Wyoming business council
6 as specified; transferring specified functions of the
7 Wyoming business council as specified; prohibiting actions
8 related to the eliminated programs as specified; repealing
9 accounts; specifying the disposition of funds allocated to
10 or held for the eliminated programs; making conforming
11 amendments; requiring reports; specifying applicability;
12 and providing for effective dates.

1

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

3

4 **Section 1.**

5

6 (a) The following programs of the Wyoming business
7 council are repealed effective July 1, 2027:

8

9 (i) The science, technology and energy financial
10 aid functions assumed under W.S. 9-12-201 and 9-12-202;

11

12 (ii) The partnership loans to community
13 development organizations and state development
14 organizations under W.S. 9-12-302;

15

16 (iii) The Wyoming main street loan participation
17 program specified in W.S. 9-12-304(g);

18

19 (iv) The natural gas fueling infrastructure loan
20 program specified in W.S. 9-12-304(h);

21

22 (v) The large project loan program specified in
23 W.S. 9-12-308;

1

2 (vi) The Wyoming community facilities program
3 created in W.S. 9-12-801 through 9-12-804;

4

5 (vii) The Wyoming workforce housing
6 infrastructure program created in W.S. 9-12-901 through 9-
7 12-905;

8

9 (viii) The Wyoming small business investment
10 credit program created in W.S. 9-12-1301 through 9-12-1312.

11

12 (b) The following accounts are hereby repealed
13 effective July 1, 2027:

14

15 (i) The large project account within the
16 revolving investment fund specified in W.S. 9-12-308(a);

17

18 (ii) The brownfield revolving loan fund (fund
19 098);

20

21 (iii) The community facilities program account
22 created in W.S. 9-12-804;

23

1 (iv) The workforce housing infrastructure program
2 account created in W.S. 9-12-905;

3
4 (v) The economic diversification account created
5 in W.S. 9-12-1404(a). For purposes of this paragraph, the
6 subaccounts created in W.S. 9-12-1404(a)(i) through (v)
7 shall continue as separate accounts as provided for in
8 section 3 of this act.

9
10 (c) On July 1, 2027, all unexpended, unobligated funds
11 in the accounts and funds specified in subsection (b) of
12 this section shall revert to the general fund, except as
13 provided in subsection (d) of this section.

14
15 (d) On July 1, 2027, all unexpended, unobligated funds
16 in the large project account within the revolving
17 investment fund specified in W.S. 9-12-308(a) shall revert
18 to the revolving investment fund created pursuant to
19 article 16, section 12 of the Wyoming constitution.

20
21 **Section 2.**
22

1 (a) The following shall apply to the programs
2 specified for elimination in section 1(a) of this act:

3

4 (i) No plan of reorganization under W.S. 9-2-
5 1707(a)(iii) for the elimination of the programs specified
6 in section 1(a) of this act shall be required;

7

8 (ii) Beginning on the effective date of this
9 section, the Wyoming business council shall:

10

11 (A) Not accept any new applications for
12 grants, loans, bonds or other funding for the programs
13 specified in section 1(a) of this act;

14

15 (B) Not process any pending applications for
16 grants, loans, financial aid, bonds or other funding for
17 the programs specified in section 1(a) of this act;

18

19 (C) Not approve any grants or financial aid
20 or disburse any funds for financial aid or grants or
21 applications for the programs specified in section 1(a) of
22 this act that are not approved or executed before the
23 effective date of this section. For purposes of this

1 subparagraph, the business council may disburse grant funds
2 and financial aid encumbered or obligated before the
3 effective date of this section;

4
5 (iii) Not approve any loans or bonds or disburse
6 any funds for loans or bonds for the programs specified in
7 section 1(a) of this act that are not approved or executed
8 before the effective date of this section;

9
10 (iv) Not encumber or obligate funds from any of
11 the accounts or funds specified in section 1(b) of this act
12 or for any of the programs specified in section 1(a) of
13 this act;

14
15 (v) Take all actions necessary to effectuate this
16 act and wind up all activities of the programs specified in
17 section 1(a) of this act not later than July 1, 2027,
18 subject to subsection (b) of this section.

19
20 (b) Nothing in this section shall be construed to:

21
22 (i) Affect the administration of any grants,
23 loans, bonds, financial aid or other funds disbursed for

1 the programs specified in section 1(a) of this act or from
2 the accounts repealed in section 1(b) of this act before
3 the effective date of this section;

4
5 (ii) Impair any existing contracts, agreements or
6 other obligations of the Wyoming business council for the
7 programs specified in section 1(a) of this act or using
8 funds from the accounts specified in section 1(b) of this
9 act executed before the effective date of this section.

10
11 (c) Not later than October 1, 2027, the Wyoming
12 business council shall report to the joint appropriations
13 committee and the joint minerals, business and economic
14 development interim committee on:

15
16 (i) The amount of funds from each of the accounts
17 specified in section 1(b) of this act that reverted to the
18 general fund in accordance with section 1(c) of this act;

19
20 (ii) The amount of funds from the large project
21 account within the revolving investment fund that reverted
22 to the revolving investment fund created pursuant to

1 article 16, section 12 of the Wyoming constitution in
2 accordance with section 1(d) of this act;

3

4 (iii) All remaining obligations and encumbrances
5 of the programs and accounts specified in section 1 of this
6 act that were made before the effective date of this
7 section and that remain outstanding as of July 1, 2027.

