

SENATE FILE NO. SF0121

State funds - investments and distributions.

Sponsored by: Senator(s) Perkins and Furphy and
Representative(s) Harshman and Walters

A BILL

for

1 AN ACT relating to public funds; modifying spending
2 policies and other investment and revenue distribution
3 provisions; repealing the strategic investments and
4 projects account; repealing subaccounts within the
5 strategic investments and projects account; repealing the
6 legislative deficit control account funded from the
7 strategic investments and projects account; revising
8 account distributions as specified; providing for the
9 transfer from and reversion of funds to the repealed
10 accounts; redistributing certain severance taxes;
11 transferring funds as specified; repealing obsolete and
12 inconsistent provisions; providing for a study; specifying
13 controlling provisions in case of conflicting enactments;
14 and providing for effective dates.

15

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

2

3 **Section 1.** W.S. 9-4-108 is created to read:

4

5 **9-4-108. Crediting of investment returns.**

6

7 (a) Earnings on state funds invested by the state
8 treasurer shall be credited to accounts or funds as
9 provided by law and as follows:

10

11 (i) Interest, dividends and rents earned shall
12 be credited not later than at the end of the second month
13 following each fiscal quarter;

14

15 (ii) Subject to paragraph (iii) of this
16 subsection, other realized earnings shall be credited as
17 soon as practicable after the end of the fiscal year but no
18 later than ninety (90) days after the end of the fiscal
19 year in which the earnings were realized;

20

21 (iii) Any debit against the account or fund
22 which exists as a result of investment losses from a prior
23 years' investments of the fund or account shall be paid

1 before distributions under paragraph (ii) of this
2 subsection;

3

4 (iv) Subject to the requirements of paragraph
5 (iii) of this subsection, the state treasurer may credit
6 any earnings at such earlier times than provided in this
7 section and in such amounts as may be advantageous for the
8 state's investment program and cash management.

9

10 (b) Any provision of law which specifies the
11 crediting or distribution of a state fund investment
12 earnings to a specific fund or account at a time different
13 than the provisions of this section shall control over this
14 section.

15

16 **Section 2.** W.S. 9-4-719(b)(intro), (d)(intro), (v),
17 (h)(intro), (v), (o)(intro), (i), (q)(intro), (i) and (ii),
18 11-10-118(a), 19-7-401(b), 21-16-1201(c)(intro),
19 21-22-101(b), 21-23-202(b)(iii), 23-1-501(f) and
20 39-14-801(b)(intro), (iv) and by creating a new paragraph
21 (v) are amended to read:

22

1 **9-4-719. Investment earnings spending policy**
2 **permanent funds.**

3
4 (b) There is created the permanent Wyoming mineral
5 trust fund reserve account. All funds within the account
6 shall be invested by the state treasurer as authorized
7 under W.S. 9-4-715(a), (d), (e) and (r) and all investment
8 earnings from the account shall be credited to the account.
9 Beginning July 1, 2016 for fiscal year 2017 and each fiscal
10 year thereafter, the state treasurer shall transfer
11 unobligated funds from this account to the general fund as
12 necessary to ensure that an amount equal to two and
13 one-half percent (2.5%) of the previous five (5) year
14 average market value of the permanent Wyoming mineral trust
15 fund, calculated on the first day of the fiscal year, is
16 available for expenditure annually during each fiscal year.
17 As soon as possible after the end of each of the fiscal
18 years beginning on and after July 1, 2017, ~~after making any~~
19 ~~transfer required pursuant to paragraph (i) of this~~
20 ~~subsection,~~ revenues in this account in excess of one
21 hundred fifty percent (150%) of the spending policy amount
22 in subsection (d) of this section shall be credited to the

1 permanent Wyoming mineral trust fund. ~~For fiscal year 2020~~
2 ~~and for each fiscal year thereafter.~~

3

4 (d) The annual spending policy for the permanent
5 Wyoming mineral trust fund is ~~as follows~~ for each fiscal
6 year (FY):

7

8 (v) ~~FY 2020 and each fiscal year through 2022~~
9 ~~An amount equal to five percent (5%) of the previous five~~
10 ~~(5) year average market value of the trust fund, calculated~~
11 ~~from the first day of the fiscal year.~~

12

13 (h) The annual spending policy for the common school
14 account within the permanent land fund is ~~as follows~~ for
15 each fiscal year (FY):

16

17 (v) ~~FY 2020 and each fiscal year through 2024~~
18 ~~An amount equal to five percent (5%) of the previous five~~
19 ~~(5) year average market value of the account, calculated~~
20 ~~from the first day of the fiscal year.~~

