

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO.

Investment modernization-statutory funds.

Sponsored by: Representative(s) Obermueller

A BILL

for

1 AN ACT relating to public funds; establishing spending  
2 policies for specified statutory funds; creating an income  
3 account for the Wyoming cultural trust fund; providing for  
4 the investment of specified statutory funds; providing for  
5 deposits to the corpus accounts of specified statutory  
6 funds; removing specified statutory funds from the Pool A  
7 investment account; making conforming amendments; requiring  
8 the transfer of funds; and providing for an effective date.

9

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

11

12 **Section 1.** W.S. 9-2-2303(a) by creating a new  
13 paragraph (iv), 9-2-2304(b), 9-2-2306(a)(v), 9-2-2307(a),

1 (b)(intro) and by creating new subsections (c) and (d) and  
2 9-15-103(a), (b) and by creating a new subsection (s) are  
3 amended to read:

4

5 **9-2-2303. Definitions.**

6

7 (a) As used in this article:

8

9 (iv) "Income account" means the Wyoming cultural  
10 trust fund income account created by W.S. 9-2-2304(b).

11

12 **9-2-2304. Wyoming cultural trust fund established;**  
13 **income account established; corpus inviolate; investment by**  
14 **state treasurer.**

15

16 (a) The Wyoming cultural trust fund is created. The  
17 Wyoming cultural trust fund shall consist of those funds  
18 designated to the fund by law and all monies collected from  
19 federal grants and other contributions, grants, gifts,  
20 bequests and donations to the cultural trust fund.

21 \*\*\*\*\*

22 **STAFF COMMENT**

23 Subsection (a), above, is included for context. Unamended  
24 statutory provisions will not be included in the formal  
25 draft.

1 \*\*\*\*\*  
2

3 (b) The monies deposited into the Wyoming cultural  
4 resources trust fund established pursuant to this section  
5 are inviolate and constitute a permanent or perpetual trust  
6 fund. The monies shall be transmitted to the state  
7 treasurer for credit to the trust fund. ~~and shall be~~  
8 ~~invested by the state treasurer as authorized by law and in~~  
9 ~~a manner to obtain the highest net return possible~~  
10 ~~consistent with the preservation of the corpus.~~ Any  
11 earnings from investment of the corpus of the trust fund  
12 shall be credited by the state treasurer into a separate  
13 Wyoming cultural trust fund income account and distributed  
14 in accordance with W.S. 9-2-2307. The state treasurer, or  
15 his designee, who shall be registered under the Investment  
16 Advisor's Act of 1940, as amended, if required to be  
17 registered by the terms of that act, as amended, may invest  
18 the unobligated, unencumbered balance of the trust fund and  
19 the income account in equities, including stocks of  
20 corporations. Investments under this subsection shall be  
21 in accordance with W.S. 9-4-715(a) and (c) through (e) and  
22 W.S. 9-4-716. In adopting investment policy statements for  
23 the Wyoming cultural resources trust fund and income

1 account, the state loan and investment board, in  
 2 consultation with the investment funds committee, shall  
 3 seek to preserve the balance of the trust fund and income  
 4 account in a manner that strives for the highest possible  
 5 risk-adjusted total net return consistent with an  
 6 appropriate level of safety and liquidity.

7 \*\*\*\*\*

8 **STAFF COMMENT**

9 Note that the provision above creates authority to invest  
 10 BOTH the trust fund and the income account in equities.  
 11 There is a question of whether the income account would  
 12 ever have sufficient funds to make it wise to invest it.  
 13 However, there is also an argument that permission can be  
 14 extended now, and that the Treasurer is not required to  
 15 invest the income account unless it would be appropriate.  
 16 This bill provides transfers to the income account to  
 17 better fund the account and to allow the account higher  
 18 yielding earnings strategies. Giving investment permission  
 19 now might allow the initiation of conservative investments  
 20 now, or in the future, if/when the income account is large  
 21 enough. Please provide direction on whether both the trust  
 22 fund and income account should be included.

23 \*\*\*\*\*

24

25 **9-2-2306. Wyoming cultural trust fund board; duties**  
 26 **and responsibilities.**

27

28 (a) The board shall:

29

30 (v) Review and monitor the expenditure of monies  
 31 from the ~~trust fund~~ income account to grantees; and

1

2           **9-2-2307. Disbursement of grants from trust fund**  
3 **investment earnings.**

4

5           (a) Subject to approval of applications from  
6 nonprofit and governmental cultural, historical and arts  
7 organizations, the board may award grants from the income  
8 account to promote, preserve and enhance the unique  
9 cultural heritage of Wyoming and its people.

