

HOUSE BILL NO. HB0155

Uniform Management of Public Employees Retirement Act.

Sponsored by: Representative(s) Pedersen, Hinckley and
Illoway and Senator(s) Ross

A BILL

for

1 AN ACT relating to administration of government; adopting
2 the Uniform Management of Public Employees Retirement
3 (MPERS) Act; providing definitions; providing for a
4 transition period; requiring review and a report; repealing
5 conflicting provisions; and providing for effective dates.

6

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

8

9 **Section 1.** W.S. 9-3-433 through 9-3-452 are created
10 to read:

11

12 UNIFORM MANAGEMENT OF PUBLIC EMPLOYEE RETIREMENT
13 SYSTEMS ACT

14

15 **9-3-433. Short title.**

16

1 This act may be cited as the Uniform Management of Public
2 Employee Retirement Systems (MPERS) Act.

3

4 **9-3-434. Definitions.**

5

6 (a) As used in this act:

7

8 (i) "Administrator" means the director of the
9 Wyoming retirement system;

10

11 (ii) "Agent group of programs" means a group of
12 retirement programs which shares administrative and
13 investment functions but maintains a separate account for
14 each retirement program so that assets accumulated for a
15 particular program may be used to pay benefits only for
16 that program's participants and beneficiaries;

17

18 (iii) "Appropriate grouping of programs" means:

19

20 (A) For defined benefit plans, a cost-
21 sharing program or an agent group of programs; and

22

1 (B) For defined contribution plans, a group
2 of retirement programs which shares administrative and
3 investment functions.

4
5 (iv) "Beneficiary" means a person, other than
6 the participant, who is designated by a participant or by a
7 retirement program to receive a benefit under the program;

8
9 (v) "Code" means the federal Internal Revenue
10 Code of 1986, as amended;

11
12 (vi) "Cost-sharing program" means a retirement
13 program for the employees of more than one (1) public
14 employer in which all assets accumulated for the payment of
15 benefits may be used to pay benefits to any participants or
16 beneficiaries of the program;

17
18 (vii) "Defined benefit plan" means a retirement
19 program other than a defined contribution plan;

20
21 (viii) "Defined contribution plan" means a
22 retirement program that provides for an individual account
23 for each participant and for benefits based solely upon the
24 amount contributed to the participant's account, and any

1 income, expenses, gains and losses credited or charged to
2 the account and any forfeitures of accounts of other
3 participants that may be allocated to the participant's
4 account;

5
6 (ix) "Employee" includes an officer of a public
7 employer;

8
9 (x) "Fair value" means the amount that a willing
10 buyer would pay a willing seller for an asset in a current
11 sale, as determined in good faith by a fiduciary;

12
13 (xi) "Fiduciary" means a person who:

14
15 (A) Exercises any discretionary authority
16 to manage a retirement system;

17
18 (B) Exercises any authority to invest or
19 manage assets of a system;

20
21 (C) Provides investment advice for a fee or
22 other direct or indirect compensation with respect to
23 assets of a system or has any authority or responsibility
24 to do so; or

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(D) Is a trustee or a member of a trustee board.

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(xii) "Furnish" means:

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(A) To deliver personally, to mail to the last known place of employment or home address of the intended recipient, or, if reasonable grounds exist to believe that the intended recipient would receive it in ordinary course, to transmit by any other usual means of communication; or

(B) To provide to the intended recipient's public employer if reasonable grounds exist to believe that the employer will make a good faith effort to deliver personally, by mail, or by other usual means of communication.

(xiii) "Governing law" means state and local laws establishing or authorizing the creation of a retirement program or system and the principal state and local laws and regulations governing the management of a retirement program or system or assets of either;

1

2 (xiv) "Guaranteed benefit policy" means an
3 insurance policy or contract to the extent the policy or
4 contract provides for benefits in a guaranteed amount. The
5 term includes any surplus in a separate account, but
6 excludes any other portion of a separate account;

7

8 (xv) "Insurer" means a company, service, or
9 organization qualified to engage in the business of
10 insurance in this state;

11

12 (xvi) "Nonforfeitable benefit" means an
13 immediate or deferred benefit that arises from a
14 participant's service, is unconditional, and is enforceable
15 against the retirement system;