21

1 (o) The annual spending policy amount for the
2 excellence in higher education endowment is as follows: ~~for~~
3 ~~each fiscal year (FY):~~

4
5 (i) ~~FY 2018~~ An amount equal to five percent (5%)
6 of the previous five (5) year average market value of the
7 excellence in higher education endowment fund, as
8 calculated from the first day of the fiscal year. ~~;~~

9
10 (q) The earnings from the permanent Wyoming mineral
11 trust fund under W.S. 9-4-204(u)(iii) during each fiscal
12 year beginning July 1, ~~2016~~ 2022 for fiscal year 2023,
13 which are less than the spending policy established in
14 subsection (d) of this section are appropriated from the
15 general fund subject to subsection (s) of this section and
16 the following:

17
18 (i) ~~Except as provided in paragraph (iii) of~~
19 ~~this subsection,~~ Any earnings in excess of two and one-half
20 percent (2.5%) of the previous five (5) year average market
21 value of the trust fund, calculated from the first day of
22 the fiscal year and less than or equal to the spending
23 policy amount specified in subsection (d) of this section

1 shall be credited to the legislative stabilization reserve
2 account created by W.S. 9-4-219; ~~and the strategic~~
3 ~~investments and projects account created by W.S. 9-4-220 in~~
4 ~~equal amounts;~~

5
6 (ii) The ~~appropriations~~ appropriation in this
7 subsection shall be credited to the designated account as
8 soon as practicable after the end of the fiscal year but no
9 later than ninety (90) days after the end of the fiscal
10 year. ~~;~~

11

12 **11-10-118. State fair endowment account;**
13 **administration; distributions; purposes.**

14

15 (a) The state fair endowment account is created. The
16 state treasurer is authorized to accept cash gifts for the
17 account. Funds within the account including all funds
18 deposited to the account from any source are intended to be
19 inviolate and constitute a permanent or perpetual trust
20 fund. The state treasurer shall invest funds within the
21 endowment account in accordance with law. Seventy-five
22 percent (75%) of investment earnings shall be credited to
23 the endowment account. Twenty-five percent (25%) of

1 investment earnings shall be distributed ~~in accordance with~~
2 ~~subsection (b) of this section~~ to the Wyoming state fair
3 account.

4

5 **19-7-401. Wyoming military assistance trust fund;**
6 **establishment of trust fund; corpus inviolate; investment**
7 **by state treasurer.**

8

9 (b) The monies deposited into the trust fund
10 established pursuant to this section are inviolate and
11 constitute a permanent or perpetual trust fund. The monies
12 shall be transmitted to the state treasurer for credit to
13 the trust fund and shall be invested by the state treasurer
14 as authorized under W.S. 9-4-715(a), (d) and (e) in a
15 manner to obtain the highest return possible consistent
16 with the preservation of the corpus. The ~~interest earned~~
17 earnings from investment of the corpus of the trust fund
18 shall be ~~annually~~ credited by the state treasurer ~~not later~~
19 ~~than June 30 of each year~~ in accordance with W.S. 9-4-108
20 into a separate account and distributed in accordance with
21 W.S. 19-7-402.

22

1 **21-16-1201. Excellence in higher education endowment**
2 **fund; Hathaway student scholarship endowment fund;**
3 **distributions by state treasurer; legislative restrictions.**

4
5 (c) The state treasurer shall place earnings from the
6 investment of monies in the excellence in higher education
7 endowment fund in an income account for subsequent
8 disbursement as provided in this subsection. Earnings for
9 any fiscal year which are in excess of the spending policy
10 amount established pursuant to W.S. 9-4-719(o) shall be
11 distributed as provided by W.S. 9-4-719(m). The
12 institutions receiving distributions of earnings within the
13 spending policy amount pursuant to this subsection shall
14 only expend ninety percent (90%) of the distribution in
15 fiscal years in which the spending policy amount specified
16 in W.S. 9-4-719(o) is reached or exceeded. In any fiscal
17 year in which the spending policy amount specified in W.S.
18 9-4-719(o) is not reached, the shortfall in distributions
19 an institution would have received if the spending policy
20 amount had been reached shall be made up in equal parts by
21 an authorization for the institution to expend funds saved
22 under this subsection when the spending policy amount is
23 reached or exceeded and an equal amount appropriated from

1 the excellence in higher education endowment reserve
2 account as provided in W.S. 9-4-719(n). Earnings within the
3 spending policy amount shall be distributed ~~on a quarterly~~
4 ~~basis~~at the times provided in W.S. 9-4-108 as follows:

5

6 **21-22-101. Trust fund established; corpus inviolate;**
7 **investment by state treasurer.**

8

9 (b) Funds deposited into the Wyoming education trust
10 fund established pursuant to subsection (a) of this section
11 are intended to be inviolate and constitute a permanent or
12 perpetual trust fund which shall be invested by the state
13 treasurer as authorized under W.S. 9-4-715(a), (d) and (e)
14 and in a manner to obtain the highest return possible
15 consistent with preservation of the corpus. Any ~~interest~~
16 ~~earned~~earnings from investment of the corpus of the trust
17 fund shall be credited by the state treasurer into a
18 separate account and distributed in accordance with W.S.
19 21-22-102.

20

21 **21-23-202. Wyoming public television matching**
22 **program; state treasurer to administer program accounts;**
23 **matching payments; conditions; reversion of appropriations.**

1

2 (b) The state treasurer shall administer the Wyoming
3 public television endowment account and Wyoming public
4 television matching funds account established under this
5 article. The following shall apply:

6

7 (iii) Funds in the matching funds account shall
8 remain inviolate and only the investment earnings from
9 investments of the monies in the matching funds account may
10 be distributed. The state treasurer shall distribute ~~income~~
11 earnings from the matching funds account to the community
12 college commission ~~quarterly~~ as provided in W.S. 9-4-108.
13 The community college commission shall distribute these
14 funds together with other appropriated funds to the central
15 Wyoming community college district board for the operations
16 and programming of Wyoming public television pursuant to
17 W.S. 21-18-105(b).

18

19 **23-1-501. Game and fish fund.**

20

21 (f) A trust account separate and apart from the trust
22 account established under subsection (d) of this section is
23 created within the Wyoming game and fish fund. The account

1 shall consist of those funds appropriated or designated to
2 the account by law or by gift from whatever source. Funds
3 deposited within the account are intended to be inviolate
4 and constitute a permanent or perpetual trust account which
5 shall be invested by the state treasurer as authorized
6 under W.S. 9-4-715(a), (d) and (e) and in a manner to
7 obtain the highest return possible consistent with
8 preservation of the account corpus. ~~Any interest earned~~
9 Earnings from investment of the account corpus shall be
10 credited by the state treasurer into the Wyoming game and
11 fish fund to be expended by the commission for purposes
12 specified under subsection (b) of this section.

13

14 **39-14-801. Severance tax distributions; distribution**
15 **account created; formula.**

16

17 (b) Before making distributions from the severance
18 tax distribution account under subsections (c) through (e)
19 of this section, an amount equal to two-thirds (2/3) of the
20 amount of tax collected under W.S. 39-14-104(a)(i) and
21 (b)(i) and 39-14-204(a)(i) for the same period shall be
22 deposited ~~into the permanent Wyoming mineral trust fund,~~

1 ~~except for the period from March 15, 2016 through June 30,~~
2 ~~2022 these funds shall be deposited~~ as follows:

3
4 (iv) For fiscal ~~years~~ year 2021 ~~and 2022,~~ these
5 funds shall be deposited to the one percent severance tax
6 account;

7
8 (v) For fiscal year 2022 and thereafter these
9 funds shall be deposited two-thirds (2/3) to the permanent
10 Wyoming mineral trust fund and one-third (1/3) to the
11 common school account within the permanent land fund.

12

13 **Section 3.**

14

15 (a) W.S. 9-4-719(d)(vi), (vii), (h)(vi), (vii),
16 (o)(ii) and (q)(iii), 11-10-118(b) and 39-14-801(b)(i)
17 through (iii) are repealed.

18

19 (b) W.S. 9-4-219(c), 9-4-220, 9-4-220.1,
20 9-4-715(p)(vi) and 9-4-719(b)(i) are repealed.

21

22 **Section 4.** 2020 Wyoming Session Laws, Chapter 80,
23 Section 314(b) and (c) is repealed.

1

2 **Section 5.**

3

4 (a) On October 1, 2021 the state auditor shall
5 transfer the unexpended, unobligated balance in the one
6 percent severance tax account, recreated by 2020 Wyoming
7 Session Laws, Chapter 80, Section 2, Section 314:

8

9 (i) Two-thirds (2/3) to the permanent Wyoming
10 mineral trust fund;

11

12 (ii) One-third (1/3) to the common school
13 account within the permanent land fund.

