

ENROLLED ACT NO. 80, HOUSE OF REPRESENTATIVES

SIXTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING  
2023 GENERAL SESSION

AN ACT relating to the investment of state funds; authorizing specified state permanent fund reserve accounts to maintain larger balances for the benefit of state investment strategies; providing that balances in specified reserve accounts are intended to be inviolate; removing encumbrances on specified reserve accounts; defining legislative intent for future appropriations and budget requests; providing legislative findings; and providing for an effective date.

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

**Section 1.**

(a) The legislature finds that:

(i) The state of Wyoming has established inviolate permanent funds in the Wyoming constitution. These permanent funds are invested, and the earnings from those investments are expended, for specified constitutional and statutory purposes and on behalf of specified beneficiaries;

(ii) The permanent funds include the permanent Wyoming mineral trust fund, the common school account within the permanent land fund, the excellence in higher education endowment fund and the Hathaway student scholarship endowment fund;

(iii) The state maintains four (4) permanent fund reserve accounts, one (1) for each of the permanent funds identified in paragraph (ii) of this subsection, that guaranty distributions to the important beneficiaries of the permanent funds in the event investment earnings are insufficient to satisfy annual distribution requirements;

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(iv) Because of the current size of the reserve accounts and the need for each reserve account to maintain assets that can be liquidated to satisfy guaranty obligations, some reserve accounts and portions of their related permanent funds are invested using shorter-term or income-focused strategies. These shorter-term and income-focused strategies provide important and necessary liquidity, but they have historically provided a meaningfully lower investment return when compared to funds invested in longer-term, but more illiquid, "total return" investment strategies;

(v) The Wyoming state treasurer's office estimates that, over the last five (5) years, the state of Wyoming has forgone investment earnings in excess of three hundred seventy million dollars (\$370,000,000.00) by maintaining small reserve account balances that require the use of shorter-term and income-focused investment strategies;

(vi) By ensuring that permanent fund reserve accounts maintain balances that can cover at least five (5) years, and preferably seven (7) years, of their annual spending obligations, those accounts and their associated permanent funds can be more fully invested in longer-term, historically higher-yielding "total return" strategies while still providing the necessary liquidity to meet their guaranty obligations;

(vii) To ensure that each permanent fund reserve account is funded to at least five (5) times its annual spending obligations, a transfer of funds to each reserve account is necessary;

(viii) The significant benefits of employing longer-term, total return investment strategies will last

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only as long as Wyoming's permanent fund reserve accounts are adequately funded and maintain at least five (5) to seven (7) years of their respective annual spending obligations;

(ix) Although Wyoming's permanent funds are constitutionally protected from legislative appropriation, the state's permanent fund reserve accounts are not. Consequently, restraint and a long-term commitment by the Wyoming legislature will be necessary to maintain funding for the reserve accounts at the amounts provided by this act and at levels that maximize investment returns and provide maximum benefits to the beneficiaries of Wyoming's permanent funds. The legislature should not jeopardize the benefits of the permanent fund reserve accounts by encumbering the reserve accounts with new guarantees or other extraneous obligations;

(x) By making the statutory changes contained in this act, the legislature is adopting a long-term commitment to funding Wyoming's permanent fund reserve accounts at a level that maximizes investment returns and provides maximum benefits to permanent fund beneficiaries and to the state of Wyoming.

**Section 2.** W.S. 9-4-719(b)(intro), (f) and (k), 16-1-111(f) and 21-16-1302(b) are amended to read:

**9-4-719. Investment earnings spending policy permanent funds.**

(b) There is created the permanent Wyoming mineral trust fund reserve account. All funds within the account shall be invested by the state treasurer as authorized under W.S. 9-4-715(a), (d), (e) and (r) and all investment earnings from the account shall be credited to the account. Except for

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funds specified by the legislature that guarantee the obligations of permanent Wyoming mineral trust fund investment earnings and funds to be transferred into the permanent Wyoming mineral trust fund, funds deposited into the reserve account created by this subsection are intended to be inviolate and constitute a permanent or perpetual trust fund. Beginning July 1, 2021 for fiscal year 2022 and each fiscal year thereafter, to the extent funds are available, the state treasurer shall transfer unobligated funds from this account to the general fund on a quarterly, pro-rata basis as necessary to ensure that an amount equal to two and one-half percent (2.5%) of the previous five (5) year average market value of the permanent Wyoming mineral trust fund, calculated on the first day of the fiscal year, is available for expenditure during each fiscal year. As soon as possible after the end of each of the fiscal years beginning on and after July 1, 2017, after making any transfer required pursuant to paragraphs (i) and (ii) of this subsection, revenues in this account in excess of ~~one hundred fifty percent (150%)~~ two hundred forty-five percent (245%) of the spending policy amount in subsection (d) of this section shall be credited to the permanent Wyoming mineral trust fund. For fiscal year 2020 and for each fiscal year thereafter:

