

HOUSE BILL NO. HB0089

State investment returns-adequate reserve funding.

Sponsored by: Select Committee on Capital Financing &
Investments

A BILL

for

1 AN ACT relating to the investment of state funds; authorizing
2 specified state permanent fund reserve accounts to maintain
3 larger balances for the benefit of state investment
4 strategies; requiring certifications prior to specified
5 investment activities; providing for the transfer of funds to
6 specified reserve accounts; establishing a spending policy
7 for the Wyoming wildlife and natural resource trust account;
8 modifying expenditures from the wildlife and natural resource
9 trust income account; requiring the repayment of transferred
10 funds as specified; providing that balances in specified
11 reserve accounts are intended to be inviolate; removing
12 encumbrances on specified reserve accounts; defining
13 legislative intent for future appropriations and budget
14 requests; providing legislative findings; and providing for
15 an effective date.

1

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

3

4 **Section 1.**

5

6 (a) The legislature finds that:

7

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

13

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

19

20 (iii) The state maintains four (4) permanent fund
21 reserve accounts, one (1) for each of the permanent funds
22 identified in paragraph (ii) of this subsection, that
23 guaranty distributions to the important beneficiaries of the

1 permanent funds in the event investment earnings are
2 insufficient to satisfy annual distribution requirements;

3

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

15

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

22

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

9

10 (vii) To ensure that each permanent fund reserve
11 account is funded to at least five (5) times its annual
12 spending obligations, a transfer of funds to each reserve
13 account is necessary. These transfers are provided by this
14 act and total six hundred thirty-nine million six hundred
15 thousand dollars (\$639,600,000.00). Although these transfers
16 are sizeable, historical total return strategy investment
17 earnings indicate that these transfers will provide enhanced
18 investment returns to the state of Wyoming that will exceed
19 the transferred amounts within a short period of time.
20 Further, the transfers and the associated investment earnings
21 will help ensure that the state of Wyoming can satisfy its
22 future obligations in the face of potentially declining
23 mineral revenues;

1

2 (viii) The significant benefits of employing
3 longer-term, total return investment strategies will last
4 only as long as Wyoming's permanent fund reserve accounts are
5 adequately funded and maintain at least five (5) to seven (7)
6 years of their respective annual spending obligations;

7

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

20

21 (x) By committing the funds and making the
22 statutory changes contained in this act, the legislature is
23 adopting a long-term commitment to funding Wyoming's

1 permanent fund reserve accounts at a level that maximizes
2 investment returns and provides maximum benefits to permanent
3 fund beneficiaries and to the state of Wyoming.

4

5 **Section 2.** W.S. 9-4-601(a)(ii), (d)(intro), (n)(intro)
6 and by creating a new subsection (o), 9-4-719(b)(intro), (f)
7 and (k), 9-15-103(b) and by creating a new subsection (s),
8 16-1-111(f) and 21-16-1302(b) are amended to read:

9

10 **9-4-601. Distribution and use; funds, accounts, cities**
11 **and towns benefited; exception for bonus payments.**

12

13 (a) All monies received by the state of Wyoming from
14 the secretary of the treasury of the United States under the
15 provisions of the act of congress of February 25, 1920 (41
16 Stat. 437, 450; 30 U.S.C. §§ 181, 191), as amended, or from
17 lessees or authorized mine operators and all monies received
18 by the state from its sale of production from federal mineral
19 leases subject to the act of congress of February 25, 1920
20 (41 Stat. 437, 450; 30 U.S.C. §§ 181, 191) as amended, except
21 as provided by subsection (b) of this section, shall be
22 deposited into an account and the first two hundred million
23 dollars (\$200,000,000.00) of revenues received in any fiscal

1 year shall be distributed by the state treasurer as provided
2 in this subsection. One percent (1%) of these revenues shall
3 be credited to the general fund as an administrative fee, and
4 the remainder shall be distributed as follows:

5

6 (ii) Subject to paragraph (xi) of this section and
7 subsection (o) of this section, forty-four and eight-tenths
8 percent (44.8%) to the public school foundation program
9 account subject to allocations under W.S. 9-4-605;