14

15 **Section 6.** On July 1, 2022, all funds in the
16 legislative deficit control account within the legislative
17 stabilization reserve account, the strategic investments
18 and projects account and the school major maintenance
19 subaccount within the strategic investments and projects
20 account shall be transferred to the general fund. On July
21 1, 2022, all funds in the Wyoming state penitentiary
22 capital construction account within the strategic
23 investments and projects account shall be transferred to

1 the legislative stabilization reserve account. Any
2 unexpended funds that have been appropriated from the
3 accounts and subaccounts specified in this section, except
4 for the Wyoming state penitentiary capital construction
5 account within the strategic investments and projects
6 account, prior to July 1, 2022 shall be paid from the
7 general fund. Any unexpended funds that have been
8 appropriated from the Wyoming state penitentiary capital
9 construction account within the strategic investments and
10 projects account prior to July 1, 2022 shall be paid from
11 the legislative stabilization reserve account. Except as
12 otherwise provided in this section, any funds that are
13 directed by law to revert to the accounts and subaccounts
14 specified in this section shall revert to the general fund.
15 Any funds that are directed by law to revert to the Wyoming
16 state penitentiary capital construction account within the
17 strategic investments and projects account shall revert to
18 the legislative stabilization reserve account.
19

1 **Section 7.** Should any enactment in the 2021 general
2 session conflict with any provisions of this act, the
3 provisions of this act shall prevail. Nothing in this
4 section shall be construed to limit the authority of the
5 legislative service office to reconcile multiple amendments
6 to the same provisions of law in compiling and publishing
7 session laws and statutes or to direct in any compilation
8 or publication an annotation to this section.

9

10 **Section 8.**

11

12 (a) The select committee on capital financing and
13 investments shall study and introduce legislation in the
14 2022 budget session or the 2023 general session as the
15 committee determines appropriate regarding the following:

16

17 (i) The appropriate allocation of investment
18 earnings to principal and income from investments of each
19 permanent fund and nonpermanent funds authorized to be
20 invested in equities in light of:

21

22 (A) Wyoming constitutional provisions and
23 federal law establishing or controlling the fund;

1

2 (B) Fiduciary or other duties to current
3 and future beneficiaries of the fund under:

4

5 (I) Controlling Wyoming constitutional
6 provisions and federal law;

7

8 (II) Uniform acts enacted into law in
9 Wyoming governing investment standards and fiduciary duties
10 for funds held in trust, including the Wyoming Uniform
11 Principal and Income Act, Wyoming Unitrust Act, Uniform
12 Trust Code and Uniform Prudent Management of Institutional
13 Funds Act;

14

15 (III) Common law as adopted under W.S.
16 8-1-101.

17

18 (ii) Laws governing investments of state
19 permanent and nonpermanent funds including limitations on
20 investments in equities and standards for the investment of
21 permanent and nonpermanent funds. The study shall review
22 whether:

23

1 (A) Existing limitations and standards are
2 consistent with trustee duties of the state for each fund
3 held in trust under Wyoming constitutional and federal law
4 provisions and under state statutes;

5

6 (B) Existing standards imposed by general
7 law, such as the Uniform Prudent Investor Act, are
8 consistent with specific standards imposed by law for state
9 investments for all funds or for individual funds,
10 including requirements or authorization to invest funds
11 held in trust for public purpose investments.

12

13 (iii) Limitations on diminution to the principal
14 of funds held in trust by the state by terms such as
15 "inviolable," and any obligation of the state to make whole
16 any loss of principal in light of:

17

18 (A) Wyoming constitutional and federal law
19 provisions establishing or controlling a fund;

20

21 (B) State statutes governing investment
22 limitations, standards or allocations of earnings to

1 principal and income, including those acts specified in
2 paragraph (a)(i) of this section;

3

4 (C) Common law as adopted under W.S.
5 8-1-101.

6

7 (iv) The ability of the legislature to establish
8 a fixed percentage of the fund's value or fixed dollar
9 amount to be distributed from each permanent fund in light
10 of the study's findings.

11

12 (b) The study shall be conducted in coordination with
13 the state loan and investment board, the investment funds
14 committee and the state treasurer's office.

15

16 (c) Definitions in W.S. 9-1-714 shall apply to this
17 section. "Federal law" includes, but is not limited to the
18 Act of Admission of the state of Wyoming, 26 United States
19 Statutes at Large, 222, chapter 664.

20

1 **Section 9.**

2

3 (a) Sections 4, 5, 7 through 9 of this act are
4 effective immediately upon completion of all acts necessary
5 for a bill to become law as provided by Article 4, Section
6 8 of the Wyoming Constitution.

7

8 (b) Section 3(b) of this act, the amendments made to
9 W.S. 9-4-719(b)(intro), (q)(intro), (i) and (ii) in section
10 2 of this act and section 6 of this act are effective July
11 1, 2022.

12

13 (c) Except as provided in subsections (a) and (b) of
14 this section, this act is effective July 1, 2021.

15

16

(END)