



March 18, 2025

The Honorable Chuck Gray, Wyoming Secretary of State
Herscher Building East
122 West 25th Street, Suite 100
Cheyenne, Wyoming 82002

Re: Line-item veto of Senate Enrolled Act No. 98 / Senate File 0169 - Strategic
investments and projects account - Repeal

Dear Secretary Gray,

Senate Enrolled Act No. 98/Senate File 0169 on its face purports to simplify the budget process by repealing the Strategic Investments and Projects Account (SIPA). However, an analysis of Sections 1, 2 and 3 of the Act show that in doing so, it also directs deposits of all earnings from the Permanent Mineral Trust Fund (PMTF) that are in excess of 2.5%, but less than the spending policy, be made directly into the Legislative Stabilization Reserve Account (LSRA). Under current law, one-half ($\frac{1}{2}$) of that difference would be deposited into SIPA and one-half ($\frac{1}{2}$) to the LSRA. As such, it is a cagey strategy to undermine a long-standing compromise between the Executive and Legislative branches and breach the original intent of SIPA.

What motivates this arbitrary redistribution? More than just extinguishing the SIPA account to simplify the budget process, depositing the SIPA into the LSRA under this Act artificially prevents the Governor from using income collected in the SIPA to help craft budget recommendations (*see* Wyo.Stat. § 9-2-1013(d)(iii)(C) (governor cannot propose appropriations from LSRA in excess of the 5% statutory reserve amount)).

Although I have long been a proponent of simplifying Wyoming's budgeting - making it more transparent and accessible; arbitrarily restricting the traditional resources one branch has used to make its budget recommendations accomplishes none of those ends. As Wyoming's Treasurer, I witnessed a perennial struggle between the Legislature and the Governor over how to anticipate, and what to do with, capital gains, which are notoriously hard to predict. Rather than argue about how to engineer investment income for a particular purpose, I advocated for responsible investment policy and against an ever present temptation to "harvest" capital gains to meet budget goals.

SIPA was never intended to be yet another “coffee can,” rather it was originally a compromise between a previous legislature and the then-serving governor. It was intended to be a way to capture realized capital gains derived from the ordinary, prudent management of a well-crafted investment policy. The compromise recognized the value of the governor’s authority to use some of the funds in the SIPA when making budget recommendations. This was important since the Consensus Revenue Estimating Group (CREG) does not forecast capital gains as revenue, and for good reason. Without the SIPA compromise (or something akin to it), the governor would be precluded by Wyo.Stat. § 9-2-1013(d)(iii)(C) from recommending any appropriations utilizing realized capital gains, which in some biennia, is hundreds of millions of dollars.

It is a fact that the Governor can only recommend a budget, it is the Legislature that appropriates. This Act violates a useful and respectful compromise and hobbles efficient budgeting. It is an artifice that serves no useful purpose other than tying the hands of the governor. It will not produce a better or more transparent budget, only one with an academically limited value. As with so many bills from the 2025 General Session, the 68th Legislature continues to work to accrue more power to itself even when there is little point.

Section 4 of this Act also intends to repeal the Wyoming State Penitentiary Account (a subaccount of SIPA) and to transfer money that has been saved for major repairs or replacement to corrections facilities back into the General Fund where it can be spent for anything.

Finally, with the absence of a supplemental budget this year, this Act also shoehorns two appropriations that were in the supplemental budget or capital construction bill - one appropriation to fund the siting, construction and operation of the Wyoming State Shooting Complex, and another to partially fund an \$18,000,000 budget request to upgrade and modernize an outdated security system at the state penitentiary that is beyond its anticipated useful life and at risk of failure. The two shoehorned appropriations are an obvious effort to gloss over the fact the Legislature was unable to pass budget supplements this year for even something so straightforward as securing prisoners to protect our correction officers and our communities.

Accordingly, I have signed Senate File 0169/Senate Enrolled Act No. 72 with the following line-item vetoes:

Sections 1, 2, and 3 - Repeal of SIPA

This Act suggests a series of changes beyond the simple effort to make budgeting more transparent and understandable. Specifically, sections 1, 2, and 3 repeal SIPA and put SIPA funds beyond the reach of the Governor to use in formulating a budget recommendation. The effort seems counterintuitive and parochial, serving only the narrow focus of withholding

revenue from the Executive Branch budgeting process while preserving it exclusively for the legislature's priorities. Wyoming is required to balance its budget with expenditures not exceeding income. That effort has always been a joint effort. Artificially constraining income to one branch breaks with that practice and will not necessarily result in a cleaner or a leaner budget.

SIPA has been a repository for investment revenue for over a decade. It has been used to recommend appropriations for capital expenditures, such as maintenance, construction and purchase of state government (non-public school) facilities. Its use is clearly outlined in budget documents and well understood. Again, I support simplification of the budgeting process, but artificially reengineering it for the purely parochial purpose of securing millions of dollars of otherwise available revenue solely to the legislature. I do not support the guise of repealing the SIPA to limit the options available to the governor when recommending a budget. It does not simplify accounting, does nothing to render more transparency, and serves no legitimate purpose. After all, it is ultimately the legislature that appropriates, not the governor. He can only recommend. The legislature, therefore, always has the last word.

In Section 1, I line-item vetoed specific existing and new language in Wyo. Stat. § 9-4-719(b) and (q)(i) so that the full amount of earnings in excess of 2.5% of the PMTF spending policy up to its full amount will be deposited into SIPA. This will result in as much as one-half (½) of the PMTF spending policy amount being deposited into SIPA and available to use when recommending the next biennial budget this Fall. I believe this action is prudent considering this year's passage of significant tax cuts and tax diversions, which, along with dropping oil and natural gas prices, will increase the state's share of school funding. The combined effects of these factors create substantial pressure on the General Fund to cover any school funding deficit and still meet the ongoing costs of government as well as provide services to Wyoming families and businesses.

I have further line-item vetoed all of Sections 2, and 3. The line-item vetoes are consistent with my line-item vetoes in Section 1.

Section 4 - Transfer of Wyoming State Penitentiary Funds

Section 4 in the Act would terminate the Wyoming State Penitentiary Account (WSPA), which is a subaccount of the SIPA. This account was saving money for future capital construction needs within the Department of Corrections. Section 4 of the Act would transfer all unencumbered funds (approximately \$52 million), excepting those appropriated in Section 7, into the general fund. The WSPA was created when it was believed that Wyoming was in immediate need of the

construction of a new state penitentiary in Rawlins. The urgency to address the underlying problems was alleviated when economically appropriate, temporary measures were applied to mitigate some of those concerns. These measures have extended the life of that prison facility to some degree. Nevertheless, I believe the practice of saving for future capital construction over successive budgets for extraordinary expenditures such as the needs of the correctional system makes conservative common sense. Conversely, simply returning these savings to the General Fund will, I fear, likely result in frittering the money away meeting short-term wants unrelated to mid-term or long-term needs elsewhere such as in corrections.

One of the casualties with the inaction on the supplemental budget was the \$18 million to replace the integrated security system at the penitentiary that is well past its useful life. To prevent this transfer without more deliberate consideration by the Legislature as well as to accomplish a purpose (see below) for which the account was created, I have vetoed this section.

Section 5 - Reporting by the State Auditor

Section 5 requires reporting by the State Auditor of actions taken to affect sections 1 through 4 of the Act. Since I have line-item vetoed most of the operative provisions of those sections, Section 5 is no longer needed. Accordingly, I have vetoed Section 5 in its entirety. This action in no way will inhibit the State Auditor's extensive and complete reporting of State expenditures.