16

17 (xvii) "Participant" means an individual who is
18 or has been an employee enrolled in a retirement program
19 and who is or may become eligible to receive or is
20 currently receiving a benefit under the program, or whose
21 beneficiaries are or may become eligible to receive a
22 benefit. The term does not include an individual who is no
23 longer an employee of a public employer and has not accrued

1 any nonforfeitable benefits under that employer's
2 retirement program;

3

4 (xviii) "Public employer" means this state or
5 any political subdivision, or any agency or instrumentality
6 of this state or any political subdivision, whose employees
7 are participants in a retirement program;

8

9 (xix) "Qualified public accountant" means:

10

11 (A) An auditing agency of this state or a
12 political subdivision of this state which has no direct
13 relationship with the functions or activities of a
14 retirement system or its fiduciaries other than:

15

16 (I) Functions relating to this act; or

17

18 (II) A relationship between the system
19 and the agency's employees as participants or beneficiaries
20 on the same basis as other participants and beneficiaries;
21 or

22

1 (B) A person who is an independent
2 certified public accountant, certified or licensed by a
3 regulatory authority of a state.

4

5 (xx) "Related person" of an individual means:

6

7 (A) The individual's spouse or a parent or
8 sibling of the spouse;

9

10 (B) The individual's descendant, sibling or
11 parent, or the spouse of the individual's descendant,
12 sibling or parent;

13

14 (C) Another individual residing in the same
15 household as the individual;

16

17 (D) A trust or estate in which an
18 individual described in subparagraph (A), (B) or (C) has a
19 substantial interest;

20

21 (E) A trust or estate for which the
22 individual has fiduciary responsibilities; or

23

1 (F) An incompetent, ward or minor for whom
2 the individual has fiduciary responsibilities.

3

4 (xxi) "Retirement program" means a program of
5 rights and obligations which a public employer establishes
6 or maintains and which, by its express terms or as a result
7 of surrounding circumstances:

8

9 (A) Provides retirement income to
10 employees; or

11

12 (B) Results in a deferral of income by
13 employees for periods extending to the termination of
14 covered employment or beyond.

15

16 (xxii) "Retirement system" means an entity
17 established or maintained by a public employer to manage
18 one (1) or more retirement programs, or to invest or manage
19 the assets of one (1) or more retirement programs;

20

21 (xxiii) "Trustee" means a person who has
22 ultimate authority to manage a retirement system or to
23 invest or manage its assets;

24

1 (xxiv) "This act" means W.S. 9-3-434 through
2 9-3-452.

3

4 **9-3-435. Scope.**

5

6 (a) This act applies to all retirement programs and
7 retirement systems, except:

8

9 (i) A retirement program that is unfunded and is
10 maintained by a public employer solely for the purpose of
11 providing deferred compensation for a select group of
12 management employees or employees who rank in the top five
13 percent (5%) of employees of that employer based on
14 compensation;

15

16 (ii) A severance-pay arrangement under which:

17

18 (A) Payments are made solely on account of
19 the termination of an employee's service and are not
20 contingent upon the employee's retiring;

21

22 (B) The total amount of the payments does
23 not exceed the equivalent of twice the employee's total

1 earnings from the public employer during the year
2 immediately preceding the termination of service; and

3

4 (C) All payments are completed within
5 twenty-four (24) months after the termination of service.

6

7 (iii) An arrangement or payment made on behalf
8 of an employee because the employee is covered by Title II
9 of the Social Security Act, as amended (42 U.S.C. Section
10 401 et seq.);

11

12 (iv) A qualified governmental excess benefit
13 arrangement within the meaning of section 415(m) of the
14 code;

15

16 (v) An individual retirement account or
17 individual retirement annuity within the meaning of section
18 408 of the code;

19

20 (vi) A retirement program consisting solely of
21 annuity contracts or custodial accounts satisfying the
22 requirements of section 403(b) of the code; or

23

1 (vii) A program maintained solely for the
2 purpose of complying with workers' compensation laws or
3 disability insurance laws.

4

5 **9-3-436. Establishment of trust.**

6

7 (a) Except as otherwise provided in subsection (b) of
8 this section, all assets of a retirement system are held in
9 trust. The trustee has the exclusive authority, subject to
10 this act, to invest and manage those assets.