10

11           (b) Subject to the expenditure limitation established  
12 by this subsection, the board shall have the discretion in  
13 determining the amount of money under each grant. ~~., except~~  
14 ~~that no grant shall be awarded until:~~ The total amount of  
15 grants awarded in any one (1) year shall not exceed the  
16 spending policy amount specified in subsection (d) of this  
17 section. Funds in the income account constituting special  
18 appropriations, grants, transfers, bequests or donations  
19 shall not be subject to the spending policy, shall not be  
20 counted toward the spending policy and may be distributed  
21 as grants by the board unless the special appropriation,  
22 grant, transfer, bequest or donation specifies otherwise.

23

1           ~~(i) The corpus of the trust fund equals four~~  
 2 ~~million dollars (\$4,000,000.00) or July 1, 2000, whichever~~  
 3 ~~occurs earlier; and~~

4  
 5           ~~(ii) The interest earned from the corpus of the~~  
 6 ~~fund and available for disbursement is sufficient to~~  
 7 ~~adequately fund a project, taking into consideration all~~  
 8 ~~other monies or in kind contributions provided as a match~~  
 9 ~~for the project by the grantee.~~

10  
 11         (c) As soon as possible after the end of each fiscal  
 12 year, the state treasurer shall transfer any unobligated,  
 13 unencumbered fund balance in the income account in excess  
 14 of ~~XXX~~ (~~XXX~~%) of the spending policy amount established in  
 15 subsection (d) of this section to the trust fund. The  
 16 transfer calculation required by this subsection shall not  
 17 include monies in the income account that are special  
 18 appropriations, grants, transfers, bequests or donations  
 19 unless the special appropriation, grant, transfer, bequest  
 20 or donation specifies otherwise.

21         \*\*\*\*\*

22                                 **STAFF COMMENT**

23         Consistent with your instruction and testimony from the STO  
 24         last interim, LSO's Budget/Fiscal team will work to  
 25         determine the tip percentage that will allow 7X the

1 expected annual expenditures from the income account to  
2 accumulate in the account before tips are made back to the  
3 Trust Fund.

4 \*\*\*\*\*

5  
6 (d) The amount of earnings in the income account  
7 available for making grants under this section in any one  
8 (1) fiscal year shall be an amount equal to five percent  
9 (5%) of the five (5) year average market value of the trust  
10 fund, calculated from the first day of the fiscal year,  
11 subject to the following:

12 \*\*\*\*\*

13 **STAFF COMMENT**

14 The 5% spending policy inserted above is a place holder.  
15 Our Budget/Fiscal personnel can help advise on an  
16 appropriate number.

17  
18 Also, since the Cultural Trust Fund was established in  
19 1998, the 5 year average market value of the Trust Fund is  
20 available. I will confirm with our Budget/Fiscal personnel  
21 that using the prior 5 years will be appropriate and yield  
22 a reasonable result.

23 \*\*\*\*\*

24  
25 (i) The calculation required by this subsection  
26 shall constitute the spending policy for the income  
27 account;

28 \*\*\*\*\*

29 **STAFF COMMENT**

30 Note: The provision above creates a spending policy for  
31 the "income account" rather than the trust fund. This is  
32 because grants are made directly and only from the income  
33 account.

34 \*\*\*\*\*

1

2           (ii) Nothing in this subsection shall be  
3 construed to limit the expenditure of funds in the income  
4 account that constitute appropriations, grants, transfers,  
5 bequests or donations to the income account unless the  
6 appropriation, grant, gift, transfer, bequest or donation  
7 provides otherwise. The funds identified for expenditure  
8 under this paragraph shall not be included in the spending  
9 policy calculation required by this subsection;

10

11           (iii) Except as provided in subsection (c) of  
12 this section, earnings in excess of the spending policy  
13 amount established under this subsection and monies that  
14 are subject to expenditure under paragraph (ii) of this  
15 subsection shall be retained in the income account.

16

17           **9-15-103. Wyoming wildlife and natural resource trust**  
18 **account created; income account created; expenditures;**  
19 **spending policy; purposes.**

20

21           (a) A trust account is created to be known as the  
22 Wyoming wildlife and natural resource trust account. The  
23 trust account shall consist of those funds designated to



