

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO.

Wild horse and burro management.

Sponsored by: Joint Agriculture, State and Public Lands &  
Water Resources Interim Committee

A BILL

for

1 AN ACT relating to land management; requiring notice to  
2 federal land management agencies of the cost of wild horse  
3 grazing on state or private lands; authorizing enforcement  
4 by writ of mandamus for removal of wild horses from  
5 nonfederal lands; providing for state management of wild  
6 horses and burros with tribes and federal land management  
7 agencies; providing definitions; providing appropriations;  
8 and providing for an effective date.

9

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

11

1           **Section 1.** W.S. 11-30-115(a) and by creating new  
2 subsections (c) through (f) is amended to read:

3

4           **11-30-115. Unlawful killing of wild horses and**  
5 **burros; federal management and invoicing; enforcement by**  
6 **writ of mandamus; governor authorized to negotiate with**  
7 **federal agencies and tribes.**

8

9           (a) For purposes of this section:

10

11           (i) "Affected nonfederal lands" means state,  
12 county or private lands upon which the landowner has proof  
13 that wild horses have regularly grazed;

14

15           (ii) "Appropriate management level" or "AML"  
16 means the number of wild horses that the United States  
17 bureau of land management or United States forest service  
18 determines can exist in balance with other public land  
19 resources and uses. The AML is a range of low to maximum  
20 levels at which wild horse herd populations are consistent  
21 with the land's capacity to support them;

22

1           (iii) "Herd management area" means lands under  
2 the supervision of the United States bureau of land  
3 management or United States forest service upon which  
4 populations of wild horses are managed according to the  
5 1971 Wild Free-Roaming Horses and Burros Act, as amended,  
6 16 U.S.C. § 1331 et seq.;

7  
8           (iv) "Wild horse" means ~~a horse, mare, filly or~~  
9 ~~colt which is any~~ unbranded and unclaimed ~~and lives on~~  
10 ~~state or horse or burro on~~ public ~~land~~ lands.

11  
12           (c) Upon the failure or refusal of the United States  
13 bureau of land management or United States forest service  
14 to remove any wild horses claimed by the United States  
15 bureau of land management or United States forest service  
16 as belonging to a herd management area, which regularly  
17 stray from federal lands, the office of state lands and  
18 investments shall provide the United States secretary of  
19 the interior or United States secretary of agriculture, as  
20 applicable, with annual notice identifying the grazing cost  
21 for those wild horses. To facilitate calculation of costs  
22 under this subsection the office of state lands and  
23 investments shall:

1

2 (i) Determine the total area of the herd  
3 management area plus adjacent affected nonfederal lands,  
4 and:

5

6 (A) For state or county lands, determine  
7 the percentage of the total area consisting of state or  
8 county lands;

9

10 (B) For private lands, pursuant to a  
11 private landowner's written application to the office of  
12 state lands and investments showing proof that wild horses  
13 have regularly grazed on the landowner's land, determine  
14 the percentage of the total area consisting of the  
15 landowner's lands. An application under this subparagraph  
16 is for purposes of accurate calculation of the percentage  
17 of the total area of affected nonfederal lands consisting  
18 of the landowner's lands and shall not be construed to  
19 impose any liability or responsibility on the part of the  
20 state.

21

22 (ii) Using annual wild horse data from the  
23 bureau of land management or forest service, as applicable,

1 calculate the annual animal unit month amount of forage  
2 consumed by the wild horses in the applicable area;

3

4 (iii) Multiply the forage consumed as calculated  
5 under paragraph (ii) of this subsection by the percentage  
6 of state, county or private lands determined under  
7 paragraph (i) of this subsection and apply the rate for  
8 services rendered:

9

10 (A) For wild horse numbers up to the high  
11 appropriate management levels, equal to the land lease rate  
12 per animal unit month for Wyoming grazing leases;

13

14 (B) For wild horse numbers in excess of the  
15 high appropriate management levels, equal to three (3)  
16 times the land lease rate per animal unit month for Wyoming  
17 grazing leases.

18

19 (d) Any reimbursement monies received from a federal  
20 land management agency in response to a notice of costs of  
21 wild horse grazing on affected nonfederal lands sent  
22 pursuant to subsection (c) of this section shall be  
23 deposited with the state treasurer and kept by the

1 treasurer in a separate account for a period of one (1)  
2 year during which time the office of state lands and  
3 investments shall notify any private landowner whose land  
4 was included in the total area of affected nonfederal lands  
5 pursuant to subparagraph (c)(i)(B) of this section of the  
6 proportionate share of the reimbursement monies applicable  
7 to the landowner. A landowner seeking proportionate monies  
8 under this subsection shall respond in not more than sixty  
9 (60) days to the notification from the office of state  
10 lands and investments sent pursuant to this subsection.  
11 After expiration of the one (1) year period, remaining  
12 funds shall first be credited to the county in the  
13 proportionate share applicable to county lands included in  
14 the total area of affected nonfederal lands pursuant to  
15 subparagraph (c)(i)(A) of this section and then the balance  
16 deposited in the general fund.