8

9 **Section 3.** W.S. 9-1-202(a), 9-2-2601(d), 9-2-
10 2610(a)(xii) and (xvi), 9-2-2611(a), (c), (m) and (o)(ii),
11 9-12-102(a)(viii), 9-12-103(a) and (f), 9-12-105(b)(intro),
12 (c)(intro) and (i)(C) and (d)(intro), (i)(C) and (E)(I),
13 (ii)(intro), (iv)(intro) and (v)(intro), 9-12-109(a), 9-12-
14 112(a)(ii)(intro), 9-12-302(a), 9-12-304(b)(i)(A), 9-12-
15 305, 9-12-306(b), 9-12-601(b) and (k)(i) and (ii), 9-12-
16 1102(a), 9-12-1103(a)(ii), 9-12-1104 by creating a new
17 subsection (d), 9-12-1404(a)(intro), (i), (ii)(intro),
18 (iii)(intro), (iv) and (v) and (b), 9-12-1405(a) and
19 (b)(intro), 9-12-1501(b), 9-12-1509(c) and 10-7-103(c)(ii)
20 are amended to read:

21

22 **9-1-202. Removal of appointive officers and**
23 **commissioners; reason for removal to be filed.**

1

2 (a) Notwithstanding any other provision of law and
3 except as otherwise provided in this section, any person
4 may be removed by the governor, at the governor's pleasure,
5 if appointed by the governor to serve as head of a state
6 agency, department or division, or as a member of a state
7 board or commission. The governor may only remove a ~~member~~
8 ~~director~~ of the Wyoming business council as provided in
9 W.S. 9-12-103.

10

11 **9-2-2601. Department of workforce services; duties**
12 **and responsibilities; agreements with other agencies**
13 **authorized; definition; merger with department of**
14 **employment.**

15

16 (d) The department shall administer expenditures from
17 the workforce development training fund as provided in W.S.
18 9-2-2604. The department shall administer expenditures from
19 the Wyoming workforce development-priority economic sector
20 partnership ~~subaccount within the economic diversification~~
21 account as provided in W.S. 9-2-2609 through 9-2-2611 and
22 9-12-1404.

23

1 **9-2-2610. Definitions.**

2

3 (a) As used in this act:

4

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

14

15 (xvi) "Wyoming workforce development-priority
16 economic sector partnership ~~subaccount~~ account" or
17 ~~"subaccount"~~ "account" means the ~~subaccount~~ account created
18 in W.S. 9-12-1404(a) (iii);

19

20 **9-2-2611. Priority economic sector business workforce**
21 **training programs; eligibility.**

22

1 (a) The department, ~~in consultation with the~~
2 ~~coordinator of economic diversification~~ shall administer
3 the Wyoming workforce development-priority economic sector
4 partnership program. Using available monies within the
5 Wyoming workforce development-priority economic sector
6 partnership ~~subaccount~~ account, the department may contract
7 to provide training funds for education or skills based
8 training for employees for priority economic sector
9 businesses in new jobs. The funds shall be provided to
10 eligible training providers in accordance with contracts
11 between the department, priority economic sector business
12 employers and eligible training providers, for the purpose
13 of providing employees with education and training required
14 for jobs in new or expanding priority economic sector
15 businesses in the state.

16

17 (c) An applicant shall provide a match of at least
18 one dollar (\$1.00) for every one dollar (\$1.00) requested
19 from the ~~subaccount~~ account. The match may include new
20 loans and investments and expenditures for direct project
21 related costs such as new equipment and buildings. The
22 department may consider recent purchases of fixed assets
23 directly related to the proposal on a case-by-case basis. A

1 purchase of fixed assets directly related to the proposed
2 training activities that have been made within ninety (90)
3 days after submission of the application may be considered
4 eligible by the department.

5
6 (m) The Wyoming business council shall assist the
7 department with review of information provided under
8 paragraphs (h)(i) and (ii) of this section, as requested by
9 the department. If the department determines that an
10 applicant meets the criteria established in this section
11 and has complied with the applicable procedures and review
12 processes established by the department, the department may
13 recommend funding for a priority economic sector business
14 workforce development program and the disbursement of funds
15 under contract to the eligible training provider. The
16 recipient eligible training provider shall use funds
17 received under the program in accordance with the
18 provisions of the contract. No funding shall be provided
19 for any program without the written opinion of the attorney
20 general certifying the legality of the transaction and all
21 documents connected therein. Upon recommendation of the
22 department, certification by the attorney general, and
23 approval by the governor or his designee, funding from the

1 Wyoming workforce development-priority economic sector
2 partnership ~~subaccount~~account may be distributed to the
3 eligible training provider.

4
5 (o) The department shall:

6
7 (ii) Report annually to the joint appropriations
8 committee on the expenditures made from the Wyoming
9 workforce development-priority economic sector partnership
10 ~~subaccount~~account in the preceding fiscal year and the
11 results of each partnership project's activities.

12
13 **9-12-102. Definitions.**

14
15 (a) As used in this act, the following terms have the
16 following meanings, except where the context clearly
17 indicates otherwise:

18
19 (viii) "This act" means W.S. 9-12-101 through ~~9-~~
20 ~~12-1509~~9-12-1510.

