

ENROLLED ACT NO. 75, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

AN ACT relating to public funds; modifying spending policies and other investment and revenue distribution provisions; repealing the legislative deficit control account funded from the strategic investments and projects account; revising account distributions as specified; redistributing certain severance taxes; repealing obsolete and inconsistent provisions; providing for a study; and providing for effective dates.

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

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

9-4-108. Crediting of investment returns.

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

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

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

(iii) Any debit against the account or fund which exists as a result of realized investment losses from a prior years' investments of the fund or account shall be paid before distributions under paragraph (ii) of this subsection;

ENROLLED ACT NO. 75, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

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

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

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

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

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

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

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

ENROLLED ACT NO. 75, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

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

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

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

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

(i) ~~Except as provided in paragraph (iii) of this subsection,~~ Any earnings in excess of two and one-half percent (2.5%) of the previous five (5) year average market value of the trust fund, calculated from the first day of the fiscal year and less than or equal to the spending policy amount specified in subsection (d) of this section shall be credited to the legislative stabilization reserve account created by W.S. 9-4-219 and the strategic investments and projects account created by W.S. 9-4-220 in equal amounts;

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

ENROLLED ACT NO. 75, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

(a) The state fair endowment account is created. The state treasurer is authorized to accept cash gifts for the account. Funds within the account including all funds deposited to the account from any source are intended to be inviolate and constitute a permanent or perpetual trust fund. The state treasurer shall invest funds within the endowment account in accordance with law. Seventy-five percent (75%) of investment earnings shall be credited to the endowment account. Twenty-five percent (25%) of investment earnings shall be distributed ~~in accordance with subsection (b) of this section~~ to the Wyoming state fair account.

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

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

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

ENROLLED ACT NO. 75, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

(c) The state treasurer shall place earnings from the investment of monies in the excellence in higher education endowment fund in an income account for subsequent disbursement as provided in this subsection. Earnings for any fiscal year which are in excess of the spending policy amount established pursuant to W.S. 9-4-719(o) shall be distributed as provided by W.S. 9-4-719(m). The institutions receiving distributions of earnings within the spending policy amount pursuant to this subsection shall only expend ninety percent (90%) of the distribution in fiscal years in which the spending policy amount specified in W.S. 9-4-719(o) is reached or exceeded. In any fiscal year in which the spending policy amount specified in W.S. 9-4-719(o) is not reached, the shortfall in distributions an institution would have received if the spending policy amount had been reached shall be made up in equal parts by an authorization for the institution to expend funds saved under this subsection when the spending policy amount is reached or exceeded and an equal amount appropriated from the excellence in higher education endowment reserve account as provided in W.S. 9-4-719(n). Earnings within the spending policy amount shall be distributed ~~on a quarterly basis~~ at the times provided in W.S. 9-4-108 as follows:

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

(b) Funds deposited into the Wyoming education trust fund established pursuant to subsection (a) of this section are intended to be inviolate and constitute a permanent or perpetual trust fund which shall be invested by the state treasurer as authorized under W.S. 9-4-715(a), (d) and (e) and in a manner to obtain the highest return possible consistent with preservation of the corpus. Any ~~interest earned~~ earnings from investment of the corpus of the trust

ENROLLED ACT NO. 75, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

fund shall be credited by the state treasurer into a separate account and distributed in accordance with W.S. 21-22-102.

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

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

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

23-1-501. Game and fish fund.

(f) A trust account separate and apart from the trust account established under subsection (d) of this section is created within the Wyoming game and fish fund. The account shall consist of those funds appropriated or designated to the account by law or by gift from whatever source. Funds deposited within the account are intended to be inviolate and constitute a permanent or perpetual trust account which shall be invested by the state treasurer as authorized

ENROLLED ACT NO. 75, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

under W.S. 9-4-715(a), (d) and (e) and in a manner to obtain the highest return possible consistent with preservation of the account corpus. ~~Any interest earned~~ Earnings from investment of the account corpus shall be credited by the state treasurer into the Wyoming game and fish fund to be expended by the commission for purposes specified under subsection (b) of this section.

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

(b) Before making distributions from the severance tax distribution account under subsections (c) through (e) of this section, an amount equal to two-thirds (2/3) of the amount of tax collected under W.S. 39-14-104(a)(i) and (b)(i) and 39-14-204(a)(i) for the same period shall be deposited ~~into the permanent Wyoming mineral trust fund, except for the period from March 15, 2016 through June 30, 2022 these funds shall be deposited~~ as follows:

(v) For fiscal year 2023 through fiscal year 2028 these funds shall be deposited equally to the permanent Wyoming mineral trust fund and to the common school account within the permanent land fund;

(vi) For fiscal year 2029 and thereafter these funds shall be deposited two-thirds (2/3) to the permanent Wyoming mineral trust fund and one-third (1/3) to the common school account within the permanent land fund.

Section 3.

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

ENROLLED ACT NO. 75, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

(b) W.S. 9-4-219(c) and 9-4-220(b)(ii) are repealed.

Section 4.

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

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

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

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

(I) Controlling Wyoming constitutional provisions and federal law;

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

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

ENROLLED ACT NO. 75, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

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

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

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

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

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

(B) State statutes governing investment limitations, standards or allocations of earnings to principal and income, including those acts specified in paragraph (a)(i) of this section;

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

ENROLLED ACT NO. 75, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

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

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

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

ORIGINAL SENATE
FILE NO. SF0121

ENGROSSED

ENROLLED ACT NO. 75, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

Section 5.

(a) Section 3(b), 4 and 5 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.

(b) Except as provided in subsection (a) of this section, this act is effective July 1, 2021.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk