

SENATE FILE NO. SF0121

State funds - investments and distributions.

Sponsored by: Senator(s) Perkins and Furphy and
Representative(s) Harshman and Walters

A BILL

for

1 AN ACT relating to public funds; modifying spending
2 policies, reserve accounts and other investment and revenue
3 distribution provisions; repealing obsolete and
4 inconsistent provisions; redistributing certain severance
5 taxes to spending policy reserve accounts; transferring
6 funds as specified; providing for a study; and providing
7 for effective dates.

8

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

10

11 **Section 1.** W.S. 9-4-108 is created to read:

12

13 **9-4-108. Crediting of investment returns.**

14

1 (a) Earnings on state funds invested by the state
2 treasurer shall be credited to accounts or funds as
3 provided by law and as follows:

4

5 (i) Interest, dividends and rents earned shall
6 be credited not later than at the end of the second month
7 following each fiscal quarter;

8

9 (ii) Subject to paragraph (iii) of this
10 subsection, other realized earnings shall be credited as
11 soon as practicable after the end of the fiscal year but no
12 later than ninety (90) days after the end of the fiscal
13 year in which the earnings were realized;

14

15 (iii) Any debit against the account or fund
16 which exists as a result of investment losses from a prior
17 years' investments of the fund or account shall be paid
18 before distributions under paragraph (ii) of this
19 subsection;

20

21 (iv) Subject to the requirements of paragraph
22 (iii) of this subsection, the state treasurer may credit
23 any earnings at such earlier times than provided in this

1 section and in such amounts as may be advantageous for the
2 state's investment program and cash management.

3

4 (b) Any provision of law which specifies the
5 crediting or distribution of a state fund investment
6 earnings to a specific fund or account at a time different
7 than the provisions of this section shall control over this
8 section.

9

10 **Section 2.** W.S. 9-4-220(a), 9-4-719(b), (c),
11 (d)(intro), (v), (f), (h)(intro), (v), (k), (m),
12 (o)(intro), (i), (q)(intro) and (i), 11-10-118(a),
13 19-7-401(b), 21-16-1201(c)(intro), 21-22-101(b),
14 21-23-202(b)(iii), 23-1-501(f) and 39-14-801(b)(intro) and
15 by creating a new paragraph (v) are amended to read:

16

17 **9-4-220. Strategic investments and projects account**
18 **created; purposes.**

19

20 (a) The strategic investments and projects account
21 created by 2013 Wyoming Session Laws, Chapter 73, Section
22 4, Section 300(e) is continued and codified. Funds within
23 the account shall only be expended by legislative

1 appropriation. ~~Subject to subsection (b) of this section,~~
2 **T**he governor may include appropriation requests from funds
3 available within the strategic investments and projects
4 account within his biennial budget requests for one-time
5 expenditures as he deems necessary. All funds within the
6 account shall be invested by the state treasurer and all
7 investment earnings from the account shall be credited to
8 the general fund., ~~except as provided by W.S. 9-4-220.1(a).~~

9

10 **9-4-719. Investment earnings spending policy**
11 **permanent funds.**

12

13 (b) There is created the permanent Wyoming mineral
14 trust fund reserve account. All funds within the account
15 shall be invested by the state treasurer as authorized
16 under W.S. 9-4-715(a), (d), (e) and (r) and all investment
17 earnings from the account shall be credited to the account.

18 ~~Beginning July 1, 2016 for fiscal year 2017 and each fiscal~~
19 ~~year thereafter, Subject to paragraph (i) of this~~

20 subsection the state treasurer shall transfer unobligated
21 funds from this account to the general fund as necessary to
22 ensure that an amount equal to two and one-half percent
23 (2.5%) of the previous five (5) year average market value

1 of the permanent Wyoming mineral trust fund, calculated on
2 the first day of the fiscal year, is available for
3 expenditure annually during each fiscal year. As soon as
4 possible after the end of each of the fiscal years
5 beginning on and after ~~July 1, 2017, after making any~~
6 ~~transfer required pursuant to paragraph (i) of this~~
7 ~~subsection, July 1, 2021,~~ revenues in this account in
8 excess of ~~one hundred fifty percent (150%)~~ two hundred
9 twenty-five percent (225%) of the spending policy amount in
10 subsection (d) of this section shall be credited to the
11 permanent Wyoming mineral trust fund. For ~~fiscal year 2020~~
12 ~~and for each fiscal year thereafter:~~

13

14 (i) As soon as practicable after the end of the
15 fiscal year, after making any other transfers provided by
16 law from the permanent Wyoming mineral trust fund reserve
17 account, but prior to calculating the balance of the
18 account under this subsection, the state treasurer shall
19 transfer from the account to the school foundation program
20 account created by W.S. 21-13-306 and to the public school
21 capital construction account created by W.S.
22 21-15-111(a)(i) an amount equal to the difference between
23 the maximum amount which may be credited to ~~the strategic~~

1 ~~investments and project~~ each account pursuant to ~~subsection~~
2 ~~(g) paragraphs (g)(i) and (ii)~~ of this section and the
3 amount actually credited to ~~that~~ each account in the
4 applicable fiscal year.

5
6 (c) The earnings from the permanent Wyoming mineral
7 trust fund under W.S. 9-4-204(u)(iii) during each fiscal
8 year ~~beginning July 1, 2001,~~ in excess of the spending
9 policy established in subsection (d) of this section are
10 appropriated from the general fund to the permanent Wyoming
11 mineral trust fund reserve account. The appropriation shall
12 be credited to the account as soon as practicable after the
13 end of the fiscal year but no later than ninety (90) days
14 after the end of the fiscal year.

15
16 (d) The annual spending policy for the permanent
17 Wyoming mineral trust fund is ~~as follows~~ for each fiscal
18 year (FY):

19
20 (v) ~~FY 2020 and each fiscal year through 2022~~
21 An amount equal to five percent (5%) of the previous five
22 (5) year average market value of the trust fund, calculated
23 from the first day of the fiscal year. +

1

2 (f) There is created the common school permanent fund
3 reserve account. All funds within the account shall be
4 invested by the state treasurer as authorized under W.S.
5 9-4-715(a), (d), (e) and (r) and all investment earnings
6 from the account shall be credited to the account.

7 ~~Beginning July 1, 2017 for fiscal year 2018 and each fiscal~~

8 ~~year thereafter,~~ The state treasurer shall transfer

9 unobligated funds from this account to the common school

10 account within the permanent land income fund as necessary

11 to ensure that an amount equal to the spending policy

12 amount established in subsection (h) of this section is

13 available for expenditure annually during the fiscal year.

14 As soon as possible after the end of each of the fiscal

15 years beginning on and after ~~July 1, 2017~~ July 1, 2021,

16 revenues in this account in excess of ~~one hundred fifty~~

17 ~~percent (150%)~~ two hundred twenty-five percent (225%) of

18 the spending policy amount shall be credited to the common

19 school account within the permanent land fund.

20

21 (h) The annual spending policy for the common school

22 account within the permanent land fund is ~~as follows~~ for

23 each fiscal year (FY):

1

2

(v) ~~FY 2020 and each fiscal year through 2024~~

3

An amount equal to five percent (5%) of the previous five
(5) year average market value of the account, calculated
from the first day of the fiscal year.†

6

7

(k) There is created the excellence in higher
education endowment reserve account. Interest and other
earnings on funds within the account shall be credited to
the account. As soon as possible after the end of each ~~of~~
~~the fiscal years beginning on and after July 1, 2017~~ fiscal
year, revenues in this account in excess of ~~one hundred~~
~~fifty percent (150%)~~ two hundred twenty-five percent (225%)
of the spending policy amount in subsection (o) of this
section shall be credited to the excellence in higher
education endowment fund created by W.S. 9-4-204(u)(vi).

17

18

(m) The earnings from the excellence in higher
education endowment fund during each fiscal year ~~beginning~~
~~July 1, 2006,~~ in excess of the spending policy amount
established in subsection (o) of this section shall be
deposited by the state treasurer to the excellence in
higher education endowment reserve account. The excess

23

1 earnings shall be credited to the reserve account as soon
2 as practicable after the end of the fiscal year but no
3 later than ninety (90) days after the end of the fiscal
4 year.

5

6 (o) The annual spending policy amount for the
7 excellence in higher education endowment is as follows: ~~for~~
8 ~~each fiscal year (FY):~~

9

10 (i) ~~FY 2018~~ ~~An~~ amount equal to five percent (5%)
11 of the previous five (5) year average market value of the
12 excellence in higher education endowment fund, as
13 calculated from the first day of the fiscal year. ~~;~~

14

15 (q) The earnings from the permanent Wyoming mineral
16 trust fund under W.S. 9-4-204(u)(iii) during each fiscal
17 year ~~beginning July 1, 2016,~~ which are less than the
18 spending policy established in subsection (d) of this
19 section are appropriated from the general fund subject to
20 subsection (s) of this section and the following:

21

22 (i) ~~Except as provided in paragraph (iii) of~~
23 ~~this subsection, any~~ ~~E~~arnings in excess of two and one-half

1 percent (2.5%) of the previous five (5) year average market
2 value of the trust fund, calculated from the first day of
3 the fiscal year and less than or equal to the spending
4 policy amount specified in subsection (d) of this section
5 shall be credited ~~to the legislative stabilization reserve~~
6 ~~account created by W.S. 9-4-219 and the strategic~~
7 ~~investments and projects account created by W.S. 9-4-220~~ in
8 equal amounts to the following accounts:

9
10 (A) The school foundation program account
11 created by W.S. 21-13-306;

12
13 (B) The public school capital construction
14 account created by W.S. 21-15-111(a)(i);

15
16 (C) The budget reserve account;

17
18 (D) The strategic investments and projects
19 account created by W.S. 9-4-220.

20
21 **11-10-118. State fair endowment account;**
22 **administration; distributions; purposes.**

23

1 (a) The state fair endowment account is created. The
2 state treasurer is authorized to accept cash gifts for the
3 account. Funds within the account including all funds
4 deposited to the account from any source are intended to be
5 inviolate and constitute a permanent or perpetual trust
6 fund. The state treasurer shall invest funds within the
7 endowment account in accordance with law. Seventy-five
8 percent (75%) of investment earnings shall be credited to
9 the endowment account. Twenty-five percent (25%) of
10 investment earnings shall be distributed ~~in accordance with~~
11 ~~subsection (b) of this section~~ to the Wyoming state fair
12 account.

13

14 **19-7-401. Wyoming military assistance trust fund;**
15 **establishment of trust fund; corpus inviolate; investment**
16 **by state treasurer.**

17

18 (b) The monies deposited into the trust fund
19 established pursuant to this section are inviolate and
20 constitute a permanent or perpetual trust fund. The monies
21 shall be transmitted to the state treasurer for credit to
22 the trust fund and shall be invested by the state treasurer
23 as authorized under W.S. 9-4-715(a), (d) and (e) in a

1 manner to obtain the highest return possible consistent
2 with the preservation of the corpus. The ~~interest earned~~
3 ~~earnings~~ from investment of the corpus of the trust fund
4 shall be ~~annually~~ credited by the state treasurer ~~not later~~
5 ~~than June 30 of each year~~ in accordance with W.S. 9-4-108
6 into a separate account and distributed in accordance with
7 W.S. 19-7-402.

8

9 **21-16-1201. Excellence in higher education endowment**
10 **fund; Hathaway student scholarship endowment fund;**
11 **distributions by state treasurer; legislative restrictions.**

12

13 (c) The state treasurer shall place earnings from the
14 investment of monies in the excellence in higher education
15 endowment fund in an income account for subsequent
16 disbursement as provided in this subsection. Earnings for
17 any fiscal year which are in excess of the spending policy
18 amount established pursuant to W.S. 9-4-719(o) shall be
19 distributed as provided by W.S. 9-4-719(m). The
20 institutions receiving distributions of earnings within the
21 spending policy amount pursuant to this subsection shall
22 only expend ninety percent (90%) of the distribution in
23 fiscal years in which the spending policy amount specified

1 in W.S. 9-4-719(o) is reached or exceeded. In any fiscal
2 year in which the spending policy amount specified in W.S.
3 9-4-719(o) is not reached, the shortfall in distributions
4 an institution would have received if the spending policy
5 amount had been reached shall be made up in equal parts by
6 an authorization for the institution to expend funds saved
7 under this subsection when the spending policy amount is
8 reached or exceeded and an equal amount appropriated from
9 the excellence in higher education endowment reserve
10 account as provided in W.S. 9-4-719(n). Earnings within the
11 spending policy amount shall be distributed ~~on a quarterly~~
12 ~~basis~~ at the times provided in W.S. 9-4-108 as follows:

13

14 **21-22-101. Trust fund established; corpus inviolate;**
15 **investment by state treasurer.**

16

17 (b) Funds deposited into the Wyoming education trust
18 fund established pursuant to subsection (a) of this section
19 are intended to be inviolate and constitute a permanent or
20 perpetual trust fund which shall be invested by the state
21 treasurer as authorized under W.S. 9-4-715(a), (d) and (e)
22 and in a manner to obtain the highest return possible
23 consistent with preservation of the corpus. Any ~~interest~~

1 ~~earned~~earnings from investment of the corpus of the trust
2 fund shall be credited by the state treasurer into a
3 separate account and distributed in accordance with W.S.
4 21-22-102.

5

6 **21-23-202. Wyoming public television matching**
7 **program; state treasurer to administer program accounts;**
8 **matching payments; conditions; reversion of appropriations.**

9

10 (b) The state treasurer shall administer the Wyoming
11 public television endowment account and Wyoming public
12 television matching funds account established under this
13 article. The following shall apply:

14

15 (iii) Funds in the matching funds account shall
16 remain inviolate and only the investment earnings from
17 investments of the monies in the matching funds account may
18 be distributed. The state treasurer shall distribute ~~income~~
19 earnings from the matching funds account to the community
20 college commission ~~quarterly~~as provided in W.S. 9-4-108.

21 The community college commission shall distribute these
22 funds together with other appropriated funds to the central
23 Wyoming community college district board for the operations

1 and programming of Wyoming public television pursuant to
2 W.S. 21-18-105(b).

3

4 **23-1-501. Game and fish fund.**

5

6 (f) A trust account separate and apart from the trust
7 account established under subsection (d) of this section is
8 created within the Wyoming game and fish fund. The account
9 shall consist of those funds appropriated or designated to
10 the account by law or by gift from whatever source. Funds
11 deposited within the account are intended to be inviolate
12 and constitute a permanent or perpetual trust account which
13 shall be invested by the state treasurer as authorized
14 under W.S. 9-4-715(a), (d) and (e) and in a manner to
15 obtain the highest return possible consistent with
16 preservation of the account corpus. ~~Any interest earned~~
17 Earnings from investment of the account corpus shall be
18 credited by the state treasurer into the Wyoming game and
19 fish fund to be expended by the commission for purposes
20 specified under subsection (b) of this section.

21

22 **39-14-801. Severance tax distributions; distribution**
23 **account created; formula.**

1

2 (b) Before making distributions from the severance
3 tax distribution account under subsections (c) through (e)
4 of this section, an amount equal to two-thirds (2/3) of the
5 amount of tax collected under W.S. 39-14-104(a)(i) and
6 (b)(i) and 39-14-204(a)(i) for the same period shall be
7 deposited ~~into the permanent Wyoming mineral trust fund,~~
8 ~~except for the period from March 15, 2016 through June 30,~~
9 ~~2022 these funds shall be deposited~~ as follows:

10

11 (v) For fiscal year 2023 and thereafter these
12 funds shall be deposited:

13

14 (A) Two-thirds (2/3) to the permanent
15 Wyoming mineral trust fund reserve account;

16

17 (B) One-third (1/3) to the common school
18 permanent fund reserve account.

19

20 **Section 3.** W.S. 9-4-220(b), 9-4-719(d)(vi), (vii),
21 (h)(vi), (vii), (o)(ii) and (q)(iii), 11-10-118(b) and
22 39-14-801(b)(i) through (iii) are repealed.

23

1 **Section 4.** 2020 Wyoming Session Laws, Chapter 80,
2 Section 2, Section 314(b) and (c) is repealed.

3

4 **Section 5.**

5

6 (a) On October 1, 2021 and on October 1, 2022, the
7 state auditor shall transfer the unexpended, unobligated
8 balance in the one percent severance tax account, recreated
9 by 2020 Wyoming Session Laws, Chapter 80, Section 2,
10 Section 314:

11

12 (i) Two-thirds (2/3) to the permanent Wyoming
13 mineral trust fund reserve account;

14

15 (ii) One-third (1/3) to the common school
16 permanent fund reserve account.

17

18 **Section 6.**

19

20 (a) The select committee on capital financing and
21 investments shall study and introduce legislation in the
22 2022 budget session or the 2023 general session as the
23 committee determines appropriate regarding the following:

1

2 (i) The appropriate allocation of investment
3 earnings to principal and income from investments of each
4 permanent fund and nonpermanent funds authorized to be
5 invested in equities in light of:

6

7 (A) Wyoming constitutional provisions and
8 federal law establishing or controlling the fund;

9

10 (B) Fiduciary or other duties to current
11 and future beneficiaries of the fund under:

12

13 (I) Controlling Wyoming constitutional
14 provisions and federal law;

15

16 (II) Uniform acts enacted into law in
17 Wyoming governing investment standards and fiduciary duties
18 for funds held in trust, including the Wyoming Uniform
19 Principal and Income Act, Wyoming Unitrust Act, Uniform
20 Trust Code and Uniform Prudent Management of Institutional
21 Funds Act;

22

1 (III) Common law as adopted under W.S.
2 8-1-101.

3

4 (ii) Laws governing investments of state
5 permanent and nonpermanent funds including limitations on
6 investments in equities and standards for the investment of
7 permanent and nonpermanent funds. The study shall review
8 whether:

9

10 (A) Existing limitations and standards are
11 consistent with trustee duties of the state for each fund
12 held in trust under Wyoming constitutional and federal law
13 provisions and under state statutes;

14

15 (B) Existing standards imposed by general
16 law, such as the Uniform Prudent Investor Act, are
17 consistent with specific standards imposed by law for state
18 investments for all funds or for individual funds,
19 including requirements or authorization to invest funds
20 held in trust for public purpose investments.

21

22 (iii) Limitations on diminution to the principal
23 of funds held in trust by the state by terms such as

1 "inviolable," and any obligation of the state to make whole
2 any loss of principal in light of:

3

4 (A) Wyoming constitutional and federal law
5 provisions establishing or controlling a fund;

6

7 (B) State statutes governing investment
8 limitations, standards or allocations of earnings to
9 principal and income, including those acts specified in
10 paragraph (a)(i) of this section;

11

12 (C) Common law as adopted under W.S.
13 8-1-101.

14

15 (iv) The ability of the legislature to establish
16 a fixed percentage of the fund's value or fixed dollar
17 amount to be distributed from each permanent fund in light
18 of the study's findings.

19

20 (b) The study shall be conducted in coordination with
21 the state loan and investment board, the investment funds
22 committee and the state treasurer's office.

23

1 (c) Definitions in W.S. 9-1-714 shall apply to this
2 section. "Federal law" includes, but is not limited to the
3 Act of Admission of the state of Wyoming, 26 United States
4 Statutes at Large, 222, chapter 664.

5

6 **Section 7.**

7

8 (a) Sections 4, 5, 6 and 7 of this act are effective
9 immediately upon completion of all acts necessary for a
10 bill to become law as provided by Article 4, Section 8 of
11 the Wyoming Constitution.

12

13 (b) Except as provided in subsection (a) of this
14 section, this act is effective July 1, 2021.

15

16

(END)