10

11 (d) Except as provided in subsections (k), (m), ~~and~~ (n)
12 and (o) of this section, any revenue received under subsection
13 (a) of this section in excess of two hundred million dollars
14 (\$200,000,000.00) shall be distributed as follows:

15

16 (n) For fiscal year 2023, any revenue received under
17 subsection (a) of this section in excess of four hundred
18 fifty-nine million dollars (\$459,000,000.00) and for fiscal
19 year 2024 and subject to subsection (o) of this section, any
20 revenue received under subsection (a) of this section in
21 excess of four hundred twenty-nine million two hundred
22 thousand dollars (\$429,200,000.00) shall be distributed as
23 follows:

1

2 (o) Beginning in fiscal year 2025 and until three
3 hundred fifty-nine million one hundred thousand dollars
4 (\$359,100,000.00) is deposited into the legislative
5 stabilization reserve account pursuant to this subsection,
6 all amounts which would otherwise be distributed to the school
7 foundation program account on and after July 1, 2024 under
8 paragraph (a)(ii), paragraph (d)(iii), subparagraph (d)(v)(C)
9 and paragraph (n)(i) of this section, and after making the
10 transfers required by W.S. 9-4-719(g), shall be deposited
11 into the legislative stabilization reserve account.

12

13 **9-4-719. Investment earnings spending policy permanent**
14 **funds.**

15

16 (b) There is created the permanent Wyoming mineral
17 trust fund reserve account. All funds within the account shall
18 be invested by the state treasurer as authorized under W.S.
19 9-4-715(a), (d), (e) and (r) and all investment earnings from
20 the account shall be credited to the account. Except for
21 funds specified by the legislature that guarantee the
22 obligations of permanent Wyoming mineral trust fund
23 investment earnings and funds to be transferred into the

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

21

22 (f) There is created the common school permanent fund
23 reserve account. All funds within the account shall be

1 invested by the state treasurer as authorized under W.S.
2 9-4-715(a), (d), (e) and (r) and all investment earnings from
3 the account shall be credited to the account. Except for
4 funds specified by the legislature that guarantee the
5 obligations of the investment earnings from the common school
6 account within the permanent land income fund and funds to be
7 transferred into the common school account within the
8 permanent land fund, funds deposited into the reserve account
9 created by this subsection are intended to be inviolate and
10 constitute a permanent or perpetual trust fund. Beginning
11 July 1, 2017 for fiscal year 2018 and each fiscal year
12 thereafter, the state treasurer shall transfer unobligated
13 funds from this account to the common school account within
14 the permanent land income fund as necessary to ensure that an
15 amount equal to the spending policy amount established in
16 subsection (h) of this section is available for expenditure
17 annually during the fiscal year. As soon as possible after
18 the end of each of the fiscal years beginning on and after
19 July 1, 2017, revenues in this account in excess of ~~one~~
20 ~~hundred fifty percent (150%)~~ four hundred twenty percent
21 (420%) of the spending policy amount shall be credited to the
22 common school account within the permanent land fund.

23

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

17

18 **9-15-103. Wyoming wildlife and natural resource trust**
19 **account created; income account created; expenditures;**
20 **spending policy; purposes.**

21

22 (b) The state treasurer shall credit to a Wyoming
23 wildlife and natural resource trust income account the

1 earnings from investment of the trust account corpus.
2 Investment earnings may be expended by the board in accordance
3 with this act in an annual amount not to exceed the spending
4 policy amount specified in subsection (s) of this section,
5 plus any funds in the income account from prior years that
6 are available for expenditure but were not expended in the
7 applicable year. As soon as possible after the end of each
8 fiscal year, the state treasurer shall transfer all monies in
9 the income account in excess of three hundred percent (300%)
10 of the spending policy amount established in subsection (s)
11 of this section to the trust account. The legislature may,
12 from time to time, appropriate funds directly to the income
13 account for distribution in accordance with the terms of this
14 act. Such specially appropriated funds shall be credited
15 directly by the state treasurer to the income account and are
16 available to the board for award of grants as otherwise
17 permitted by this act.

