

HOUSE BILL NO. \_\_\_\_\_

Inviolable higher education funds.

Sponsored by: Representative(s) HDRAFT

A BILL

for

1 AN ACT relating to public funds; designating monies within  
2 certain higher education accounts as inviolable funds  
3 pursuant to article 15, section 20 of the Wyoming  
4 Constitution; prohibiting expenditure of principal  
5 accordingly; providing for investment by the state  
6 treasurer; authorizing investment of funds in stock as  
7 specified; providing for use of earnings; providing for the  
8 remittance of monies; establishing a spending policy and  
9 reserve account for the excellence in higher education  
10 endowment fund; and providing for an effective date.

11

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

13

14 **Section 1.** W.S. 9-4-204(u) by creating new paragraphs  
15 (vi) and (vii), 9-4-601(d)(v), 9-4-713 by creating new  
16 subsections (k) through (q), 9-4-834(a), 21-16-1201, 21-16-  
17 1202(b)(intro), (ii) and (iii), 21-16-1203(b)(intro), (ii)

1 and (iii) and 21-16-1204(a)(intro) and by creating a new  
2 paragraph (iv) are amended to read:

3

4 **9-4-204. Funds established; use thereof.**

5

6 (u) Other funds defined as follows shall be  
7 classified by the state auditor pursuant to subsections (s)  
8 and (t) of this section:

9

10 (vi) The excellence in higher education  
11 endowment fund - to consist of funds appropriated or  
12 designated to the fund by law, or by gift from whatever  
13 source. Monies within the fund shall not be expended in  
14 accordance with Wyoming Constitution Article 15, Section 20  
15 and may be invested in the same manner as other permanent  
16 funds of the state. Earnings from investment of monies  
17 within the fund are subject to the spending policies as  
18 provided in W.S. 9-4-713 and shall be distributed and  
19 expended as provided by law. Earnings in excess of spending  
20 policies shall be retained as provided by W.S. 9-4-713;

21

22 (vii) Hathaway student scholarship endowment  
23 fund - to consist of funds appropriated or designated to  
24 the fund by law, or by gift from whatever source. Monies

1 within the fund shall not be expended in accordance with  
2 Wyoming Constitution Article 15, Section 20 and may be  
3 invested in the same manner as other permanent funds of the  
4 state. Earnings from investment of monies within the fund  
5 shall be distributed and expended as provided by law;

6  
7 **9-4-601. Distribution and use; funds, accounts,**  
8 **cities and towns benefited; exception for bonus payments.**

9  
10 (d) Any revenue received under subsection (a) of this  
11 section in excess of two hundred million dollars  
12 (\$200,000,000.00) shall be distributed as follows:

13  
14 (v) From the amounts which would otherwise be  
15 distributed to the school foundation program account under  
16 paragraph (iii) of this subsection, amounts shall be  
17 deposited to the excellence in higher education endowment  
18 account—fund and the student scholarship endowment account  
19 fund created by W.S. 21-16-1201-9-4-204(u) (vi) and (vii) in  
20 accordance with and subject to the requirements of this  
21 paragraph. The amounts specified in this paragraph shall  
22 be reduced as the state treasurer determines necessary to  
23 ensure that as of July 1 of each fiscal year, there is an  
24 unobligated, unencumbered balance of one hundred million

1 dollars (\$100,000,000.00) within the school foundation  
 2 program account. Distributions under this paragraph shall  
 3 be as follows:

4  
 5 (A) Seventy-nine percent (79%) to the  
 6 Hathaway student scholarship endowment ~~account~~-fund, until  
 7 that account balance equals four hundred million dollars  
 8 (\$400,000,000.00);

9  
 10 (B) Twenty-one percent (21%) to the  
 11 excellence in higher education endowment ~~account~~-fund until  
 12 distributions to that ~~account~~-fund under this subparagraph  
 13 equal one hundred five million dollars (\$105,000,000.00);

14  
 15 (C) After the amounts specified in  
 16 subparagraphs (A) and (B) of this paragraph are deposited  
 17 to the appropriate ~~account~~-fund, remaining funds shall be  
 18 deposited to the school foundation program account as  
 19 provided in paragraph (iii) of this subsection.