Section 6 - Appropriation for State Shooting Complex

Section 6 presents a bit of a dilemma. The Legislature not only failed to pass a supplemental budget, it did not pass a state capital construction bill. It passed a bill for school capital construction, but not one that provides for the needs of state buildings. The Legislature failed to include funding for higher education or to bring the aging facilities at the veterans' home up to speed (in this perhaps the Legislature is messaging "thank you for your service" ought to be enough). Furthermore, last year, the Legislature required the purchase of an existing office building in Riverton, Wyoming, but this Legislature failed to appropriate funds for its maintenance and remodeling to make it optimally usable for state offices.

On the other hand, Section 6 appropriates \$10 million for the siting, design, construction, and operation of a new State Shooting Complex. While I support the Shooting Complex, it is clearly a want not a need. In providing this appropriation, the Legislature is conveying a confusing message. Apparently, the complex is such a high priority to the 68th Legislature that it is more essential than the construction of the new veterans home so that the men and women who served in this country's armed forces can receive the care that they have been promised and deserve.

Our veterans, who have been waiting for this new facility for several years, can now wait even longer. Instead of meeting their needs at a time when inflation is more predictable, we will wait to address those needs when the cost of building is likely higher. As someone who grew up in Wyoming enjoying shooting sports from a very young age, hunting, protecting my livestock, and hosting several shooting and hunting events now that I am Governor, I have to say I understand the draw for recreational shooting facilities; but I am, nonetheless, dumbfounded by the failure to pass a capital construction bill addressing more imminent needs. I have never been at a loss in Wyoming for a place to shoot whether at local ranges or way out there.

Section 7 - Integrated Security System

One of the projects in the capital construction bill that did not pass was the replacement of the integrated security system at the state correctional facilities. The current system is past its anticipated useful life and is in danger of failure. The security of correctional officers, the state's inmates, and Wyoming citizens is of paramount concern and cannot wait. Section 7 as passed by the Legislature provided 50% of the required amount (\$9 million of the needed \$18 million). My line item veto provides the ability to replace this vital integrated security system.

The full amount of the Wyoming State Penitentiary Account (WSPA) (approximately \$52 million) is effectively transferred to the Department of Corrections by this line item veto. To address that overage, I will transfer the unused balance (approximately \$34 million) back to the WSPA by B-11 almost immediately thereafter to avoid losing the investment earnings opportunity for that amount.

Section 8 - Effective date

My line item vetoes in this section make the entire Act effective immediately so that the construction appropriations in this Act can move forward without further delay—something that all capital construction projects, if they had been considered and approved by the 68th Legislature, should have had the opportunity to do.

I commend the Legislature's efforts to simplify the budget process, but I cannot agree with the insolent proposition of the Legislature to restrict the Executive Branch's ability to propose a responsible budget as contemplated by the Wyoming Constitution. I also hail the Legislature's eleventh hour effort to include two of the many omissions caused by the lack of a supplemental budget and a state capital construction bill, but I do not celebrate it. I hope in the future, this Legislature which touts its "conservative" approach to governance, will prioritize needs more than it lavishes wants. Having a place to responsibly consider the state's capital construction needs versus its wants is vital to a transparent budgeting process. Hopefully, we can all learn

from these omissions and work toward a conservative, constitutional, responsible, and appropriate biennial budget and capital construction bill next year.

Sincerely,



Mark Gordon
Governor

MG:kb:rl:kh

cc: The Honorable Bo Biteman, President of the Senate
The Honorable Chip Neiman, Speaker of the House
Chief Clerk, Wyoming Senate
Chief Clerk, Wyoming House of Representatives

ORIGINAL SENATE
FILE NO. SF0169

ENGROSSED

ENROLLED ACT NO. 98, SENATE

SIXTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2025 GENERAL SESSION

AN ACT relating to public funds; ~~repealing the strategic investments and projects account;~~ providing for the transfer from and the reversion of funds from the strategic investments and projects account; making conforming amendments; ~~repealing obsolete language; requiring reports;~~ and providing for effective dates.