1 **9-12-103. Wyoming business council; creation;**
2 **composition; compensation; termination; meetings; surety**
3 **bonds; fiscal control.**

4
5 (a) There is created the Wyoming business council.
6 The council is a body corporate operating as a state
7 instrumentality operated solely for the public benefit. As
8 such it shall have, and is hereby vested with, the powers
9 and duties conferred in this chapter. Beginning March 1,
10 2022, it shall be governed by a board of directors
11 consisting of thirteen (13) voting directors, appointed by
12 the governor with the advice and consent of the senate. The
13 governor shall be a member and cochairman of the board, but
14 shall not vote. One (1) senator appointed by the president
15 of the senate and one (1) representative appointed by the
16 speaker of the house of representatives shall serve as
17 nonvoting legislative liaisons to the council. The
18 appointed directors shall have demonstrated leadership and
19 business expertise. ~~An equal number of directors shall be~~
20 ~~appointed to initial terms of one (1), two (2) and three~~
21 ~~(3) years. Thereafter, D~~irectors shall serve for terms of
22 three (3) years. No appointed director shall serve more
23 than two (2) successive three (3) year terms. If a vacancy

1 occurs, the governor shall appoint a successor in
2 accordance with W.S. 28-12-101. The governor may remove any
3 board member he appoints for cause and shall remove any
4 director who fails to attend three (3) consecutive regular
5 meetings of the council. No appointed council member shall
6 send a designee to attend a council meeting nor vote by
7 proxy. The board shall select one (1) of its ~~members~~
8 directors to act as cochairman of the board. The board
9 shall retain a chief executive officer. The chief
10 executive officer serves at the pleasure of the board. All
11 of the appointed directors shall be appointed at large and
12 at least twelve (12) of the appointed directors shall be
13 residents of Wyoming.

14

15 *****

16 *****

17 **STAFF COMMENT**

18

19 The Committee may wish to consider providing additional
20 language about the duties and functions of the legislative
21 nonvoting members of the Wyoming Business Council board.
22 Below is example language in a new subsection for the
23 Committee to consider that addresses meeting attendance,
24 terms, removal, and reimbursement of expenses.

25

26 (j) One (1) senator appointed by the president of the
27 senate and one (1) representative appointed by the speaker
28 of the house shall serve as nonvoting legislative liaisons
29 to the council. Legislative liaisons may attend council
30 meetings and participate in council activities as the
31 legislative liaisons determine to be necessary or

1 appropriate. For purposes of attending executive sessions
2 held pursuant to W.S. 16-4-405(a) only, legislative
3 liaisons shall be considered members of the governing body
4 of the council. The legislative liaisons shall serve two
5 (2) year terms but are eligible for reappointment and may
6 be removed by the officer appointing the member.
7 Legislative liaisons shall be paid salary, per diem and
8 mileage as provided in W.S. 28-5-101 when attending
9 meetings of the council or when attending meetings of the
10 state loan and investment board pursuant to W.S. 9-12-
11 604(b) (i) .

12
13 *****
14 *****
15

16 (f) The council may also form committees and advisory
17 councils, which may include representatives who are not
18 members of the board, to undertake more extensive study and
19 discussion of the issues before the board. ~~The council~~
20 ~~shall form an advisory council for broadband development~~
21 ~~and designate a broadband coordinator in accordance with~~
22 ~~W.S. 9-12-1509.~~

23
24 **9-12-105. Economic development services.**

25
26 (b) The council, ~~in consultation with the coordinator~~
27 ~~of economic diversification,~~ shall implement the
28 "startup:Wyoming" program in priority economic sectors
29 identified ~~in the approved twenty (20) year comprehensive~~
30 ~~economic diversification strategy under W.S. 9-12-~~

1 ~~1402(a)(iv)~~ by the council or the governor. The program
2 shall:

3
4 (c) The council shall administer a
5 "kickstart:Wyoming" program to provide funding to early
6 stage ventures of Wyoming based entrepreneurs. Funding
7 under this subsection shall be provided upon approval of
8 the council. The council shall adopt rules for funding
9 under this subsection. ~~in consultation with the coordinator~~
10 ~~of economic diversification.~~ Funding shall be in amounts
11 ranging from five thousand dollars (\$5,000.00) to ~~fifty~~
12 ~~thousand dollars (\$50,000.00)~~ one hundred fifty thousand
13 dollars (\$150,000.00) and be provided under the following
14 conditions:

15
16 (i) To individuals who reside in Wyoming and to
17 business entities which are, or agree in writing to be,
18 headquartered in Wyoming and organized under the laws of
19 the state of Wyoming and which:

20
21 (C) Agree to provide ~~a report~~ reports to
22 the council on the progress to commercialize the service,

1 product, concept, design or any other marketable asset
2 developed with the assistance of the funds.

3
4 (d) The council shall administer a ~~small-business~~
5 ~~innovation research~~ federal innovation matching program in
6 accordance with this subsection. The program shall match
7 federal funds approved for Wyoming based companies as
8 provided in this subsection. The program shall be
9 administered by the council. ~~in consultation with the~~
10 ~~University of Wyoming research office.~~ The following shall
11 apply to the program under this subsection:

12
13 (i) To be eligible to receive funding, an entity
14 shall:

15
16 (C) Have received funding under the federal
17 small business innovation research program, ~~and the~~ small
18 business technology transfer ~~programs~~ program or any other
19 federal innovation grant program;

20
21 (E) Agree to provide a report to the
22 council on or before July 1 of each year in the following
23 manner:

1

2

3

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23

(I) ~~Prior to commercialization~~ For

five (5) years after an award under this subsection, the entity shall report on the progress of the entity to commercialize the service, product, concept, design or any other marketable asset developed with the assistance of funds from this program. The report shall include, at a minimum, all of the following:

(1) The number of jobs the entity has created;

(2) A salary range per job;

(3) The taxable assets of the entity;

(4) All revenues from sales of the service, product, concept, design or any other marketable asset of the entity;

(5) Progress to commercialization, including proposed timelines.