11

12 (b) Assets of a retirement system which consist of
13 insurance contracts or policies issued by an insurer,
14 assets of an insurer, and assets of the system held by an
15 insurer need not be held in trust.

16

17 (c) If an insurer issues a guaranteed benefit policy
18 to a retirement system, assets of the system include the
19 policy but not assets of the insurer.

20

21 (d) If a retirement system invests in a security
22 issued by an investment company registered under the
23 Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et

1 seq.), the assets of the system include the security, but
2 not assets of the investment company.

3
4 **9-3-437. Powers of trustee.**

5
6 (a) In addition to other powers conferred by the
7 governing law, a trustee has exclusive authority,
8 consistent with the trustee's duties under this act, to:

9
10 (i) Establish an administrative budget
11 sufficient to perform the trustee's duties and, as
12 appropriate and reasonable, draw upon assets of the
13 retirement system to fund the budget;

14
15 (ii) Obtain by employment or contract the
16 services necessary to exercise the trustee's powers and
17 perform the trustee's duties, including actuarial,
18 auditing, custodial, investment and legal services; and

19
20 (iii) Procure and dispose of the goods and
21 property necessary to exercise the trustee's powers and
22 perform the trustee's duties.

1 (b) In exercising its authority under this section, a
2 trustee is subject to the fiduciary duties of this act, but
3 not to personnel, procurement or similar general laws
4 relating to the subjects of subsection (a) of this section.

5
6 **9-3-438. Delegation of functions.**

7
8 (a) A trustee or administrator may delegate functions
9 that a prudent trustee or administrator acting in a like
10 capacity and familiar with those matters could properly
11 delegate under the circumstances.

12
13 (b) The trustee or administrator shall exercise
14 reasonable care, skill and caution in:

15
16 (i) Selecting an agent;

17
18 (ii) Establishing the scope and terms of the
19 delegation, consistent with the purposes and terms of the
20 retirement program; and

21
22 (iii) Periodically reviewing the agent's
23 performance and compliance with the terms of the
24 delegation.

1

2 (c) In performing a delegated function, an agent owes
3 a duty to the retirement system and to its participants and
4 beneficiaries to comply with the terms of the delegation
5 and, if a fiduciary, to comply with the duties imposed by
6 W.S. 9-3-439.

7

8 (d) A trustee or administrator who complies with
9 subsections (a) and (b) of this section is not liable to
10 the retirement system or to its participants or
11 beneficiaries for the decisions or actions of the agent to
12 whom the function was delegated.

13

14 (e) By accepting the delegation of a function from
15 the trustee or administrator, an agent submits to the
16 jurisdiction of the courts of this state.

17

18 (f) A trustee may limit the authority of an
19 administrator to delegate functions under this section.

20

21 **9-3-439. General duties of trustee and fiduciary.**

22

23 (a) A trustee or other fiduciary shall discharge
24 duties with respect to a retirement system:

1

2 (i) Solely in the interest of the participants
3 and beneficiaries;

4

5 (ii) For the exclusive purpose of providing
6 benefits to participants and beneficiaries and paying
7 reasonable expenses of administering the system;

8

9 (iii) With the care, skill and caution under the
10 circumstances then prevailing which a prudent person acting
11 in a like capacity and familiar with those matters would
12 use in the conduct of an activity of like character and
13 purpose;

14

15 (iv) Impartially, taking into account any
16 differing interests of participants and beneficiaries;

17

18 (v) Incurring only costs that are appropriate
19 and reasonable; and

20

21 (vi) In accordance with a good-faith
22 interpretation of the law governing the retirement program
23 and system.

24

1 **9-3-440. Duties of trustee in investing and managing**
2 **assets of retirement system.**

3
4 (a) In investing and managing assets of a retirement
5 system pursuant to W.S. 9-3-439, a trustee with authority
6 to invest and manage assets:

7
8 (i) Shall consider among other circumstances:

9
10 (A) General economic conditions;

11
12 (B) The possible effect of inflation or
13 deflation;

14
15 (C) The role that each investment or course
16 of action plays within the overall portfolio of the
17 retirement program or appropriate grouping of programs;

18
19 (D) The expected total return from income
20 and the appreciation of capital;

21
22 (E) Needs for liquidity, regularity of
23 income and preservation or appreciation of capital; and
24

1 (F) For defined benefit plans, the adequacy
2 of funding for the plan based on reasonable actuarial
3 factors.