18

19 (s) During each fiscal year beginning July 1, 2023, the
20 earnings from investment of the trust account shall be
21 credited to the income account for expenditure in accordance
22 with this section. The amount of earnings available for
23 expenditure under this subsection in any one (1) fiscal year

1 shall be an amount equal to five percent (5%) of the five (5)
2 year average market value of the trust account, calculated
3 from the first day of the fiscal year, subject to the
4 following:

5
6 (i) For purposes of making the calculation under
7 this subsection, the five (5) year average market value of
8 the account shall be calculated as follows:

9
10 (A) For fiscal year 2024, the five (5) year
11 average market value shall be equal to the market value of
12 the trust account, as calculated on the first business day of
13 the fiscal year;

14
15 (B) For fiscal year 2025, the five (5) year
16 average market value shall be equal to the previous two (2)
17 year average market value of the trust account, as calculated
18 on the first business day of the fiscal year;

19
20 (C) For fiscal year 2026, the five (5) year
21 average market value shall be equal to the previous three (3)
22 year average market value of the trust account, as calculated
23 on the first business day of the fiscal year;

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(D) For fiscal year 2027, the five (5) year average market value shall be equal to the previous four (4) year average market value of the trust account, as calculated on the first business day of the fiscal year;

(E) For fiscal year 2028 and each fiscal year thereafter, the five (5) year average market value shall be equal to the previous five (5) year average market value of the trust account, as calculated on the first business day of the fiscal year.

(ii) The calculation required by this subsection shall constitute the spending policy for the trust account;

(iii) Nothing in this subsection shall be construed to limit the board from expending funds that are specially appropriated to the income account under subsection (b) of this section or that are granted, given, transferred, bequeathed or donated to the income account under subsection (c) of this section;

1 (iv) Except as provided in subsection (b) of this
2 section, earnings in excess of the spending policy amount
3 established under this subsection shall be retained in the
4 income account.

5
6 **16-1-111. Loans to political subdivisions;**
7 **requirements; limitations; rulemaking.**

8
9 (f) There is created a loss reserve account for loans
10 made under this section. A loan origination fee of one-half
11 of one percent (0.5%) of the loan shall be paid by the loan
12 applicant and deposited to the loss reserve account for any
13 loan approved under this section. If, as a result of default
14 in the payment of any loan made under this section, there
15 occurs a nonrecoverable loss either to the corpus of, or
16 interest due to the permanent Wyoming mineral trust fund, the
17 board shall restore the loss to the permanent fund using any
18 funds available in the loss reserve account. If the funds in
19 the loss reserve account are insufficient to restore the full
20 amount of the loss, the board shall submit a detailed report
21 of the loss to the legislature and shall request an
22 appropriation to restore the balance of the loss to the
23 permanent fund. ~~Beginning June 30, 2018, the state treasurer~~

1 ~~shall transfer funds quarterly from the permanent Wyoming~~
2 ~~mineral trust fund reserve account to the loss reserve account~~
3 ~~created in this subsection, in an amount necessary to ensure~~
4 ~~that as of the last day of each quarter there is an~~
5 ~~unobligated, unencumbered balance equal to five percent (5%)~~
6 ~~of the balance of outstanding loans under this section. Any~~
7 ~~funds transferred to the loss reserve account pursuant to~~
8 ~~this subsection which are not necessary to maintain the five~~
9 ~~percent (5%) balance shall be transferred back to the~~
10 ~~permanent Wyoming mineral trust fund reserve account on the~~
11 ~~last day of the quarter.~~

12

13 **21-16-1302. Hathaway scholarship expenditure account**
14 **created; reserve account created; use and appropriation of**
15 **funds.**

16

17 (b) There is created the Hathaway student scholarship
18 reserve account. The reserve account shall consist of those
19 monies deposited to the account pursuant to subsection (a) of
20 this section and such other funds appropriated by the
21 legislature to the reserve account. Interest and other
22 earnings on funds within the reserve account shall be credited
23 to the reserve account. Except for funds specified by the