1
2 (ii) Matching funds shall be awarded to
3 recipients as determined by the council in an amount not to
4 exceed one hundred percent (100%) of the federal grant
5 award.

6
7 (iv) An entity shall repay all matching funds
8 provided under this subsection plus interest at the rate of
9 four percent (4%) per annum compounded annually from the
10 date the matching funds were granted through the ending
11 date of the grant agreement. The council may, through the
12 grant agreement or other contract require repayment from an
13 entity if:

14
15 (v) The council shall adopt rules for the
16 program. ~~in consultation with the coordinator of economic~~
17 ~~diversification.~~ The rules shall include but not be limited
18 to:

19
20 **9-12-109. Promotion of agriculture; financing of**
21 **agriculture processing projects; revenue bonds.**

1 (a) The council shall encourage and promote the
2 development of agriculture in the state including
3 horticulture, apiculture, livestock, poultry, dairying and
4 the kindred industries and including the development of new
5 value-added agribusiness, agriculture innovation and
6 technologies and product uses and markets for Wyoming
7 agricultural products.

8
9 **9-12-112. Annual report and budget.**

10
11 (a) The council shall submit an annual report in the
12 manner provided by W.S. 9-2-1014 and using the benchmarks
13 prescribed in this act. In addition to the requirements of
14 W.S. 9-2-1014, included within the annual report shall be:

15
16 (ii) A summary of the total investments made by
17 the council ~~under~~through the ~~Wyoming partnership challenge~~
18 ~~loan program,~~ loans available under article 3 of this
19 chapter, including:

20
21 **9-12-302. Wyoming challenge loan program; creation;**
22 **rulemaking; administration account.**

1 (a) The council shall establish and administer a
2 ~~partnership~~ challenge loan program under this article and
3 may contract for necessary professional services. Loans
4 authorized under the program shall be limited, ~~except as~~
5 ~~otherwise provided under W.S. 9-12-304(c) through (k), to~~
6 ~~community development organizations and state development~~
7 ~~organizations~~ to the loans specified in W.S. 9-12-304(c),
8 (d), (j) and (k) and made in accordance with the provisions
9 of W.S. 9-12-304. ~~Any community development organization or~~
10 ~~state development organization may submit an application to~~
11 ~~the council to participate in the program on forms~~
12 ~~prescribed by and subject to rules promulgated by the~~
13 ~~council.~~

14
15 **9-12-304. Criteria for loans.**

16
17 (b) Loans, loan commitments or loan guarantees or any
18 combination thereof shall be made under this article only:

19
20 (i) If the total amount to:

21
22 (A) A ~~single community development~~
23 ~~organization, or to a~~ business for an economic disaster

1 loan as provided under subsection (c) of this section, does
2 not exceed one million dollars (\$1,000,000.00);

3
4 **9-12-305. Economic development enterprise fund**
5 **account; deposits; continuous appropriation; loans.**

6
7 Except for fees deposited in accordance with W.S. 9-12-
8 302(b), all repayments of principal and interest to the
9 state in connection with loans made under this article and
10 other funds as appropriated by the legislature for the
11 challenge loan program shall be deposited into the economic
12 development enterprise account within the revolving
13 investment fund. All funds in the account may be used for
14 and are continuously appropriated for loans authorized to
15 be made under this article. ~~Funds within the account may~~
16 ~~also be transferred upon direction of the governor to the~~
17 ~~large project account within the revolving investment fund~~
18 ~~if required to meet loans or loan guarantees approved under~~
19 ~~W.S. 9-12-308.~~ The total principal balance of outstanding
20 loans shall not exceed the amounts appropriated by the
21 legislature plus interest accrued and collected less any
22 losses of loan principal or interest.

1 **9-12-306. Audit; report.**

2

3 (b) On or before July 15 of each year, the council
4 shall submit a written report to the joint minerals,
5 business and economic development interim committee
6 reviewing rules adopted by the council during the reporting
7 period, presenting a portfolio of loans made under the
8 program ~~and under W.S. 9-12-308~~ showing the number of jobs
9 created as a result of loans in the portfolio including
10 whether the jobs are permanent or temporary and presenting
11 a risk analysis of the portfolio of loans prepared by the
12 state banking commissioner. The report, portfolio of loans
13 and risk analysis required under this subsection shall be
14 public records. The risk analysis prepared by the state
15 banking commissioner shall not be subject to the
16 limitations of W.S. 9-1-512.