4
5 (ii) Shall diversify the investments of each
6 retirement program or appropriate grouping of programs
7 unless the trustee reasonably determines that, because of
8 special circumstances, it is clearly prudent not to do so;

9
10 (iii) Shall make a reasonable effort to verify
11 facts relevant to the investment and management of assets
12 of a retirement system;

13
14 (iv) May invest in any kind of property or type
15 of investment consistent with this act; and

16
17 (v) May consider benefits created by an
18 investment in addition to investment return only if the
19 trustee determines that the investment providing these
20 collateral benefits would be prudent even without the
21 collateral benefits.

22
23 (b) A trustee with authority to invest and manage
24 assets of a retirement system shall adopt a statement of

1 investment objectives and policies for each retirement
2 program or appropriate grouping of programs. The statement
3 shall include the desired rate of return on assets overall,
4 the desired rates of return and acceptable levels of risk
5 for each asset class, asset-allocation goals, guidelines
6 for the delegation of authority and information on the
7 types of reports to be used to evaluate investment
8 performance. At least annually, the trustee shall review
9 the statement and change or reaffirm it.

10

11 **9-3-441. Special application of duties.**

12

13 (a) A trustee may return a contribution to a public
14 employer or employee, or make alternative arrangements for
15 reimbursement, if the trustee determines the contribution
16 was made because of a mistake of fact or law.

17

18 (b) Upon termination of a retirement program, a
19 trustee may return to a public employer any assets of the
20 program remaining after all liabilities of the program to
21 participants and beneficiaries have been satisfied.

22

23 (c) If a retirement program provides for individual
24 accounts and permits a participant or beneficiary to

1 exercise control over the assets in such an account and a
2 participant or beneficiary exercises control over those
3 assets:

4
5 (i) The participant or beneficiary is not a
6 fiduciary by reason of the exercise of control; and

7
8 (ii) A person who is otherwise a fiduciary is
9 not liable for any loss, or by reason of any breach of
10 fiduciary duty, resulting from the participant's or
11 beneficiary's exercise of control.

12
13 (d) If an insurer issues to a retirement system a
14 contract or policy that is supported by the insurer's
15 general account, but is not a guaranteed benefit policy,
16 the insurer complies with W.S. 9-3-439 if it manages the
17 assets of the general account with the care, skill and
18 caution under the circumstances then prevailing which a
19 prudent person acting in a like capacity and familiar with
20 those matters would use in the conduct of an activity of
21 like character and purpose, taking into account all
22 obligations supported by the general account.

23
24 **9-3-442. Reviewing compliance.**

1

2 (a) Compliance by a trustee or other fiduciary with
3 W.S. 9-3-438 through 9-3-440 shall be determined in light
4 of the facts and circumstances existing at the time of the
5 trustee or fiduciary's decision or action and not by
6 hindsight.

7

8 (b) A trustee's investment and management decisions
9 shall be evaluated not in isolation but in the context of
10 the trust portfolio as a whole and as a part of an overall
11 investment strategy having risk and return objectives
12 reasonably suited to the program or appropriate grouping of
13 programs.

14

15 **9-3-443. Liability of trustee or other fiduciary.**

16

17 (a) A trustee or other fiduciary who breaches a duty
18 imposed by this act is personally liable to a retirement
19 system for any losses resulting from the breach and any
20 profits made by the trustee or other fiduciary through use
21 of assets of the system by the trustee or other fiduciary.
22 The trustee or other fiduciary is subject to other
23 equitable remedies as the court considers appropriate,
24 including removal.

1

2 (b) An agreement that purports to limit the liability
3 of a trustee or other fiduciary for a breach of duty under
4 this act is void.

5

6 (c) A retirement system may insure itself against
7 liability or losses occurring because of a breach of duty
8 under this act by a trustee or other fiduciary.

9

10 (d) A trustee or other fiduciary may insure against
11 liability or losses occurring because of a breach of duty
12 under this act if the insurance is purchased or provided
13 either by the trustee or fiduciary personally or, on the
14 trustee or fiduciary's behalf, by this state, the
15 retirement system, a public employer whose employees
16 participate in a retirement program served by the trustee
17 or fiduciary, an employee representative whose members
18 participate in a retirement program served by the trustee
19 or fiduciary or the trustee or fiduciary's employer.

20

21 **9-3-444. Open meetings and records.**

22

23 (a) A multimember body having authority to invest or
24 manage assets of a retirement system may deliberate about,

1 or make tentative or final decisions on, investments or
2 other financial matters in executive session if disclosure
3 of the deliberations or decisions would jeopardize the
4 ability to implement a decision or to achieve investment
5 objectives.

6

7 (b) A record of a retirement system that discloses
8 deliberations about, or a tentative or final decision on,
9 investments or other financial matters is not a public
10 record under the Wyoming Public Records Act, W.S. 16-4-201
11 through 16-4-205 to the extent and so long as its
12 disclosure would jeopardize the ability to implement an
13 investment decision or program or to achieve investment
14 objectives.

15

16 **9-3-445. Disclosure to public.**

17

18 (a) An administrator of a retirement system shall
19 prepare and disseminate:

20

21 (i) A summary plan description of each
22 retirement program;

23

1 (ii) A summary description of any material
2 modification in the terms of the program and any material
3 change in the information required to be contained in the
4 summary plan description, to the extent the modification or
5 change has not been integrated into an updated summary plan
6 description;

7

8 (iii) An annual disclosure of financial and
9 actuarial status; and

10

11 (iv) An annual report.

12

13 (b) An administrator shall make available for public
14 examination in the principal office of the administrator
15 and in other places if necessary to make the information
16 reasonably available to participants:

17

18 (i) The governing law of the retirement program
19 and system;

20

21 (ii) The most recent summary plan description;

22

23 (iii) Summary descriptions of modifications or
24 changes described in paragraph (a)(ii) of this section that

1 have been provided to participants and beneficiaries but
2 not yet integrated into the summary plan description;

3

4 (iv) The most recent annual disclosure of
5 financial and actuarial status; and

6

7 (v) the most recent annual report.

8

9 (c) Upon written request by a participant,
10 beneficiary or member of the public, the administrator
11 shall provide a copy of any publication described in
12 subsection (b) of this section. Except as otherwise
13 provided in W.S. 9-3-446(a), the administrator may charge a
14 reasonable fee to cover the cost of providing copies and
15 shall provide the copies within thirty (30) days after
16 receiving payment.

17

18 **9-3-446. Disclosure to participants and**
19 **beneficiaries.**

20

21 (a) An administrator shall furnish to each
22 participant and to each beneficiary who is receiving
23 benefits under a retirement program:

1 (i) A copy of the most recent summary plan
2 description, along with any summary descriptions of
3 modifications or changes described in W.S. 9-3-445(a)(ii),
4 within three (3) months after a person becomes a
5 participant or, in the case of a beneficiary, within three
6 (3) months after a person first receives benefits, or, if
7 later, within four (4) months after the retirement program
8 becomes subject to this act;

9
10 (ii) The summary description of any
11 modifications or changes described in W.S. 9-3-445(a)(ii),
12 within seven (7) months after the end of the fiscal year in
13 which a modification or change has been made;

14
15 (iii) A copy of an updated summary plan
16 description that integrates all modifications and changes
17 at intervals not exceeding five (5) years; and

18
19 (iv) The annual report within seven (7) months
20 after the end of each fiscal year.

21
22 (b) An administrator shall provide to a participant
23 or beneficiary a statement containing information that
24 would permit the participant or beneficiary to estimate

1 projected benefits reasonably, to the extent the
2 information is regularly maintained by the retirement
3 system. The information shall be provided with the annual
4 report or upon written request of the participant or
5 beneficiary. The information need not be provided to a
6 participant or beneficiary who is currently receiving
7 benefits.

8
9 (c) A participant who is not currently receiving
10 benefits is entitled without charge to one (1) statement
11 under subsection (b) of this section during any fiscal
12 year. The administrator may charge a reasonable fee to
13 cover the cost of providing other statements. The
14 administrator shall provide the statements within thirty
15 (30) days after the participant or beneficiary's request
16 or, if a fee is charged, within thirty (30) days after
17 receiving payment.

18

19 **9-3-447. Reports to agency.**

20

21 (a) An administrator shall file with the retirement
22 system a copy of:

23

1 (i) The governing law of the retirement program
2 and system within four (4) months after the system becomes
3 subject to this act and an updated copy at least once every
4 year thereafter;

5
6 (ii) The summary plan description within four
7 (4) months after the system becomes subject to this act and
8 of updated summary plan descriptions at the same time they
9 are first furnished to any participant or beneficiary under
10 W.S. 9-3-446(a)(iii);

11
12 (iii) Any summary description of modifications
13 or changes within seven (7) months after the end of the
14 fiscal year in which a modification or change has been
15 made; and

16
17 (iv) The annual disclosure of financial and
18 actuarial status and annual report within seven (7) months
19 after the end of each fiscal year.

20
21 **9-3-448. Summary plan description.**

22
23 (a) A summary plan description and a summary
24 description of modifications or changes under W.S.

1 9-3-445(a)(ii) shall be written in a manner calculated to
2 be understood by the average participant and be accurate
3 and sufficiently comprehensive reasonably to inform the
4 participants and beneficiaries of their rights and
5 obligations under the retirement program.

6

7 (b) A summary plan description shall contain:

8

9 (i) The name of the retirement program and
10 system and type of administration;

11

12 (ii) The name and business address of the
13 administrator;

14

15 (iii) The name and business address of each
16 agent for service of process;

17

18 (iv) Citations to the governing law of the
19 retirement program and system;

20

21 (v) A description of the program's requirements
22 respecting eligibility for participation and benefits;

23

1 (vi) A description of the program's provisions
2 providing for nonforfeitable benefits;

3

4 (vii) A description of circumstances that may
5 result in disqualification, ineligibility or denial or loss
6 of benefits;

7

8 (viii) A description of the benefits provided by
9 the program, including the manner of calculating benefits
10 and any benefits provided for spouses and survivors;

11

12 (ix) The source of financing of the program;

13

14 (x) The identity of any organization through
15 which benefits are provided;

16

17 (xi) The date the fiscal year ends;

18

19 (xii) The procedures to claim benefits under the
20 program and the administrative procedures available under
21 the program for the redress of claims that are denied in
22 whole or in part; and

23

1 (xiii) Notice of the availability of additional
2 information pursuant to W.S. 9-3-445(b) and (c), 9-3-446(b)
3 and (c) and 9-3-447.

4

5 **9-3-449. Annual disclosure of financial and actuarial**
6 **status.**

7

8 (a) An annual disclosure of financial and actuarial
9 status shall contain:

10

11 (i) The name of the retirement system and
12 identification of each retirement program and, when
13 programs are in an appropriate grouping of programs, of
14 each appropriate grouping of programs;

15

16 (ii) The name and business address of the
17 administrator;

18

19 (iii) The name and business address of each
20 trustee and each member of a trustee board and a brief
21 description of how the trustee or member was selected;

22

23 (iv) The name and business address of each agent
24 for the service of process;

1 (v) The number of employees covered by each
2 retirement program not in an appropriate grouping of
3 programs, or by each appropriate grouping of programs, or
4 both;

5

6 (vi) The name and business address of each
7 fiduciary;

8

9 (vii) The current statement of investment
10 objectives and policies required by W.S. 9-3-440(b);

11

12 (viii) Financial statements and notes to the
13 financial statements in conformity with generally accepted
14 accounting principles;

15

16 (ix) An opinion on the financial statements by a
17 qualified public accountant in conformity with generally
18 accepted auditing standards;

19

20 (x) In the case of a defined benefit plan,
21 actuarial schedules and notes to the actuarial schedules in
22 conformity with generally accepted actuarial principles and
23 practices for measuring pension obligations;

24

1 (xi) In the case of a defined benefit plan, an
2 opinion by a qualified actuary that the actuarial schedules
3 are complete and accurate to the best of the actuary's
4 knowledge, that each assumption and method used in
5 preparing the schedules is reasonable, that the assumptions
6 and methods in the aggregate are reasonable, and that the
7 assumptions and methods in combination offer the actuary's
8 best estimate of anticipated experience;

9
10 (xii) A description of any material interest,
11 other than the interest in the retirement program itself,
12 held by any public employer participating in the system or
13 any employee organization representing employees covered by
14 the system in any material transaction with the system
15 within the last three (3) years or proposed to be effected;

16
17 (xiii) A description of any material interest
18 held by any trustee, administrator or employee who is a
19 fiduciary with respect to the investment and management of
20 assets of the system, or by a related person, in any
21 material transaction with the system within the last three
22 (3) years or proposed to be effected;

23

1 (xiv) A schedule of the rates of return, net of
2 total investment expense, on assets of the system overall
3 and on assets aggregated by category over the most recent
4 one (1), three (3), five (5) and ten (10) year periods, to
5 the extent available, and the rates of return on
6 appropriate benchmarks for assets of the system overall and
7 for each category over each period;

8

9 (xv) A schedule of the sum of total investment
10 expense and total general administrative expense for the
11 fiscal year expressed as a percentage of the fair value of
12 assets of the system on the last day of the fiscal year,
13 and an equivalent percentage for the preceding five (5)
14 fiscal years; and

15

16 (xvi) A schedule of all assets held for
17 investment purposes on the last day of the fiscal year
18 aggregated and identified by issuer, borrower, lessor or
19 similar party to the transaction stating, if relevant, the
20 asset's maturity date, rate of interest, par or maturity
21 value, number of shares, cost and fair value and
22 identifying any asset that is in default or classified as
23 uncollectible.

24

1 **9-3-450. Annual report.**

2

3 (a) An annual report shall contain:

4

5 (i) The name and business address of each
6 trustee and each member of a trustee board;

7

8 (ii) The financial statements, but not the
9 notes, required by W.S. 9-3-449(a) (viii);

10

11 (iii) For defined benefit plans, the actuarial
12 schedules, but not the notes, required by W.S.
13 9-3-449(a) (x);

14

15 (iv) The schedules described in W.S.
16 9-3-449(a) (xiv) and (xv);

17

18 (v) A brief description of and information about
19 how to interpret the statements and schedules;

20

21 (vi) Other material necessary to summarize
22 fairly and accurately the annual disclosure of financial
23 and actuarial status; and

1 (vii) Notice of the availability of additional
2 information pursuant to W.S. 9-3-445(b) and (c), 9-3-446(b)
3 and (c) and 9-3-447.

4
5 **9-3-451. Enforcement.**

6
7 (a) An action may be maintained by:

8
9 (i) A public employer, participant, beneficiary
10 or fiduciary:

11
12 (A) To enjoin an act, practice or omission
13 that violates this act;

14
15 (B) For appropriate equitable relief for a
16 breach of trust under W.S. 9-3-443; or

17
18 (C) For other appropriate equitable relief
19 to redress the violation of or to enforce this act; or

20
21 (ii) The retirement system to enjoin any
22 violation of W.S. 9-3-447.

1 (b) In an action under this section by a participant,
2 beneficiary or fiduciary, the court may award reasonable
3 attorney fees and costs to either party.
4

5 **9-3-452. Alienation of benefits.**
6

7 Benefits of a retirement program may not be assigned or
8 alienated and shall be exempt from claims of creditors,
9 except as otherwise provided by state law.
10

11 **Section 2.** Savings; review and report.
12

13 (a) Before January 1, 2006, this act shall not apply
14 to an eligible deferred compensation plan that was in
15 existence on August 20, 2005, and satisfies the
16 requirements of section 457 of the code, unless all assets
17 and income of the plan are held in trust for the exclusive
18 benefit of participants and their beneficiaries.
19

20 (b) The Wyoming retirement system shall review the
21 provisions of the Uniform Management of a Public Employees
22 Retirement System (MPERS) Act as outlined in this act and
23 review the current law. The Wyoming retirement system
24 shall report to the joint appropriations interim committee

1 on the results of the review including any changes needed
2 to existing law to implement the MPERS Act on or before
3 October 1, 2005.

4

5 **Section 3.**

6

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

11

12 (b) The remainder of this act is effective January 1,
13 2006.

14

15 (END)