1 the account by law and all monies received from federal  
2 grants and other contributions, grants, gifts, transfers,  
3 bequests and donations to the trust account. The trust  
4 account is specifically empowered to accept grants, gifts,  
5 transfers, bequests and donations including those which are  
6 limited in their purposes by the grantor. Title to any  
7 interest in any real property conveyed to the trust account  
8 shall be held in the name of the state of Wyoming and shall  
9 be administered by the board of land commissioners. Funds  
10 deposited within the trust account are intended to be  
11 inviolate and constitute a perpetual trust account. ~~which~~  
12 ~~shall be invested by the state treasurer as authorized by~~  
13 ~~law and in a manner to obtain the highest net return~~  
14 ~~possible consistent with preservation of the account corpus~~  
15 The state treasurer, or his designee, who shall be  
16 registered under the Investment Advisor's Act of 1940, as  
17 amended, if required to be registered by the terms of that  
18 act, as amended, may invest the unobligated, unencumbered  
19 balance of the trust account in equities, including stocks  
20 of corporations. Investments under this subsection shall  
21 be in accordance with W.S. 9-4-715(a) and (c) through (e)  
22 and W.S. 9-4-716. In adopting investment policy statements  
23 for the trust account, the state loan and investment board,

1 in consultation with the investment funds committee, shall  
2 seek to preserve the balance of the account in a manner  
3 that strives for the highest possible risk-adjusted total  
4 net return consistent with an appropriate level of safety  
5 and liquidity.

6  
7 (b) The state treasurer shall credit to a Wyoming  
8 wildlife and natural resource trust income account the  
9 earnings from investment of the trust account corpus. For  
10 each fiscal year beginning July 1, 2024, the income account  
11 shall be subject to the following:

12  
13 (i) Except as otherwise provided by this  
14 paragraph, earnings credited to the income account may be  
15 expended by the board in accordance with this act in an  
16 annual amount not to exceed the spending policy amount  
17 specified in subsection (s) of this section. Funds in the  
18 income account constituting an appropriation, grant,  
19 transfer, bequest or donation shall not be subject to the  
20 spending policy specified in subsection (s) of this  
21 section, shall not be counted toward the spending policy  
22 and may be distributed by the board unless the

1 appropriation, grant, transfer, bequest or donation  
2 specifies otherwise;

3  
4 (ii) The legislature may, from time to time,  
5 appropriate funds directly to the income account for  
6 distribution in accordance with the terms of this act or as  
7 otherwise directed in the appropriation. Such specially  
8 appropriated funds shall be credited directly by the state  
9 treasurer to the income account and are available to the  
10 board for award of grants as otherwise permitted by this  
11 act-;

12  
13 (iii) As soon as possible after the end of each  
14 fiscal year, the state treasurer shall transfer any  
15 unobligated, unencumbered fund balance in the income  
16 account in excess of **XXX percent (XXX%)** of the spending  
17 policy amount established in subsection (s) of this section  
18 to the trust account. The transfer required by this  
19 paragraph shall not include any appropriation, grant,  
20 transfer, bequest or donation in the income account, unless  
21 otherwise specified in the appropriation, grant, transfer,  
22 bequest or donation, and shall not include any monies in

1 the income account necessary for the payment of  
2 administrative expenses as authorized by law;

3 \*\*\*\*\*

4 **STAFF COMMENT**

5 Consistent with your instruction and testimony from the STO  
6 last interim, LSO's Budget/Fiscal team will work to  
7 determine the tip percentage that will allow 7X the  
8 expected annual expenditures from the income account to  
9 accumulate in the account before tips are made back to the  
10 Trust Fund.

11  
12 The language, above, excludes monies necessary to pay  
13 administrative expenses. This is necessary since statutes  
14 like W.S. 23-2-101(r) allow donations from hunting licenses  
15 to be placed in the income account and for administrative  
16 expenses to be paid from the income account to cover the  
17 costs of administering those donations.

18 \*\*\*\*\*

19  
20 (iv) The state treasurer, or his designee, who  
21 shall be registered under the Investment Advisor's Act of  
22 1940, as amended, if required to be registered by the terms  
23 of that act, as amended, may invest the unobligated,  
24 unencumbered balance of the income account in equities,  
25 including stocks of corporations. Investments under this  
26 subsection shall be in accordance with W.S. 9-4-715(a) and  
27 (c) through (e) and W.S. 9-4-716. In adopting investment  
28 policy statements for the income account, the state loan  
29 and investment board, in consultation with the investment  
30 funds committee, shall seek to preserve the balance of the  
31 income account in a manner that strives for the highest

1 possible risk-adjusted total net return consistent with an  
2 appropriate level of safety and liquidity.

3 \*\*\*\*\*

4 **STAFF COMMENT**

5 Note that the provision above creates authority to invest  
6 the income account in equities. There is a question of  
7 whether the income account would ever have sufficient funds  
8 to make it wise to invest it. However, there is also an  
9 argument that permission can be extended now, and that the  
10 Treasurer is not required to invest the income account  
11 unless it would be appropriate. This bill provides  
12 transfers to the income account to better fund the account  
13 and to allow the account higher yielding earnings  
14 strategies. Giving investment permission now might allow  
15 the initiation of conservative investments now, or in the  
16 future, if/when the income account is large enough. Please  
17 provide direction on whether both the trust fund and income  
18 account should be included.

19 \*\*\*\*\*

20

21 (s) The amount of earnings available for expenditure  
22 from the income account in any one (1) fiscal year shall be  
23 an amount equal to five percent (5%) of the five (5) year  
24 average market value of the trust account, calculated from  
25 the first day of the fiscal year, subject to the following:

26 \*\*\*\*\*

27 **STAFF COMMENT**

28 The provision above requires a 5-year averaging of the  
29 market value of the trust account to determine the spending  
30 policy amount. That helps smooth out irregularities in the  
31 account for purposes of providing a smoother spending  
32 policy over time. Note that the Wyo. Wildlife and Natural  
33 Resource Trust Account received a large appropriation  
34 during last year's session. For this reason, the language  
35 below allows the spending policy's 5-year average value to  
36 start with the new, higher value and then move forward. If

1 you would prefer to count the prior four years in the five-  
2 year average, please advise.

3 \*\*\*\*\*  
4

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

8  
9 (A) For fiscal year 2025, the five (5) year  
10 average market value shall be equal to the market value of  
11 the trust account, as calculated on the first business day  
12 of the fiscal year;

13  
14 (B) For fiscal year 2026, the five (5) year  
15 average market value shall be equal to the previous two (2)  
16 year average market value of the trust account, as  
17 calculated on the first business day of the fiscal year;

18  
19 (C) For fiscal year 2027, the five (5) year  
20 average market value shall be equal to the previous three  
21 (3) year average market value of the trust account, as  
22 calculated on the first business day of the fiscal year;

23

1                   (D) For fiscal year 2028, the five (5) year  
2 average market value shall be equal to the previous four  
3 (4) year average market value of the trust account, as  
4 calculated on the first business day of the fiscal year;

5  
6                   (E) For fiscal year 2029 and each fiscal  
7 year thereafter, the five (5) year average market value  
8 shall be equal to the previous five (5) year average market  
9 value of the trust account, as calculated on the first  
10 business day of the fiscal year.

11  
12                   (ii) The calculation required by this subsection  
13 shall constitute the spending policy for the income  
14 account;

15  
16                   (iii) Nothing in this subsection shall be  
17 construed to limit the board from expending funds that are  
18 specially appropriated to the income account under  
19 subsection (b)(ii) of this section, that are necessary for  
20 the payment of administrative expenses as authorized by law  
21 or that are granted, given, transferred, bequeathed or  
22 donated to the income account under subsection (c) of this  
23 section, unless the special appropriation, grant, gift,

1 transfer, bequest or donation provides otherwise. The  
2 amounts that are subject to expenditure under this  
3 paragraph shall not be included in the calculation required  
4 to determine the spending policy amount under this  
5 subsection;

6  
7 (iv) Except as provided in subsection (b) of  
8 this section and has provided in paragraph (iii) of this  
9 subsection, earnings in excess of the spending policy  
10 amount established under this subsection shall be retained  
11 in the income account.

12  
13 **Section 2.** W.S 9-2-2307(b)(i) and (ii) and 9-4-  
14 715(p)(ii) and (iii) are repealed.

15 \*\*\*\*\*

16 **STAFF COMMENT**

17 The repeal of W.S. 9-2-2307(b)(i) and (ii) is reflected in  
18 the body of this draft and simply removes obsolete  
19 provisions that previously applied to the Cultural Trust  
20 Fund. The repeal of W.S. 9-5-716(p)(ii) and (iii) removes  
21 both the Cultural Trust Fund and the Wildlife and Natural  
22 Resource Trust Fund from the Pool A investment pool. This  
23 is advisable since the two trusts now enjoy the authority  
24 to be invested in a total return strategy that isn't used  
25 in Pool A.

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27  
28 **Section 3.**

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**STAFF COMMENT**

The transfers/appropriations, below, are placeholders. LSO's Budget/Fiscal team will determine the amount that would be needed to be added to the Cultural Trust Income Account and Wyoming Wildlife and Natural Resources Income Account to fund them to a level that is equal to 5X their expected maximum annual obligations. Consistent with the STO's testimony from last year, this level of funding would allow each of the related corpus trust funds, and potentially the income accounts themselves, to be invested using a less income-focused strategy and consistent with higher-yielding total return strategy.

\*\*\*\*\*

(a) On July 1, 2024, the state auditor shall transfer:

(i) XXXX dollars (\$X,XXX,000.00) from the legislative stabilization reserve account to the Wyoming cultural trust income account;

(ii) XXXXX dollars (\$X,XXX,000.00) from the legislative stabilization reserve account to the Wyoming wildlife and natural resource trust income account created by W.S. 9-15-103(a).

**Section 4.** This act is effective July 1, 2024.

(END)