17

18 **9-12-601. Wyoming business ready community program;**
19 **purpose; creation; rulemaking.**

20

21 (b) The council shall establish and administer a
22 Wyoming business ready community program as provided by
23 this article. Any city, town, county or the Eastern

1 Shoshone or Northern Arapaho tribe, or the cooperative
2 tribal governing body, may submit an application to the
3 council for a grant or loan under the program on forms
4 prescribed by and subject to rules promulgated by the
5 council. Grants or loans may be applied for by a joint
6 powers board with the approval of all participating
7 agencies to the joint powers agreement. Grants and loans
8 may be made by the council for economic or educational
9 development, planning or infrastructure projects, including
10 the purchase of land, buildings, facilities,
11 telecommunications infrastructure, rights of way, airports,
12 sewer and water projects, roads, landscaping, recreational
13 and convention facilities or other infrastructure
14 determined by the council to be consistent with the
15 purposes of this article. In adopting rules and making
16 grants and loans under this article the council shall
17 require all projects to be related to economic or
18 educational development, planning or infrastructure, which
19 shall not include rehabilitation or expansion of existing
20 infrastructure unless the council determines the
21 rehabilitation or expansion is necessary to meet the
22 purposes of this article. Planning grants and loans shall
23 be ~~limited as provided in subsection (m) of this section~~

1 available in accordance with this section. ~~All grants or~~
2 ~~loans made under this article shall be referred by the~~
3 ~~council to the state loan and investment board for final~~
4 ~~approval or disapproval. The state loan and investment~~
5 ~~board may adopt rules as necessary to implement its duties~~
6 ~~under this article.~~

8 *****

9 *****

10 **STAFF COMMENT**

11
12 **The change in W.S. 9-12-601(b) appears to impact the**
13 **approval process for the Minerals to Value-Added Products**
14 **Program, see W.S. 9-20-102(b) and 9-20-103(b) (i).**

15
16 *****

17 *****

18
19 (k) As used in this article:

20
21 (i) "Community development organization" means
22 ~~as defined by W.S. 9-12-301(a)(ii)~~ a group of private
23 citizens organized as a business entity authorized to do
24 business in this state for the purpose of providing
25 financing for new, existing or expanding businesses and
26 other economic or community development purposes throughout
27 its community or county, and which may take equity
28 positions and shall take security positions in its

1 borrowers' businesses and appropriate personal guarantees
2 from the owners thereof;

3
4 (ii) "State development organization" means ~~as~~
5 ~~defined by W.S. 9-12-301(a)(iv)~~ a corporation organized
6 under W.S. 17-11-101 through 17-11-120 with the authority
7 to provide financing for new, existing or expanding
8 businesses and to fulfill other economic or community
9 development purposes throughout the state of Wyoming, and
10 which may take equity positions and shall take security
11 positions in its borrowers' businesses and appropriate
12 personal guarantees from the owners thereof.

13
14 **9-12-1102. Wyoming main street advisory board.**

15
16 (a) There is created a Wyoming main street advisory
17 board. The board shall consist of seven (7) members
18 appointed by the governor. ~~., not more than seventy-five~~
19 ~~percent (75%) of whom shall be from the same political~~
20 ~~party.~~ Board members shall elect from their membership a
21 chairman, vice-chairman and secretary.

22
23 **9-12-1103. Duties of the board.**

1

2 (a) The board shall:

3

4 (ii) Assist the council in annually ~~review~~
5 reviewing the program and report findings and
6 recommendations, including recommendations for future
7 legislation, to the governor;

8

9 9-12-1104. Duties of the council; annual report.

10

11 (d) Not later than September 1 of each year, the
12 council shall provide a comprehensive annual evaluation of
13 the Wyoming main street program to the joint minerals,
14 business and economic development interim committee. The
15 report shall include findings and recommendations,
16 including recommendations for future legislation.

17

18 *****
19 *****
20 STAFF COMMENT

21

22 For reference, I have included the entire text of W.S. 9-
23 12-1404. The subparagraphs that are not amended would be
24 removed from any final version of the bill draft.

25

26 *****
27 *****

28

1 ARTICLE 14

2 ECONOMIC DIVERSIFICATION

3

4 **9-12-1404. Economic diversification accounts created;**
5 **authorized expenditures.**

6

7 (a) ~~There is created an economic diversification~~
8 ~~account. All monies in the account are continuously~~
9 ~~appropriated to the office of the governor to be used for~~
10 ~~the purposes of this article and as otherwise specified by~~
11 ~~law, including per diem, mileage and other administrative~~
12 ~~expenses of the ENDOW executive council.~~ For purposes of
13 economic diversification and development, the following
14 accounts are created. Notwithstanding W.S. 9-2-1008 and 9-
15 4-207, funds in ~~the~~ each account ~~or subaccounts of the~~
16 ~~account~~ shall not lapse at the end of the fiscal period.
17 ~~Interest earned on funds in the account~~ The state treasurer
18 shall invest funds in each account in accordance with law,
19 and earnings on each account shall be deposited to the
20 ~~account or~~ appropriate ~~subaccount~~ account. ~~Within the~~
21 ~~account shall be subaccounts. For accounting and~~
22 ~~investment purposes only all subaccounts shall be treated~~

1 ~~as separate accounts.~~ The ~~subaccounts~~ accounts are as
2 follows:

3
4 (i) The agriculture marketing ~~subaccount~~
5 account. Funds within this ~~subaccount~~ account may be
6 expended as requested by the Wyoming business council and
7 approved by the governor or his designee to provide funding
8 for purposes of W.S. 9-12-109 and as specified by law;

9
10 (ii) The broadband development ~~subaccount~~
11 account. Funds within this ~~subaccount~~ account may be
12 expended as requested by the Wyoming business council and
13 approved by the governor or his designee to:

14
15 (A) Provide funding for agreements entered
16 into pursuant to W.S. 9-12-1501 through 9-12-1510;

17
18 (B) Provide the state's share of any
19 matching funds required for the state to receive federal
20 funds under any federal broadband program including, but
21 not limited to, the broadband equity, access and deployment
22 program established by the federal Infrastructure
23 Investment and Jobs Act, P.L. 117-58; 135 Stat. 429;

1

2 (C) Pay the reasonable administrative
3 expenses of the Wyoming business council in an amount not
4 to exceed three hundred thousand dollars (\$300,000.00).