1 legislature that guarantee the scholarship obligations of the
2 Hathaway scholarship expenditure account and funds to be
3 transferred into the Hathaway student scholarship endowment
4 fund, funds deposited into the reserve account created by
5 this subsection are intended to be inviolate and constitute
6 a permanent or perpetual trust fund. To the extent funds
7 within the Hathaway scholarship expenditure account are
8 insufficient in any fiscal year to fully fund scholarships
9 awarded under this article, monies within the reserve account
10 shall be deposited by the state treasurer to the expenditure
11 account for distribution to eligible institutions to fund
12 those scholarships. As soon as possible after the end of each
13 of the fiscal years beginning on and after July 1, 2007, the
14 state treasurer shall transfer monies from this reserve
15 account to the Hathaway student scholarship endowment fund to
16 the extent monies within the reserve account are in excess of
17 the greater of ~~twelve million dollars (\$12,000,000.00)~~
18 forty-seven million dollars (\$47,000,000.00) or an amount
19 equal to ~~four and one-half percent (4.5%)~~ eight percent (8%)
20 of the previous five (5) year average market value of the
21 Hathaway student scholarship endowment fund, calculated from
22 the first day of the fiscal year. The state treasurer shall
23 report not later than November 1, of each year to the joint

1 education interim committee and the select committee on
2 capital financing and investments the amount of funds within
3 the reserve account at the end of the previous fiscal year
4 and as of July 1, of the current fiscal year.

5

6 **Section 3.**

7

8 (a) On the effective date of this act, the state auditor
9 shall transfer:

10

11 (i) Three hundred fifty-nine million one hundred
12 thousand dollars (\$359,100,000.00), or as much thereof as is
13 available, from the legislative stabilization reserve account
14 to the common school permanent fund reserve account created
15 by W.S. 9-4-719(f). The amount of funds transferred under
16 this paragraph shall be reduced by one dollar (\$1.00) for
17 every one dollar (\$1.00) up to three hundred fifty-nine
18 million one hundred thousand dollars (\$359,100,000.00)
19 transferred from any source to the common school permanent
20 fund reserve account under 2023 House Bill 0001 or 2023 Senate
21 File 0001, if enacted into law;

22

1 (ii) Two hundred seventy-four million seven
2 hundred thousand dollars (\$274,700,000.00), or as much
3 thereof as is available, from the legislative stabilization
4 reserve account to the permanent Wyoming mineral trust fund
5 reserve account created by W.S. 9-4-719(b);

6

7 (iii) Four million six hundred thousand dollars
8 (\$4,600,000.00), or as much thereof as is available, from the
9 legislative stabilization reserve account to the Hathaway
10 student scholarship reserve account created by W.S.
11 21-16-1302(b);

12

13 (iv) One million two hundred thousand dollars
14 (\$1,200,000.00), or as much thereof as is available, from the
15 legislative stabilization reserve account to the excellence
16 in higher education endowment reserve account created by W.S.
17 9-4-719(k).

18

19 (b) Amounts transferred pursuant to subsection (a) of
20 this section shall be securely deposited into the reserve
21 accounts required by subsection (a) of this section and shall
22 not be invested or otherwise deposited in a manner

1 inconsistent with the way in which funds in the respective
2 reserve accounts were invested on July 1, 2022 until:

3

4 (i) The state treasurer's office certifies in
5 writing to the office of state lands and investments and the
6 state loan and investment board that investment policy
7 statements have been adopted pursuant to W.S. 9-4-716 that
8 provide for the investment of the transferred amounts as part
9 of a total return investment strategy and that all accounting
10 and financial reporting systems are available and are
11 operating in a condition that allows fully compliant
12 accounting and reporting on the investment and handling of
13 all transferred funds and associated earnings; and

14

15 (ii) The state loan and investment board, after
16 having received and considered the certification required by
17 paragraph (i) of this subsection, provides written notice to
18 the state treasurer's office that the office is authorized to
19 begin investing and depositing transferred funds in a manner
20 consistent with the adopted investment policies and using
21 fully compliant financial accounting and reporting practices.

22

1 **Section 4.** It is the intent of the legislature that the
2 five hundred thirty-three thousand five hundred seventy-nine
3 dollar (\$533,579.00) appropriation from the Hathaway
4 scholarship expenditure account to the department of
5 education for the payment of administrative expenses in 2022
6 Wyoming Session Laws, Chapter 51, Section 2, Section 206 not
7 be requested to be paid from, nor be paid from, the Hathaway
8 scholarship expenditure account in the 2025-2026 fiscal
9 biennium or any subsequent fiscal biennium.

10

11 **Section 5.** This act is effective July 1, 2023.

12

13

(END)