20  
 21 **9-4-713. Investment earnings spending policy -**  
 22 **permanent funds.**

23

1       (k) There is created the excellence in higher  
2 education endowment reserve account. As soon as possible  
3 after the end of each of the fiscal years beginning on and  
4 after July 1, 2006, revenues in this account in excess of  
5 seventy-five percent (75%) of the spending policy amount in  
6 subsection (o) of this section shall be credited to the  
7 excellence in higher education endowment fund created by  
8 W.S. 9-4-204(u)(vi).

9  
10       (m) The earnings from the excellence in higher  
11 education endowment fund during each fiscal year beginning  
12 July 1, 2006, in excess of the spending policy amount  
13 established in subsection (o) of this section shall be  
14 deposited by the state treasurer to the excellence in  
15 higher education endowment reserve account. The excess  
16 earnings shall be credited to the reserve account as soon  
17 as practicable after the end of the fiscal year but no  
18 later than ninety (90) days after the end of the fiscal  
19 year.

20  
21       (n) To the extent the spending policy amount  
22 established in subsection (o) of this section exceeds  
23 earnings from the excellence in higher education endowment  
24 fund for the prior fiscal year, the state treasurer shall

1 distribute from the excellence in higher education reserve  
2 account an amount equal to the difference, and such amounts  
3 are continuously appropriated from the reserve account for  
4 that purpose. Any funds distributed pursuant to this  
5 subsection shall be distributed no later than ninety (90)  
6 days after the end of the fiscal year and shall be  
7 distributed and expended as provided in W.S. 21-16-1201  
8 through 21-16-1203 for earnings from the excellence in  
9 higher education endowment fund. The state treasurer in  
10 consultation with the University of Wyoming and community  
11 college commission, shall report to the governor and joint  
12 appropriations committee no later than October 1, of any  
13 fiscal year in which funds have been or are anticipated to  
14 be distributed from the reserve account under this  
15 subsection.

16  
17 (o) The annual spending policy amount for the  
18 excellence in higher education endowment fund shall be an  
19 amount equal to five percent (5%) of the previous five (5)  
20 year average market value of the excellence in higher  
21 education endowment fund, as calculated from the first day  
22 of the fiscal year. For the fiscal years 2007 through  
23 2010, the state treasurer shall calculate the annual  
24 spending policy by using the average market value of the

1 fund in each of those fiscal years, calculated from the  
2 first day of the fiscal year.

3  
4 (g) Annually, not later than September 30, the state  
5 treasurer, in consultation with the state loan and  
6 investment board, shall provide a recommendation to the  
7 select committee on capital financing and investments  
8 regarding modifications to the spending policy amounts  
9 contained in this section. The recommendations shall be  
10 consistent with the purposes specified in subsection (a) of  
11 this section. The select committee on capital financing and  
12 investments shall annually submit a recommendation to all  
13 members of the legislature before the convening of the  
14 session regarding modifications to the spending policy  
15 amounts.

16  
17 **9-4-834. Investment of permanent funds.**

18  
19 (a) To the extent constitutionally allowed, the state  
20 treasurer, or his designee, which shall be registered under  
21 the Investment Advisor's Act of 1940 as amended, or any  
22 bank as defined in the act, upon written authority, may  
23 invest monies in the permanent fund accounts, in securities  
24 authorized by law, provided not more than fifty-five

1 percent (55%) shall be invested in common stocks. As used  
 2 in this section, "permanent fund accounts" means the  
 3 permanent Wyoming mineral trust fund under W.S. 9-4-  
 4 204(u)(iii), ~~and~~ the excellence in higher education  
 5 endowment fund under W.S. 9-4-204(u)(vi), the Hathaway  
 6 student scholarship endowment fund under W.S. 9-4-  
 7 204(u)(vii), the permanent land fund under W.S. 9-4-  
 8 204(u)(iv), including revenues credited to that fund under  
 9 W.S. 9-4-605(j), and the reserve accounts created under  
 10 W.S. 9-4-713(b), ~~and~~ (f) and (k) and W.S. 21-16-1302(a).

11

12 **21-16-1201. Excellence in higher education endowment**  
 13 **fund; Hathaway student scholarship endowment fund;**  
 14 **distributions by state treasurer; legislative restrictions.**

15

16 (a) The excellence in higher education endowment  
 17 ~~account~~ fund is created ~~to consist of funds appropriated or~~  
 18 ~~designated to the account by law, or by gift from whatever~~  
 19 ~~source, for distribution in accordance with this article~~ as  
 20 provided by W.S. 9-4-204(u)(vi).

21

22 (b) In addition to the ~~account established under~~  
 23 ~~subsection (a) of this section~~ excellence in higher  
 24 education endowment fund, a student scholarship endowment



1 ~~account—fund~~, to be known as the Hathaway student  
2 scholarship endowment ~~account—fund~~, is established ~~to~~  
3 ~~consist of funds appropriated or designated to the account~~  
4 ~~by law, or by gift from whatever source, for distribution~~  
5 ~~in accordance with this article~~ as provided by W.S. 9-4-  
6 204(u)(vii).

7  
8 (c) ~~Upon receipt of legislative appropriations to the~~  
9 ~~excellence in higher education endowment account or as soon~~  
10 ~~thereafter as is reasonably appropriate,~~ The state  
11 treasurer shall distribute amounts within place earnings  
12 from the account investment of monies in the higher  
13 education endowment fund in an income account for  
14 subsequent disbursement as provided in this subsection.  
15 Earnings for any fiscal year which are in excess of the  
16 spending policy amount established pursuant to W.S. 9-4-  
17 713(o) shall be distributed as provided by W.S. 9-4-  
18 713(m). Earnings within the spending policy amount shall  
19 be distributed on a quarterly basis as follows:

20  
21 (i) Two-thirds (2/3) ~~of the amount within the~~  
22 ~~account~~ to the University of Wyoming;

23

1 (ii) The remaining one-third (1/3) ~~of the amount~~  
2 ~~within the excellence in higher education endowment account~~  
3 equally to each Wyoming community college.

4  
5 (d) Commencing with the fiscal year beginning July 1,  
6 2006, earnings from the Hathaway student scholarship  
7 endowment ~~account~~ fund created by this article shall be  
8 transferred by the state treasurer to the Hathaway  
9 scholarship expenditure account created by W.S. 21-16-1302.  
10 ~~Any subsequent deposits to the Hathaway student scholarship~~  
11 ~~endowment account mandated by law or appropriation shall~~  
12 ~~remain in the account until otherwise used to support~~  
13 ~~scholarship programs as specified by law.~~

14  
15 **21-16-1202. Excellence in higher education endowment**  
16 **fund distributions to University of Wyoming.**

17  
18 (b) The university shall use the earnings ~~from the~~  
19 ~~investment of funds made available through distributions~~  
20 ~~from the excellence in higher education endowment account~~  
21 ~~under this section~~ received under W.S. 21-16-1201(c)(i) to  
22 establish endowed faculty positions and to acquire  
23 instructional and resource materials, classroom equipment  
24 and other resources necessary to support the work of

1 endowed faculty. The following shall govern the university  
2 in the use of these funds:

3

4 (ii) Not less than two-thirds (2/3) of the  
5 ~~amounts made available through the investment of~~  
6 ~~distributions from the excellence in higher education~~  
7 ~~endowment account~~ earnings received shall be used for the  
8 recruitment and retention of faculty possessing abilities  
9 necessary to expand university instruction and research in  
10 disciplines related to economic and social challenges  
11 facing Wyoming, including but not limited to energy,  
12 natural resources, wildlife, science, earth sciences,  
13 health sciences, agriculture, education and engineering.  
14 The purpose of this paragraph is to provide university  
15 assistance to the state of Wyoming and its residents to the  
16 broadest extent possible, through the diversification of  
17 its economy, preservation of its natural and human  
18 resources and the enhancement of its quality of life. Not  
19 less than four (4) faculty recruited and retained under  
20 this paragraph shall be in the college of education;

21

22 (iii) The remaining ~~amounts made available~~  
23 ~~through the investment of distributions from the endowment~~  
24 ~~account~~ earnings received shall be used for the recruitment

1 and retention of faculty with established reputations in  
2 teaching and research excellence in other areas of  
3 distinction as identified in the university academic plan,  
4 including disciplines important to the state and region and  
5 its history and culture such as business, arts and  
6 humanities, mathematics, cultural studies, economics and  
7 law. The purpose of this paragraph is to enhance  
8 undergraduate and graduate instruction, to prepare students  
9 to become productive and contributing members of society  
10 and to promote an appreciation of arts, humanities and  
11 other cultures and interests affecting quality of life;

12

13 (c) The university may collaborate with community  
14 colleges on the use of ~~amounts distributed~~ earnings  
15 received from the excellence in higher education endowment  
16 ~~account pursuant to this section~~ fund.

17

18 **21-16-1203. Excellence in higher education endowment**  
19 **fund distributions to Wyoming community colleges.**

20

21 (b) Each community college shall use the earnings  
22 ~~made available through the investment of distributions from~~  
23 ~~the endowment account~~ received under W.S. 21-16-1201(c)(ii)  
24 as provided by this section to establish endowed faculty

1 positions and to acquire instructional and resource  
2 materials, classroom equipment and other resources  
3 necessary to support the work of the endowed faculty. The  
4 following shall govern each community college in the use of  
5 these funds:

6  
7 (ii) The ~~amounts made available through the~~  
8 ~~investment of distributions from the endowment account~~  
9 earnings received shall be used for the recruitment and  
10 retention of faculty with abilities necessary to establish  
11 or expand vocational programs and program quality  
12 benefiting communities, businesses and industries within  
13 respective service areas. The purpose of this paragraph is  
14 to enhance the ability of community colleges to prepare  
15 students for a lifetime of higher wages and expanded job  
16 opportunities, to provide local and regional businesses and  
17 industries with an improved, better trained and better  
18 educated workforce and to increase the economic stability  
19 of proximate communities and the entire state;

20  
21 (iii) ~~Amounts~~ Earnings not expended pursuant to  
22 paragraph (ii) of this subsection which are ~~made available~~  
23 ~~through the investment of distributions from the endowment~~  
24 ~~account~~ received shall be used for the recruitment and

1 retention of faculty with established reputations in  
2 academic areas offered by each individual community  
3 college. The purpose of this paragraph is to improve the  
4 ability of colleges to better prepare students to pursue  
5 bachelor and graduate degrees at the University of Wyoming  
6 or other four (4) year institutions and offer additional  
7 courses of outreach instruction to high school and adult  
8 populations within their service areas.

9

10 (c) The community colleges may collaborate with the  
11 University of Wyoming on the use of ~~amounts distributed~~  
12 earnings received from the excellence in higher education  
13 endowment ~~account pursuant to this section~~ fund.

14

15 **21-16-1204. Annual reports; review by committees.**

16

17 (a) Not later than October 1, 2006, and October 1 of  
18 each year thereafter, the University of Wyoming and each  
19 Wyoming community college shall report to the joint  
20 appropriations and joint education interim committees of  
21 the legislature and to the governor on the use and  
22 expenditure of earnings ~~on the investment of distributions~~  
23 from the excellence in higher education endowment ~~account~~  
24 fund pursuant to this article, including the following:

1

2

(iv) Reserve fund distributions pursuant to W.S.

3

9-4-713(n).

4

5

(b) Upon receipt of reports by the University of Wyoming and each Wyoming community college on the use and expenditure of earnings as required under subsection (a) of this section, the joint appropriations and joint education interim committees shall report to members of the Wyoming legislature and the governor on the progress made by the university and community colleges in achieving the purposes stated under this article for distributions from the excellence in higher education endowment ~~account~~fund and shall recommend any necessary changes to the higher education endowment program to accomplish these purposes. The reports required under this subsection shall be made in sufficient time to enable consideration by the legislature at the general or budget session immediately following the receipt of reports submitted pursuant to subsection (a) of this section.

21

22

**21-16-1302. Hathaway scholarship expenditure account**

23

**created; reserve account created; use and appropriation of**

24

**funds.**

1

2 (a) The Hathaway scholarship expenditure account is  
3 created to consist of earnings from the Hathaway student  
4 scholarship endowment ~~account~~ fund created by W.S. ~~21-16-~~  
5 ~~1201-9-4-204(u)(vii)~~ and such other funds appropriated by  
6 the legislature to the expenditure account. Eighty percent  
7 (80%) of all monies deposited to the expenditure account  
8 under this section shall be available for scholarships  
9 under W.S. 21-16-1304 and 21-16-1305. Twenty percent (20%)  
10 of all monies deposited to the expenditure account under  
11 this section shall be available for scholarships under W.S.  
12 21-16-1306. Monies within the expenditure account are  
13 continuously appropriated to the state treasurer for  
14 distribution to eligible institutions based on scholarships  
15 awarded under this article. All unexpended and  
16 unencumbered monies within the expenditure account at the  
17 end of each fiscal year shall be deposited by the state  
18 treasurer to the Hathaway student scholarship reserve  
19 account.

20

21 (b) There is created the Hathaway student scholarship  
22 reserve account. The reserve account shall consist of  
23 those monies deposited to the account pursuant to  
24 subsection (a) of this section and such other funds



1 appropriated by the legislature to the reserve account. To  
2 the extent funds within the Hathaway scholarship  
3 expenditure account are insufficient in any fiscal year to  
4 fully fund scholarships awarded under this article, monies  
5 within the reserve account shall be deposited by the state  
6 treasurer to the expenditure account for distribution to  
7 eligible institutions to fund those scholarships. As soon  
8 as possible after the end of each of the fiscal years  
9 beginning on and after July 1, 2007, the state treasurer  
10 shall transfer monies from this reserve account to the  
11 Hathaway student scholarship endowment ~~account~~fund to the  
12 extent monies within the reserve account are in excess of  
13 the greater of twelve million dollars (\$12,000,000.00) or  
14 an amount equal to three and seventy-five hundredths  
15 percent (3.75%) of the previous five (5) year average  
16 market value of the Hathaway student scholarship endowment  
17 ~~account~~fund, calculated from the first day of the fiscal  
18 year.

19

20 **Section 2.** W.S. 9-4-713(e) and (j), 21-16-1202(a) and  
21 21-16-1203(a) are repealed.

22

23 **Section 3.** Funds distributed from the higher  
24 education endowment account made prior to the effective

1 date of this act pursuant to W.S. 21-16-1201(c) and made  
2 available for investment by higher education foundations  
3 pursuant to W.S. 21-16-1302(a) and 21-16-1303(a) shall be  
4 remitted to the state treasurer for deposit in the higher  
5 education endowment fund as provided in this section. The  
6 state treasurer in consultation with the University of  
7 Wyoming, each community college and each foundation  
8 investing those funds shall provide for the remittance of  
9 those funds or investments purchased with those funds as  
10 expeditiously as possible, but may delay the remittance in  
11 accordance with prudent investment standards in order to  
12 maximum total net earnings.

13

14       **Section 4.** This act is effective immediately upon  
15 completion of all acts necessary for a bill to become law  
16 as provided by Article 4, Section 8 of the Wyoming  
17 Constitution.

18

19

(END)