5

6 (iii) The Wyoming workforce development-priority
7 economic sector partnership ~~subaccount~~account. Funds
8 within this ~~subaccount~~account may be expended:

9

10 (A) As approved by director of the
11 department of workforce services for administrative costs
12 incurred by the department of workforce services associated
13 with administration of the Wyoming workforce development-
14 priority economic sector partnership program under W.S. 9-
15 2-2609 through 9-2-2611; and

16

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

20

21 (iv) The Wyoming research and innovation
22 ~~subaccount~~account. Funds within this ~~subaccount~~account
23 may be expended as requested by the Wyoming business

1 council and approved by the governor or his designee to
2 provide funding for agreements entered into pursuant to
3 W.S. 9-12-1405;

4
5 (v) The "startup:Wyoming" ~~subaccount~~account.
6 Funds within this ~~subaccount~~account may be expended as
7 requested by the Wyoming business council and approved by
8 the governor or his designee to provide funding pursuant to
9 W.S. 9-12-105(b) through (f).

10
11 (b) The ~~governor~~council may accept, and shall
12 deposit to the appropriate account, ~~or to the appropriate~~
13 ~~subaccount within the account,~~ any gifts, contributions,
14 donations, grants or federal funds specifically designated
15 for purposes of ~~this article or other ENDOW related program~~
16 the appropriate account or program for which funds from the
17 account may be expended.

18
19 **9-12-1405. Wyoming research and innovation program**
20 **fund created; authorized expenditures from the fund;**
21 **rulemaking.**

1 (a) The council shall administer a Wyoming research
2 and innovation program under which matching funds necessary
3 to access federal research and development grant funds or
4 other nonstate funds may be provided as specified in this
5 section. To be eligible to receive funding under the
6 program an entity shall present to the council its proposal
7 to apply for or an existing application for an externally
8 funded grant specific to a priority economic sector
9 identified ~~in the approved twenty (20) year comprehensive~~
10 ~~economic diversification strategy under W.S. 9-12-~~
11 ~~1402(a)(iv) by rule of the council~~. The entity shall
12 demonstrate that further research funding from nonstate
13 funds is likely to be provided if funding is provided under
14 this section.

15
16 (b) The Wyoming business council, in consultation
17 with ~~the ENDOW executive council and~~ the University of
18 Wyoming, shall promulgate rules necessary to carry out the
19 provisions of this section. The rules shall include but not
20 be limited to application procedures, eligibility
21 requirements, the amount of funding which may be provided
22 for any single project, provision for ensuring adequate
23 consideration to the state in exchange for funding any

1 project which does not solely involve a state agency or
2 institution or political subdivision of the state,
3 recapture of funding if the recipient of funds breaches any
4 agreement under the program and prioritization for funding
5 requests. In establishing provisions for adequate
6 consideration to the state, the council may include, but is
7 not limited to, assessment of the following:

8
9 **9-12-1501. Broadband development program established;**
10 **purposes; eligibility; definitions.**

11
12 (b) Funds may be provided under this article for the
13 acquisition, deployment and installation of infrastructure
14 that supports broadband service at a minimum of at least
15 ~~twenty-five (25)~~ one hundred (100) megabits per second
16 download and ~~three (3)~~ twenty (20) megabits per second
17 upload in residential areas and ~~nine hundred (900) megabits~~
18 one (1) gigabit per second download speed and thirty-five
19 (35) megabits per second upload speed in business
20 corridors.

21
22 **9-12-1509. Advisory council; broadband coordinator.**
23

1 (c) The business council shall, ~~in consultation with~~
2 ~~the ENDOW executive council and the governor's office,~~
3 designate an employee of the business council as
4 coordinator of broadband services. The person designated
5 shall have expertise in telecommunications and specifically
6 in the provision of broadband services. ~~As directed by the~~
7 ~~business council, the coordinator shall staff the broadband~~
8 ~~advisory council.~~ The coordinator shall, with approval of
9 the business council, accomplish the tasks set forth in
10 paragraphs (b)(i) through (v) of this section and undertake
11 other duties as assigned by the business council in
12 consultation with the governor's office. The business
13 council may contract with a consultant to provide services
14 to ~~the broadband advisory council and to~~ the business
15 council under this act.

16
17 **10-7-103. Wyoming commercial air service improvement**
18 **council; creation; transfer of rights, duties, obligations**
19 **and liabilities.**

20
21 (c) With the advice and consent of the commission and
22 subject to the requirements of this section, the governor
23 shall appoint the remaining nine (9) voting members to the

1 council. Appointments to the council shall include, to the
2 extent practicable, at least one (1) resident of each
3 county served by an airport with commercial air service and
4 shall include:

5
6 (ii) Two (2) ~~business~~ members ~~of the~~
7 ~~economically needed diversity options for Wyoming (ENDOW)~~
8 ~~executive council or other~~ who are business representatives
9 participating in ~~ENDOW executive council~~ economic
10 development or diversification initiatives;

11
12 **Section 4.** W.S. 9-12-1201 through 9-12-1203 as 37-5-
13 701 through 37-5-703 are amended and renumbered to read:

