DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION

HOUSE BILL NO.

Department of transportation trust fund account.

Sponsored by: Joint Transportation, Highways & Military Affairs Interim Committee

A BILL

for

AN ACT relating to highways; creating the department of transportation statutory trust fund and income account; providing for the investment of the trust fund; providing for distributions from the income account to the department of transportation; providing an annual spending policy for the trust fund; distributing specified sales tax revenue from sales of electricity to data processing services centers to the trust fund; providing definitions; making conforming amendments; requiring rulemaking; specifying applicability; and providing for an effective date.

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

Section 1. W.S. 24-2-117 is created to read:

24-2-117. Department of transportation trust fund; income account; investments; earnings; expenditures.

(a) As used in this section:

(i) "Income account" means the department of transportation trust fund income account created under subsection (c) of this section;

(ii) "Trust account" means the department of transportation trust fund account created under subsection (b) of this section.

(b) The department of transportation trust fund account is created. The trust account shall consist of those funds designated to the account by law and all monies received from federal grants and other contributions, grants, gifts, transfers, bequests and donations to the trust account. The Wyoming transportation commission and the Wyoming department of transportation are authorized to accept grants, gifts, transfers, bequests and donations for the trust account, including those that are limited in their purpose by the grantor. Except as otherwise provided in this section, funds deposited within the trust account are intended to be inviolate and constitute a permanent or perpetual trust account. The state treasurer shall invest amounts deposited within the trust account in accordance with law and all investment earnings shall be credited to the trust account. 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. In adopting investment policy statements of the trust account, the state loan and investment board, in consultation with the investment funds committee, shall seek to preserve the balance of the trust account 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 account shall be credited to the trust account.

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STAFF COMMENT

This bill draft authorizes the State Treasurer to invest this trust account in stocks and equities. Trust accounts with spending policies typically authorize the State Treasurer to invest in stocks and equities to assist the account in generating sufficient investment earnings to support the spending policy amount. Examples include the Wyoming wildlife and natural resource trust account (W.S. 9-15-103) and the Wyoming cultural trust fund (W.S. 9-2-2304).

Trust accounts authorized for investment in stocks and equities often have an inviolate corpus, a large unobligated or unencumbered balance, or a spending policy designed to preserve the principal while generating investment earnings.

Because this bill draft authorizes investment of public funds in equities, Article 16, Section 6(a)(ii)(B) of the Wyoming Constitution requires a two-thirds (2/3) vote of each house for enactment.

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(c) The department of transportation trust fund income account is created. The income account shall consist of those funds credited to the income account pursuant to subsection (d) of this section and all other monies collected from federal grants and other contributions, grants, gifts, bequests and donations specifically designated to the income account. Earnings from the investment of the income account shall be credited to the trust account created by subsection (b) of this section.

Funds in the income account are continuously appropriated to the department of transportation for purposes identified in subsection (f) of this section.

(d) An amount of monies shall be available for transfer from the trust account to the income account each fiscal year in an amount equal to three percent (3%) of the five (5) year average market value of the trust account, calculated from the first day of the fiscal year. This amount shall constitute the spending policy for the trust account and shall annually be credited to the income account in accordance with subsection (e) of this section. This paragraph shall be subject to all of the following:

(i) For purposes of calculating the spending policy under this paragraph, the five (5) year average market value of the trust account shall be calculated as follows:

(A) For fiscal year 2029, the five (5) year 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 2030, the five (5) year 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 2031, the five (5) year 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 2032, 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 day of the fiscal year;

(E) For fiscal year 2033 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 day of the fiscal year.

(ii) Nothing in this subsection shall be construed to limit the Wyoming transportation commission and the Wyoming department of transportation from expending funds that are specially appropriated or credited to the income account when the appropriation, contribution, grant, gift, transfer, bequest or donation so provides. For purposes of calculating spending policy amounts, funds specified in this paragraph shall not be counted within the spending policy specified in this subsection.

(e) As soon as possible on or after July 1 of each fiscal year, the state treasurer shall transfer from the trust account to the income account the amount specified as the spending policy amount under subsection (d) of this section or as much thereof as is available in the trust account.

(f) The department of transportation may expend funds in the income account upon approval by the Wyoming transportation commission for any purpose authorized by law for the department of transportation or the Wyoming transportation commission.

Section 2. W.S. 39-15-111 by creating a new subsection (t) is amended to read:

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STAFF COMMENT

This bill draft does not amend the sales tax exemption under W.S. 39-15-105(a)(viii)(S) for data processing services centers for the purchase or rental of qualifying computer equipment or qualifying uninterruptable power supplies.

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39-15-111. Distribution.

(t) Beginning fiscal year 2028 and each fiscal year thereafter, the department shall annually transfer one (1) percentage point of the tax imposed under W.S. 39-15-104(a) and (b) to the department of transportation trust fund account created by W.S. 24-2-117(b) for the sales tax remitted to the department on sales of electricity to data processing services centers as provided in W.S. 39-15-103(a)(i)(E) during the immediately preceding fiscal year. The amount transferred under this subsection shall only include the tax attributable to the distribution of revenues collected by the department under paragraphs (b)(i) and (ii) of this section. The department of revenue shall credit the department of transportation trust fund account the specific amounts not later than ninety (90) days after the end of the fiscal year. The department shall promulgate all rules necessary to implement this subsection.

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STAFF COMMENT

This subsection authorizes the department of revenue to promulgate rules necessary to implement the transfer of sales tax revenues attributable to sales of electricity to data processing services centers. This authority would likely allow the department to specify by rule the person from whom the department will receive information necessary to determine the amount transferred under this subsection, including whether that information must be provided by utility providers or data processing services centers. The Committee may wish to consider whether the statute should expressly identify the person responsible for providing that information to the department of revenue.

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Section 3. This act shall apply to sales of electricity to data processing services centers occurring on and after July 1, 2027.

Section 4. The department of revenue shall promulgate all rules necessary to implement this act.

Section 5.

(a) Except as provided in subsection (b) of this section, this act is effective July 1, 2027.

(b) Sections 4 and 5 of this act are effective 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)