**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Game and fish trust fund.

Sponsored by: Joint Travel, Recreation, Wildlife & Cultural Resources Interim Committee

A BILL

for

AN ACT relating to the administration of the government; creating the game and fish statutory trust fund; specifying expenditure requirements for the fund; providing for the investment of the fund; providing an annual spending policy for the fund; providing definitions; making conforming amendments; creating accounts; providing an appropriation; requiring reports; specifying applicability; and providing for an effective date.

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

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STAFF COMMENT

This bill draft (as currently drafted) authorizes the State Treasurer to invest this trust fund in stocks and equities. Under Article 16, Section 6(a)(ii)(B) of the Wyoming Constitution, this bill would require a 2/3 vote of each house for enactment.

During the Committee's May meeting, there were several ideas and suggestions for the structure and funding mechanism for this bill draft (which creates a trust fund for the Game and Fish Department). The Committee will need to consider, among other things, the following:

- **The method for creating the inviolate trust fund (i.e., a brand new account/fund; repurposing a current account as the trust fund; etc.). Based on the motion that was made in May, this draft would repurpose the statutory trust fund in W.S. 23-1-501(f) as the trust fund.**
- **The general parameters for the trust fund (i.e., should the fund use a "total return" investment model). Based on the motion, this draft currently would provide an account that utilizes the total-return model.**
- **The mechanisms for funding the account (further discussed and outlined later in the bill draft).**

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Section 1. W.S. 23-1-505 is created to read:

23-1-505. Game and fish trust fund; investments; earnings; expenditures.

(a) As used in this section, "trust fund" means the Wyoming game and fish trust fund continued and specified in subsection (b) of this section.

(b) The trust account created in W.S. 23-1-501(f) is hereby continued and redesignated as the Wyoming game and fish trust fund. The trust fund shall consist of those funds designated to the account by law and all monies received from all contributions, grants, gifts, transfers, bequests and donations to the trust fund. The commission and department are authorized to accept grants, gifts, transfers, bequests and donations for the trust fund, including those that are limited in their purposes by the grantor. The state treasurer, or the treasurer's designee, who shall be registered under the Investment Advisor's Act of 1940, as amended, if required to be registered by the terms of that act, may invest the unobligated, unencumbered balance of the trust account in equities, including stocks of corporations. Investments under this subsection shall be in accordance with W.S. 9-4-715(a) and (c) through (e) and 9-4-716. In adopting investment policy statements for the trust fund, the state loan and investment board, in consultation with the investment funds committee, shall seek to preserve the balance of the trust fund in a manner that strives for the highest possible risk-adjusted total net return consistent with an appropriate level of safety and liquidity. Earnings from the investment of the trust fund shall be credited to the trust fund.

(c) The amount of monies available for transfer from the trust fund to the Wyoming game and fish fund in any one (1) fiscal year shall constitute the spending policy, subject to all of the following:

(i) For purposes of calculating the spending policy under this paragraph, the amount available for transfer shall equal four percent (4%) of a rolling multi-year average market value of the trust account, which shall be calculated as follows:

(A) For fiscal year 2028, the rolling average market value shall be equal to the market value of the trust account, as calculated on the first day of the fiscal year;

(B) For fiscal year 2029, the rolling average market value shall be equal to the previous two (2) year average market value of the trust account, as calculated on the first day of the fiscal year;

(C) For fiscal year 2030, the rolling average market value shall be equal to the previous three (3) year average market value of the trust account, as calculated on the first day of the fiscal year;

(D) For fiscal year 2031, the rolling average market value shall be equal to the previous four (4) year average market value of the trust account, as calculated on the first day of the fiscal year;

(E) For fiscal year 2031 and each fiscal year thereafter, the rolling average market value shall be equal to the previous five (5) year average market value of the trust account, as calculated on the first day of the fiscal year.

(ii) Nothing in this subsection shall be construed to limit the commission and the department from expending funds that are specially appropriated or credited to the trust fund when the appropriation, contribution, grant, gift, transfer, bequest or donation so provides. Funds specified in this paragraph shall not be counted or included in the rolling multi-year average market value for purposes of calculating the spending policy as specified in paragraph (i) of this subsection.

(d) As soon as possible on and after July 1, 2028 and July 1 of each subsequent fiscal year, the state treasurer shall transfer from the trust fund to the Wyoming game and fish fund specified in W.S. 23-1-501(a) the amount specified as the spending policy amount under subsection (c) of this section.

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STAFF COMMENT

During the Committee's meeting in May, the Committee discussed various options for funding the new Game and Fish Trust Fund. One mechanism that is included in this bill draft is the transfer of the funds in the trust account in W.S. 23-1-501(f). This staff comment provides additional options for funding the new trust fund based on that discussion. The Committee will need to decide which option (or options) should be used to fund the trust fund, in addition to the transfer of funds from the existing account in W.S. 23-1-501(f) (approximately $37,600,000).

Option 1: Appropriation

Section 3. On the effective date of this act, the state auditor shall transfer XXX dollars from the [fund/account] to the Wyoming game and fish trust fund, as created by section 1 of this act.

Option 2: Over-The-Cap Severance Tax Distribution

Section 2. W.S. 39-14-801(d)(intro) and by creating a new subsection (n) is amended to read:

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

(d) After making distributions pursuant to subsections (b), (c), (f) and (j) of this section, distributions under subsection (e) of this section shall be made from the severance tax distribution account. The amount of distributions under subsection (e) of this section shall not exceed one hundred fifty-five million dollars ($155,000,000.00) in any fiscal year. To the extent that distributions under subsection (e) of this section would exceed that amount in any fiscal year, the excess shall be credited to the general fund, subject to subsection (n) of this section.

(n) For fiscal year 2028 [fiscal years 2028 and/through XXX], from funds to be transferred to the general fund under subsection (d) of this section, XXX dollars, or as much thereof as is available, shall be transferred to the Wyoming game and fish trust fund created in W.S. 23-1-505, prior to any transfer to the general fund.

Option 3: Investment Earnings

Section 3. Notwithstanding W.S. 9-4-719(c), the state auditor shall calculate the amount by which realized earnings from the permanent Wyoming mineral trust fund attributable to fiscal year 2027 are in excess of the spending policy amount for fiscal year 2027 that is determined under W.S. 9-4-719(d). The transfer under this section shall not exceed the amount calculated by the state auditor. As soon as practicable on or after July 1, 2027, the state auditor shall transfer from the general fund to which the earnings are deposited the amount calculated under this section to the Wyoming game and fish trust fund created in section 1 of this act.

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Section 2. W.S. 9-4-715(p)(v), 23-1-503 and 23-2-306(a)(ii)(A) and (b)(i) are amended to read:

9-4-715. Permissible investments.

(p) There is created the pool A investment account. The state treasurer, or his designee, which shall be registered under the Investment Advisor's Act of 1940 as amended if required to be registered by the terms of that act as amended, pursuant to subsections (c) and (d) of this section and after consultation with the state agency or agencies receiving or administering investment earnings from the monies invested in the pool A investment account, may invest monies comprising the pool A investment account in equities including stocks of corporations in accordance with subsections (a) and (c) through (e) of this section and W.S. 9-4-716. The state loan and investment board, in consultation with the state agency or agencies receiving or administering investment earnings from the monies invested in the pool A investment account, shall annually review the state investment policy statements for the investment pool created by this subsection as required under W.S. 9-4-716. On and after July 1, 2024, any new fund or account that is added to the pool A investment account shall have and maintain a cash balance, as determined consistent with W.S. 9-4-108, of not less than five million dollars ($5,000,000.00). Monies in the following funds shall be invested in the pool A investment account:

(v) ~~The trust account within the Wyoming game and fish fund created by W.S. 23-1-501(f) and a~~Any other monies designated by the Wyoming game and fish commission for investment in the Pool A investment account from within the Wyoming game and fish fund created by W.S. 23-1-501;

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STAFF COMMENT

This bill draft uses the trust account created in W.S. 23-1-501(f) as the account/vehicle to create the Game and Fish Trust Fund.

The structure of this bill draft (particularly the language in Section 5, below) could be used to transfer other funds

and accounts of the Game and Fish Department into the new Game and Fish Trust Fund.

Depending on what accounts are transferred, the language in the new section for the trust fund, W.S. 23-1-505, may need to be amended to account for the various uses and purposes of those particular accounts.

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23-1-503. Annual reports.

The commission shall submit an annual report of its official transactions and audit reports, and the conditions of Wyoming wildlife in accordance with W.S. 9-2-1014. As part of the annual report required under this section, the commission shall report on the amount of funds transferred to the game and fish fund from the Wyoming game and fish trust fund under W.S. 23-1-505(d).

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STAFF COMMENT

Part of the proceeds from the sales of conservation stamps and lifetime conservation stamps are transferred to the trust account created in W.S. 23-1-501(f), which is used to create the Game and Fish Trust Fund in this bill draft. The amendments to W.S. 23-2-306 below would have the same ratio of proceeds go to the new trust fund. For the Committee's reference, the entire text of W.S. 23-2-306(a) and (b) is included below.

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23-2-306. Conservation stamp; exemptions.

(a) Subject to subsections (b), (c) and (d) of this section and the applicable fee under W.S. 23-1-701, each sportsman licensed under W.S. 23-2-101, 23-2-107 or 23-2-201 shall purchase a single conservation stamp for twenty-one dollars ($21.00) which shall be valid for the time period specified in commission rules not to exceed twelve (12) months. The stamp or an authorization signifying purchase of the stamp shall be in the possession of any person exercising rights under any fishing or hunting license issued pursuant to W.S. 23-2-101, 23-2-107 or 23-2-201. Holders of special limited fishing permits issued under W.S. 23-2-207 and holders of licenses only under W.S. 23-1-302(q), 23-2-101(j)(v) and (vi), 23-2-201(d)(vi), (vii) and (ix), 23-2-201(f) and 23-2-201(g) are exempt from the provisions of this section when exercising hunting or fishing privileges provided under those specific licenses. Except as provided in subsection (e) of this section, revenues collected from the sale of each stamp under this subsection shall be deposited as follows:

(i) Twenty-five percent (25%) of the revenues collected under this subsection into the account created under W.S. 23-1-501(e);

(ii) Of the amount remaining:

(A) Fifty percent (50%) into the ~~trust account created under W.S. 23-1-501(f)~~ Wyoming game and fish trust fund created in W.S. 23-1-505; and

(B) Fifty percent (50%) into the game and fish fund.

(b) A lifetime conservation stamp may be purchased for one hundred eighty-five dollars ($185.00) plus the applicable fee under W.S. 23-1-701. Revenues collected from the sale of each stamp under this subsection shall be deposited as follows:

(i) Fifty percent (50%) into the ~~trust account created under W.S. 23-1-501(f)~~ Wyoming game and fish trust fund created in W.S. 23-1-505; and

(ii) Fifty percent (50%) into the account created under W.S. 23-1-501(e).

Section 3. W.S. 23-1-501(f) is repealed.

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STAFF COMMENT

W.S. 23-1-501(f) created the separate trust account for the Game and Fish Fund; this trust account is transferred to the new trust fund created in this act (<u>see</u> Section 5, below).

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 by law and in a manner to obtain the highest net return possible consistent with preservation of the account corpus. 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.~~

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Section 4. Nothing in this act shall be construed to impair any expenditure, transfer or investment of funds from the trust account created in W.S. 23-1-501(f), as repealed by this act, that is made before the effective date of this act.

Section 5. On July 1, 2027, the state auditor shall transfer the balance of the trust account created in W.S. 23-1-501(f), as repealed by this act, including all realized and unrealized investment earnings, from the trust account into the Wyoming game and fish trust fund created by W.S. 23-1-505, as created by section 1 of this act.

Section 6. This act is effective July 1, 2027.

(END)