17  
18 (e) The state attorney general may seek a writ of  
19 mandamus to compel the United States bureau of land  
20 management or United States forest service, as applicable,  
21 to take action to remove excess wild horses as required  
22 under federal law from affected nonfederal lands.

23 Recognizing that wild horses roam without regard to

1 political boundaries, the affected nonfederal lands for  
2 which a writ of mandamus is sought under this subsection  
3 may include private land, so long as private land comprises  
4 not more than ten percent (10%) of the total area of  
5 affected nonfederal lands.

6  
7 (f) To manage wild horses in the state, including on  
8 the Wind River Indian Reservation, the governor is  
9 authorized to enter into cooperative agreements with any  
10 relevant parties including the United States bureau of land  
11 management, the United States forest service, the Eastern  
12 Shoshone Tribe, the Northern Arapaho Tribe or both tribes.

13  
14 **Section 2.**

15  
16 (a) There is appropriated x thousand dollars  
17 (\$x0,000.00) from the general fund to the office of state  
18 lands and investments for the purposes of implementing this  
19 act. This appropriation shall not be transferred or  
20 expended for any other purpose. Any unobligated, unexpended  
21 funds remaining from this appropriation shall revert as  
22 provided by law on June 30, 2024. It is the intent of the  
23 legislature that this appropriation not be included in the

1 office of state lands and investments' standard budget for  
2 the immediately succeeding fiscal biennium.

3

4 (b) There is appropriated x thousand dollars  
5 (\$x0,000.00) from the general fund to the office of the  
6 governor for state endeavors to manage wild horses in the  
7 state, including on the Wind River Indian Reservation,  
8 pursuant to cooperative agreements with the United States  
9 bureau of land management or United States forest service  
10 and with the Eastern Shoshone Tribe, the Northern Arapaho  
11 Tribe, or both tribes, as provided in section 1 of this  
12 act. This appropriation shall not be transferred or  
13 expended for any other purpose. Any unobligated, unexpended  
14 funds remaining from this appropriation shall revert as  
15 provided by law on June 30, 2024. It is the intent of the  
16 legislature that this appropriation not be included in the  
17 office of the governor's standard budget for the  
18 immediately succeeding fiscal biennium.

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21 STAFF COMMENT  
22 This appropriation is made from the General Fund.  
23 Coronavirus State Fiscal Recovery Funds under the American  
24 Rescue Plan Act (ARPA) funds may only be used for the  
25 purposes specified in the federal appropriation and the  
26 applicable Treasury Department rules and regulations.



1 Broadly, these purposes include costs incurred: (1) to  
2 respond to the public health emergency with respect to  
3 COVID-19 (2) to respond to workers performing essential  
4 work, (3) for the provision of government services to the  
5 extent of the reduction in revenue, and (4) to make  
6 necessary investments in water, sewer, or broadband  
7 infrastructure.

8  
9 Treasury Guidance for use of "revenue reduction" or  
10 "offset" ARPA funds currently provides, "Sections  
11 602(c)(1)(C) and 603(c)(1)(C) of the Act provide recipients  
12 with broad latitude to use the Fiscal Recovery Funds for  
13 the provision of government services. Government services  
14 can include, but are not limited to, maintenance or pay-go  
15 funded building of infrastructure, including roads;  
16 modernization of cybersecurity, including hardware,  
17 software, and protection of critical infrastructure; health  
18 services; environmental remediation; school or educational  
19 services; and the provision of police, fire, and other  
20 public safety services." See Interim Final Rule, Fed. Reg.  
21 Vol 86, No. 93 p. 26801.

22  
23 It is unclear whether funding for this appropriation would  
24 qualify as government services for which "offset" ARPA  
25 funds may be expended. Any government services funded in  
26 this manner will likely include an administrative burden in  
27 reporting to the Treasury on the government services  
28 funded. The executive branch has indicated intent to  
29 recommend expenditure of all offset ARPA funds for  
30 government services, which are explicitly authorized,  
31 through (a) the Department of Corrections, (b) WYDOT, and  
32 perhaps (c) capital construction. This approach can achieve  
33 the same purposes as may be achieved by an agency or  
34 committee picking comparatively small amounts of funds with  
35 less administrative burden and less potential for federal  
36 recoupment. The following statement of legislative intent  
37 could be included, but is not necessary:

38  
39 "It is the intent of the legislature that this  
40 appropriation not be included in the office of state lands  
41 and investments' standard budget for the immediately  
42 succeeding fiscal biennium as the funding for this  
43 appropriation is not anticipated to be sustainable due to  
44 the level of one-time revenues projected to be collected by  
45 or disbursed to the state for the 2023-2024 fiscal biennium

1 from various state and federal sources, including severance  
2 and sales and use taxes and funds appropriated or disbursed  
3 to the state of Wyoming under the American Rescue Plan Act  
4 of 2021, Pub. L. No. 117-2.

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6 \*\*\*\*\*  
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8       **Section 3.** This act is effective immediately upon  
9 completion of all acts necessary for a bill to become law  
10 as provided by Article 4, Section 8 of the Wyoming  
11 Constitution.

12  
13

(END)