14
15 ARTICLE 7

16 WYOMING ENERGY PERFORMANCE PROGRAM

17
18 ~~9-12-1201~~ 37-5-701. **Definitions.**

19
20 (a) As used in this article:

21
22 (i) "Agency" means a branch, agency, department,
23 board, instrumentality or institution of the state of

1 Wyoming, a county, a municipal corporation, a school
2 district, a community college district, the University of
3 Wyoming, the cooperative tribal governing body, the Eastern
4 Shoshone Tribe, the Northern Arapaho Tribe, a joint powers
5 board formed pursuant to this act or a special district
6 specifically involved in providing facilities or functions
7 enumerated in W.S. 16-1-104(c);

8
9 (ii) "Energy conservation measure" means an
10 energy study, audit, improvement or equipment that is
11 designed to provide energy, water and operational cost
12 savings at least equivalent to the amount expended by a
13 facility owner for such energy study, audit, improvement or
14 equipment over a period of not more than twenty (20) years
15 after the date such improvement or equipment is installed
16 or becomes operational;

17
18 (iii) "Energy performance contract" means the
19 contract that allows a facility owner to accomplish energy
20 or water efficiency projects without upfront capital costs
21 or capital appropriations. An energy performance contract
22 shall not be considered to be a contract for public
23 improvement pursuant to W.S. 15-1-113;

1

2 (iv) "Energy services company" means the
3 contractor not organized under the auspices of a utility
4 regulated by the public service commission with
5 demonstrated technical, operational, financial and
6 managerial capabilities to design and implement energy
7 conservation measures and the ability to secure necessary
8 financial measures to ensure related guarantees for
9 operational cost savings and who is responsible for the
10 audit, design, implementation, measurement, verification
11 and guarantee of savings for individual projects;

12

13 (v) "Facility owner" means an agency or group of
14 agencies, a public hospital or other public entity
15 responsible for an individual facility or group of
16 facilities;

17

18 (vi) "Investment grade energy audit" means the
19 detailed engineering investigation and report of a
20 facility's current energy and water consuming equipment
21 inventory, condition, operation, maintenance and
22 performance, energy baseline, potential energy and water
23 efficiency upgrades, life cycle costs and risks for future

1 performance that provides the justification for the energy
2 performance contract project;

3
4 (vii) "Wyoming energy conservation improvement
5 program" means the ~~Wyoming business council~~ state energy
6 office program within the Wyoming energy authority designed
7 to enable and support development and implementation of
8 energy performance contract projects;

9
10 (viii) "Authority" means the Wyoming energy
11 authority created by W.S. 37-5-502.

12
13 ~~9-12-1202~~ 37-5-702. **Energy performance contracting.**

14
15 The ~~council~~ Wyoming energy authority shall establish a
16 Wyoming energy conservation improvement program ~~which~~ that
17 provides support development and implementation of energy
18 performance contract projects to facility owners
19 voluntarily participating in the program. In order to
20 participate in the program, facility owners and energy
21 services companies shall be subject to the provisions of
22 this article and rules adopted pursuant to this article.

1 ~~9-12-1203~~ 37-5-703. **Energy performance contracting.**

2

3 (a) Upon receipt of a request from a facility owner,
4 the Wyoming ~~business council~~ energy authority shall provide
5 the facility owner with a list of energy service companies
6 interested in providing services to the facility owner and
7 qualified by the Wyoming ~~business council~~ energy authority
8 to participate in the Wyoming energy conservation
9 improvement program.

10

11 (b) The energy services company participating in the
12 Wyoming energy conservation improvement program shall
13 provide an investment grade audit showing the estimated
14 energy and operational cost savings that would result from
15 the proposed energy conservation measures. Before
16 executing any contract or lease purchase agreement under
17 subsection (c) of this section, the energy services company
18 shall provide the facility owner with plans for the
19 proposed energy conservation measures prepared by an
20 engineer licensed to practice in Wyoming.

21

22 (c) Notwithstanding W.S. 15-1-113 and subject to the
23 provisions of subsection (e) of this section, a facility

1 owner may enter into an installment payment contract or
2 lease purchase agreement for an energy or water
3 conservation measure which meets the criteria of this
4 section. Any documents related to negotiations entered
5 into pursuant to this section with individual energy
6 services companies by an agency or facility owner shall be
7 considered trade secrets pursuant to the provisions of the
8 Wyoming Public Records Act, W.S. 16-4-201 through 16-4-205.
9 After a contract has been executed by an agency, the
10 contract and all proposals from energy service companies
11 shall be open records available for public inspection in
12 accordance with the Wyoming Public Records Act.

13

14 (d) Energy performance contracts entered into
15 pursuant to the Wyoming energy conservation improvement
16 program shall require the energy services company to
17 provide to the facility owner an annual reconciliation of
18 the guaranteed energy savings. If the reconciliation
19 reveals a shortfall in annual energy savings, the energy
20 services company shall be liable for compensation to the
21 facility owner for such shortfall under the provisions of
22 the energy performance contract. If the reconciliation
23 reveals an excess in annual energy savings, the excess

1 savings shall be retained by the facility owner and shall
2 not be used to cover potential energy savings shortages in
3 subsequent contract years.