(f) There is created the common school permanent fund reserve account. All funds within the account shall be invested by the state treasurer as authorized under W.S. 9-4-715(a), (d), (e) and (r) and all investment earnings from the account shall be credited to the account. Except for funds specified by the legislature that guarantee the obligations of the investment earnings from the common school account within the permanent land income fund and funds to be transferred into the common school account within the permanent land fund, funds deposited into the reserve account created by this subsection are intended to be inviolate and

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constitute a permanent or perpetual trust fund. Beginning July 1, 2017 for fiscal year 2018 and each fiscal year thereafter, the state treasurer shall transfer unobligated funds from this account to the common school account within the permanent land income fund as necessary to ensure that an amount equal to the spending policy amount established in subsection (h) of this section is available for expenditure annually during the fiscal year. As soon as possible after the end of each of the fiscal years beginning on and after July 1, 2017, revenues in this account in excess of ~~one hundred fifty percent (150%)~~ four hundred twenty percent (420%) of the spending policy amount shall be credited to the common school account within the permanent land fund.

(k) There is created the excellence in higher education endowment reserve account. Interest and other earnings on funds within the account shall be credited to the account. Except for funds specified by the legislature that guarantee the obligations of excellence in higher education endowment fund investment earnings and funds to be transferred into the excellence in higher education endowment fund, funds deposited into the reserve account created by this subsection are intended to be inviolate and constitute a permanent or perpetual trust fund. As soon as possible after the end of each of the fiscal years beginning on and after July 1, 2017, revenues in this account in excess of ~~one hundred fifty percent (150%)~~ two hundred ten percent (210%) of the spending policy amount in subsection (o) of this section shall be credited to the excellence in higher education endowment fund created by W.S. 9-4-204(u)(vi).

**16-1-111. Loans to political subdivisions; requirements; limitations; rulemaking.**

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(f) There is created a loss reserve account for loans made under this section. A loan origination fee of one-half of one percent (0.5%) of the loan shall be paid by the loan applicant and deposited to the loss reserve account for any loan approved under this section. If, as a result of default in the payment of any loan made under this section, there occurs a nonrecoverable loss either to the corpus of, or interest due to the permanent Wyoming mineral trust fund, the board shall restore the loss to the permanent fund using any funds available in the loss reserve account. If the funds in the loss reserve account are insufficient to restore the full amount of the loss, the board shall submit a detailed report of the loss to the legislature and shall request an appropriation to restore the balance of the loss to the permanent fund. ~~Beginning June 30, 2018, the state treasurer shall transfer funds quarterly from the permanent Wyoming mineral trust fund reserve account to the loss reserve account created in this subsection, in an amount necessary to ensure that as of the last day of each quarter there is an unobligated, unencumbered balance equal to five percent (5%) of the balance of outstanding loans under this section. Any funds transferred to the loss reserve account pursuant to this subsection which are not necessary to maintain the five percent (5%) balance shall be transferred back to the permanent Wyoming mineral trust fund reserve account on the last day of the quarter.~~

**21-16-1302. Hathaway scholarship expenditure account created; reserve account created; use and appropriation of funds.**

(b) There is created the Hathaway student scholarship reserve account. The reserve account shall consist of those monies deposited to the account pursuant to subsection (a) of this section and such other funds appropriated by the

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legislature to the reserve account. Interest and other earnings on funds within the reserve account shall be credited to the reserve account. Except for funds specified by the legislature that guarantee the scholarship obligations of the Hathaway scholarship expenditure account and funds to be transferred into the Hathaway student scholarship endowment fund, funds deposited into the reserve account created by this subsection are intended to be inviolate and constitute a permanent or perpetual trust fund. To the extent funds within the Hathaway scholarship expenditure account are insufficient in any fiscal year to fully fund scholarships awarded under this article, monies within the reserve account shall be deposited by the state treasurer to the expenditure account for distribution to eligible institutions to fund those scholarships. As soon as possible after the end of each of the fiscal years beginning on and after July 1, 2007, the state treasurer shall transfer monies from this reserve account to the Hathaway student scholarship endowment fund to the extent monies within the reserve account are in excess of the greater of ~~twelve million dollars (\$12,000,000.00)~~ forty-seven million dollars (\$47,000,000.00) or an amount equal to ~~four and one-half percent (4.5%)~~ eight percent (8%) of the previous five (5) year average market value of the Hathaway student scholarship endowment fund, calculated from the first day of the fiscal year. The state treasurer shall report not later than November 1, of each year to the joint education interim committee and the select committee on capital financing and investments the amount of funds within the reserve account at the end of the previous fiscal year and as of July 1, of the current fiscal year.

**Section 3.** It is the intent of the legislature that the five hundred thirty-three thousand five hundred seventy-nine dollar (\$533,579.00) appropriation from the Hathaway scholarship expenditure account to the department of

ORIGINAL HOUSE  
BILL NO. HB0089

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education for the payment of administrative expenses in 2022 Wyoming Session Laws, Chapter 51, Section 2, Section 206 not be requested to be paid from, nor be paid from, the Hathaway scholarship expenditure account in the 2025-2026 fiscal biennium or any subsequent fiscal biennium.

**Section 4.** This act is effective July 1, 2023.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk