

## HOUSE BILL NO. HB0089

State investment returns-adequate reserve funding.

Sponsored by: Select Committee on Capital Financing &  
Investments

A BILL

for

1 AN ACT relating to the investment of state funds;  
2 authorizing specified state permanent fund reserve accounts  
3 to maintain larger balances for the benefit of state  
4 investment strategies; requiring certifications prior to  
5 specified investment activities; providing for the transfer  
6 of funds to specified reserve accounts; requiring the  
7 repayment of transferred funds as specified; providing that  
8 balances in specified reserve accounts are intended to be  
9 inviolate; removing encumbrances on specified reserve  
10 accounts; defining legislative intent for future  
11 appropriations and budget requests; providing legislative  
12 findings; and providing for an effective date.

13

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

15

1           **Section**     **1.** W.S.     9-4-601(a)(ii),     (d)(intro),  
2     (n)(intro)     and     by     creating     a     new     subsection     (o),  
3     9-4-719(b)(intro),     (f)     and     (k),     16-1-111(f)     and  
4     21-16-1302(b) are amended to read:

5

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

8

9           (a) All monies received by the state of Wyoming from  
10     the secretary of the treasury of the United States under  
11     the provisions of the act of congress of February 25, 1920  
12     (41 Stat. 437, 450; 30 U.S.C. §§ 181, 191), as amended, or  
13     from lessees or authorized mine operators and all monies  
14     received by the state from its sale of production from  
15     federal mineral leases subject to the act of congress of  
16     February 25, 1920 (41 Stat. 437, 450; 30 U.S.C. §§ 181,  
17     191) as amended, except as provided by subsection (b) of  
18     this section, shall be deposited into an account and the  
19     first two hundred million dollars (\$200,000,000.00) of  
20     revenues received in any fiscal year shall be distributed  
21     by the state treasurer as provided in this subsection. One  
22     percent (1%) of these revenues shall be credited to the

1 general fund as an administrative fee, and the remainder  
2 shall be distributed as follows:

3

4 (ii) Subject to paragraph (xi) of this section  
5 and subsection (o) of this section, forty-four and  
6 eight-tenths percent (44.8%) to the public school  
7 foundation program account subject to allocations under  
8 W.S. 9-4-605;

9

10 (d) Except as provided in subsections (k), (m), and  
11 (n) and (o) of this section, any revenue received under  
12 subsection (a) of this section in excess of two hundred  
13 million dollars (\$200,000,000.00) shall be distributed as  
14 follows:

15

16 (n) For fiscal year 2023, any revenue received under  
17 subsection (a) of this section in excess of four hundred  
18 fifty-nine million dollars (\$459,000,000.00) and for fiscal  
19 year 2024 and subject to subsection (o) of this section,  
20 any revenue received under subsection (a) of this section  
21 in excess of four hundred twenty-nine million two hundred  
22 thousand dollars (\$429,200,000.00) shall be distributed as  
23 follows:

1

2       (o) Beginning in fiscal year 2024 and until three  
3 hundred fifty-nine million one hundred thousand dollars  
4 (\$359,100,000.00) is deposited into the legislative  
5 stabilization reserve account pursuant to this subsection,  
6 all amounts which would otherwise be distributed to the  
7 school foundation program account on and after July 1, 2023  
8 under paragraph (a)(ii), paragraph (d)(iii), subparagraph  
9 (d)(v)(C) and paragraph (n)(i) of this section, and after  
10 making the transfers required by W.S. 9-4-719(g), shall be  
11 deposited into the legislative stabilization reserve  
12 account.

13

14       **9-4-719. Investment earnings spending policy**  
15 **permanent funds.**

16

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

22 Except for funds specified by the legislature that  
23 guarantee the obligations of permanent Wyoming mineral

1 trust fund investment earnings and funds to be transferred  
2 into the permanent Wyoming mineral trust fund, funds  
3 deposited into the reserve account created by this  
4 subsection are intended to be inviolate and constitute a  
5 permanent or perpetual trust fund. Beginning July 1, 2021  
6 for fiscal year 2022 and each fiscal year thereafter, to  
7 the extent funds are available, the state treasurer shall  
8 transfer unobligated funds from this account to the general  
9 fund on a quarterly, pro-rata basis as necessary to ensure  
10 that an amount equal to two and one-half percent (2.5%) of  
11 the previous five (5) year average market value of the  
12 permanent Wyoming mineral trust fund, calculated on the  
13 first day of the fiscal year, is available for expenditure  
14 during each fiscal year. As soon as possible after the end  
15 of each of the fiscal years beginning on and after July 1,  
16 2017, after making any transfer required pursuant to  
17 paragraphs (i) and (ii) of this subsection, revenues in  
18 this account in excess of ~~one hundred fifty percent (150%)~~  
19 two hundred forty-five percent (245%) of the spending  
20 policy amount in subsection (d) of this section shall be  
21 credited to the permanent Wyoming mineral trust fund. For  
22 fiscal year 2020 and for each fiscal year thereafter:

23

1 (f) There is created the common school permanent fund  
2 reserve account. All funds within the account shall be  
3 invested by the state treasurer as authorized under W.S.  
4 9-4-715(a), (d), (e) and (r) and all investment earnings  
5 from the account shall be credited to the account. Except  
6 for funds specified by the legislature that guarantee the  
7 obligations of the investment earnings from the common  
8 school account within the permanent land income fund and  
9 funds to be transferred into the common school account  
10 within the permanent land fund, funds deposited into the  
11 reserve account created by this subsection are intended to  
12 be inviolate and constitute a permanent or perpetual trust  
13 fund. Beginning July 1, 2017 for fiscal year 2018 and each  
14 fiscal year thereafter, the state treasurer shall transfer  
15 unobligated funds from this account to the common school  
16 account within the permanent land income fund as necessary  
17 to ensure that an amount equal to the spending policy  
18 amount established in subsection (h) of this section is  
19 available for expenditure annually during the fiscal year.  
20 As soon as possible after the end of each of the fiscal  
21 years beginning on and after July 1, 2017, revenues in this  
22 account in excess of ~~one hundred fifty percent (150%)~~ four  
23 hundred twenty percent (420%) of the spending policy amount

1 shall be credited to the common school account within the  
2 permanent land fund.

3

4 (k) There is created the excellence in higher  
5 education endowment reserve account. Interest and other  
6 earnings on funds within the account shall be credited to  
7 the account. Except for funds specified by the legislature  
8 that guarantee the obligations of excellence in higher  
9 education endowment fund investment earnings and funds to  
10 be transferred into the excellence in higher education  
11 endowment fund, funds deposited into the reserve account  
12 created by this subsection are intended to be inviolate and  
13 constitute a permanent or perpetual trust fund. As soon as  
14 possible after the end of each of the fiscal years  
15 beginning on and after July 1, 2017, revenues in this  
16 account in excess of ~~one hundred fifty percent (150%)~~ two  
17 hundred ten percent (210%) of the spending policy amount in  
18 subsection (o) of this section shall be credited to the  
19 excellence in higher education endowment fund created by  
20 W.S. 9-4-204(u)(vi).

21

22 **16-1-111. Loans to political subdivisions;**  
23 **requirements; limitations; rulemaking.**