4
5 (e) An energy performance contract entered into
6 pursuant to the Wyoming energy conservation improvement
7 program may provide for financing, including tax exempt
8 financing, by a third party. The contract for third party
9 financing may be separate from the energy performance
10 contract. A separate contract for third party financing
11 shall include a provision that the third party financier
12 shall not be granted rights or privileges that exceed the
13 rights and privileges available to the energy services
14 company.

15
16 (f) The Wyoming ~~business council~~energy authority may
17 provide support under the Wyoming energy conservation
18 improvement program as requested by facility owners for
19 purposes of this section. The ~~Wyoming business council~~
20 ~~state energy office~~authority may fix, charge and collect
21 reasonable fees for any administrative support and
22 resources or other services provided by the ~~Wyoming~~
23 ~~business council~~authority pursuant to this subsection.

1

2 (g) If the facility owner fails to appropriate or
3 receive an appropriation of money for a periodic payment
4 due for improvements made through an energy performance
5 contract, any security interest in any property created
6 pursuant to the energy performance contract, may be
7 enforced by the holder of such a security interest against
8 the property.

9

10 (h) The term of an energy performance contract shall
11 not exceed twenty (20) years after the date on which the
12 work required by the energy performance contract to
13 implement all energy conservation measures is completed.

14

15 (j) The Wyoming ~~business council~~ energy authority
16 shall submit to the joint minerals, business and economic
17 development interim committee by October 1, an annual
18 report on the energy performance contracting performed
19 under the Wyoming energy conservation improvement program.
20 The report shall include the number of applications
21 submitted, the number of facility owners, the number of
22 energy performance contracts, the results of the investment

1 grade energy audits and the results of the energy
2 performance contracts.

3
4 **Section 5.** W.S. 9-12-1001 and 9-12-1002 are renumbered
5 as W.S. 9-30-101 and 9-30-102.

6
7 *****
8 *****
9 **STAFF COMMENT**
10
11 **Section 4 above rennumbers two statutes that provide for the**
12 **Wyoming Tourism Board and its duties into a separate**
13 **chapter of statute in Title 9.**

14
15 *****
16 *****
17

18 **Section 6.** W.S. 9-2-2610(a)(iv), 9-12-105(a)(ix),
19 (d)(i)(E)(II) and (ii)(A) and (B), 9-12-108(c), 9-12-
20 112(a)(vi), 9-12-114, 9-12-201, 9-12-202, 9-12-301(a)(ii),
21 (iv) and (vii) through (x), 9-12-304(a), (b)(i)(C) through
22 (E) and (e) through (h), 9-12-308, 9-12-601(m), 9-12-801
23 through 9-12-804, 9-12-901 through 9-12-905, 9-12-
24 1103(a)(iii), 9-12-1301 through 9-12-1312, 9-12-1401
25 through 9-12-1403, 9-12-1509(a) and (b) and 26-4-103(m) are
26 repealed.

STAFF COMMENT

Below is a brief summary of the statutes repealed in this bill draft.

- W.S. 9-2-2610(a)(iv): Definition of "ENDOW council."
- W.S. 9-12-105(a)(ix): Requirement to adopt a state broadband enhancement plan.
- W.S. 9-12-105(d)(i)(E)(II): Reporting requirements for the Small Business Innovation (Federal Innovation) Program (moved to W.S. 9-12-105(d)(i)(E)(I)).
- W.S. 9-12-105(d)(ii)(A) and (B): Matching funds award amount for the Small Business Innovation (Federal Innovation) program (moved to W.S. 9-12-105(d)(ii)(intro)).
- W.S. 9-12-108(c): ENDOW proposal for diversification.
- W.S. 9-12-112(a)(vi): Reporting requirements for the Workforce Housing Infrastructure Program (repealed in this bill draft).
- W.S. 9-12-114: ENDOW/proposal for startup-Wyoming investments.
- W.S. 9-12-201 and 9-12-202: The Science, Technology, and Energy Financial Aid Program.
- W.S. 9-12-301(a)(ii), (iv) and (vii) through (x), 9-12-304(a), (b)(i)(C) through (E) and (e) through (h): The following loan options within the Partnership Challenge Loan Program:
 - Challenge loans to community development organizations and state development organizations.
 - Wyoming Main Street Loan Participation Program.
 - Natural Gas Fueling Infrastructure Loan Program.
 - Guarantee Loan Participation (previously frozen in 2022).
 - Loan Guarantee (previously frozen in 2022).
- W.S. 9-12-308: Large Project Loan Program.
- W.S. 9-12-601(m): Funding limits for planning grants and loans under the Business Ready Community Program.
- W.S. 9-12-801 through 9-12-804: Wyoming Community Facilities Program.

- 1 • W.S. 9-12-901 through 9-12-905: Wyoming Workforce
- 2 Housing Infrastructure Program.
- 3 • W.S. 9-12-1103(a)(iii): Mainstreet Program/Reporting
- 4 Requirement (moved to W.S. 9-12-1104(d)).
- 5 • W.S. 9-12-1301 through 9-12-1312 and 26-4-103(m):
- 6 Wyoming Small Business Investment Credit Program.
- 7 • W.S. 9-12-1401 through 9-12-1403: Economically Needed
- 8 Diversity Options for Wyoming (ENDOW).
- 9 • W.S. 9-12-1509(a) and (b): Broadband Advisory Council.

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11 *****
12 *****
13

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14 Section 7.

16 (a) Except as provided in subsection (b) of this
17 section, this act is effective July 1, 2027.

(b) Sections 2 and 7 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

24 (END)