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

Section 1. W.S. ~~9-4-220.1~~ and 9-4-719(b)(intro) and (q)(i) are amended to read:

~~9-4-220.1. Wyoming state penitentiary capital construction account; funds transferred to the account.~~

(a) There is created the Wyoming state penitentiary capital construction account. ~~within the strategic investments and projects account created by W.S. 9-4-220.~~ Funds in the account shall only be expended upon legislative appropriation. Through the fiscal year ending June 30, 2034, all funds within the account shall be invested in the pool A investment account by the state treasurer pursuant to W.S. 9-4-715(p). Thereafter, all funds within the account shall be invested as determined by the state treasurer. All investment earnings from the account shall be credited to the account. ~~For purposes of accounting and investing only, the Wyoming state penitentiary capital construction account shall be treated as a separate account from the strategic investments and projects account.~~

~~(b) Beginning on June 30, 2021-2027 for fiscal year 2021-2027 and June 30 of each fiscal year thereafter as provided in this subsection, the state treasurer shall~~

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~~transfer ten million dollars (\$10,000,000.00), or as much thereof as is available, from any unobligated funds within the strategic investments and projects account general fund to the Wyoming state penitentiary capital construction account. The state treasurer shall cease transferring funds to the Wyoming state penitentiary capital construction account pursuant to this subsection on July 1, 2038.~~ MB

9-4-719. Investment earnings; spending policy amounts; 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 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 by~~ this subsection, revenues in MB

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this account in excess of 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~~ 2026 and for each fiscal year thereafter: *Ma*

(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) 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;~~ *Ma* created by W.S. 9-4-219 and the ~~strategic investments and projects account created by W.S. 9-4-220 in~~ *Ma* equal amounts;

~~Section 2. W.S. 9-4-220 and 9-4-719(b)(i) are repealed.~~ *Ma*

~~Section 3. The strategic investments and projects account is repealed.~~ *Ma*

~~Section 4. On July 1, 2026, all funds in the strategic investments and projects account, except funds in the Wyoming state penitentiary capital construction account within the strategic investments and project account, shall be transferred by the state auditor to the general fund. Any unexpended funds that have been appropriated or~~ *Ma*

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~~obligated from the strategic investments and projects~~
account before July 1, 2026 shall be paid from the general
fund. Any funds that are directed to revert by law to the
strategic investments and projects account shall revert to
the general fund. All accrued revenues that would otherwise
be deposited in the strategic investments and projects
account shall be deposited in the general fund. *Ma*

~~Section 5. Not later than October 31, 2026 and again~~
not later than October 31, 2027, the state auditor shall
report to the joint appropriations committee on the amounts
transferred under section 4 of this act. *Ma*

Section 6. On the effective date of this section, the
state auditor shall transfer ten million dollars
(\$10,000,000.00), or as much thereof as is available, from
the strategic investments and projects account to the
department of state parks and cultural resources for the
siting, construction, operation and maintenance of the
Wyoming state shooting complex. These funds shall not be
transferred or expended for any other purpose.

Section 7. On the effective date of this section, the
state auditor shall transfer ~~nine million dollars~~
~~(\$9,000,000.00)~~ from the Wyoming state penitentiary capital
construction account within the strategic investments and
project account to the department of corrections for
purposes of ~~integrating~~ the department's security system. *Ma*
These funds shall not be transferred or expended for any
other purpose. *Ma*

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Section 8.

~~(a) Except as provided in subsection (b) of this section, this act is effective July 1, 2026.~~ *Ma*

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

(END)



Speaker of the House



President of the Senate

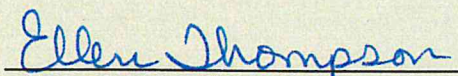


Governor

TIME APPROVED: 16:58

DATE APPROVED: 18 March 2025

I hereby certify that this act originated in the Senate.



Chief Clerk