1

2 (f) There is created a loss reserve account for loans  
3 made under this section. A loan origination fee of one-half  
4 of one percent (0.5%) of the loan shall be paid by the loan  
5 applicant and deposited to the loss reserve account for any  
6 loan approved under this section. If, as a result of  
7 default in the payment of any loan made under this section,  
8 there occurs a nonrecoverable loss either to the corpus of,  
9 or interest due to the permanent Wyoming mineral trust  
10 fund, the board shall restore the loss to the permanent  
11 fund using any funds available in the loss reserve account.  
12 If the funds in the loss reserve account are insufficient  
13 to restore the full amount of the loss, the board shall  
14 submit a detailed report of the loss to the legislature and  
15 shall request an appropriation to restore the balance of  
16 the loss to the permanent fund. ~~Beginning June 30, 2018,~~  
17 ~~the state treasurer shall transfer funds quarterly from the~~  
18 ~~permanent Wyoming mineral trust fund reserve account to the~~  
19 ~~loss reserve account created in this subsection, in an~~  
20 ~~amount necessary to ensure that as of the last day of each~~  
21 ~~quarter there is an unobligated, unencumbered balance equal~~  
22 ~~to five percent (5%) of the balance of outstanding loans~~  
23 ~~under this section. Any funds transferred to the loss~~



1 ~~reserve account pursuant to this subsection which are not~~  
2 ~~necessary to maintain the five percent (5%) balance shall~~  
3 ~~be transferred back to the permanent Wyoming mineral trust~~  
4 ~~fund reserve account on the last day of the quarter.~~

5

6 **21-16-1302. Hathaway scholarship expenditure account**  
7 **created; reserve account created; use and appropriation of**  
8 **funds.**

9

10 (b) There is created the Hathaway student scholarship  
11 reserve account. The reserve account shall consist of those  
12 monies deposited to the account pursuant to subsection (a)  
13 of this section and such other funds appropriated by the  
14 legislature to the reserve account. Interest and other  
15 earnings on funds within the reserve account shall be  
16 credited to the reserve account. Except for funds  
17 specified by the legislature that guarantee the scholarship  
18 obligations of the Hathaway scholarship expenditure account  
19 and funds to be transferred into the Hathaway student  
20 scholarship endowment fund, funds deposited into the  
21 reserve account created by this subsection are intended to  
22 be inviolate and constitute a permanent or perpetual trust  
23 fund. To the extent funds within the Hathaway scholarship

1 expenditure account are insufficient in any fiscal year to  
2 fully fund scholarships awarded under this article, monies  
3 within the reserve account shall be deposited by the state  
4 treasurer to the expenditure account for distribution to  
5 eligible institutions to fund those scholarships. As soon  
6 as possible after the end of each of the fiscal years  
7 beginning on and after July 1, 2007, the state treasurer  
8 shall transfer monies from this reserve account to the  
9 Hathaway student scholarship endowment fund to the extent  
10 monies within the reserve account are in excess of the  
11 greater of ~~twelve million dollars (\$12,000,000.00)~~  
12 forty-seven million dollars (\$47,000,000.00) or an amount  
13 equal to ~~four and one-half percent (4.5%)~~ eight percent  
14 (8%) of the previous five (5) year average market value of  
15 the Hathaway student scholarship endowment fund, calculated  
16 from the first day of the fiscal year. The state treasurer  
17 shall report not later than November 1, of each year to the  
18 joint education interim committee and the select committee  
19 on capital financing and investments the amount of funds  
20 within the reserve account at the end of the previous  
21 fiscal year and as of July 1, of the current fiscal year.

22

23 **Section 2.**

1

2 (a) On the effective date of this act, the state  
3 auditor shall transfer:

4

5 (i) Three hundred fifty-nine million one hundred  
6 thousand dollars (\$359,100,000.00), or as much thereof as  
7 is available, from the legislative stabilization reserve  
8 account to the common school permanent fund reserve account  
9 created by W.S. 9-4-719(f);

10

11 (ii) Two hundred seventy-four million seven  
12 hundred thousand dollars (\$274,700,000.00), or as much  
13 thereof as is available, from the legislative stabilization  
14 reserve account to the permanent Wyoming mineral trust fund  
15 reserve account created by W.S. 9-4-719(b);

16

17 (iii) Four million six hundred thousand dollars  
18 (\$4,600,000.00), or as much thereof as is available, from  
19 the legislative stabilization reserve account to the  
20 Hathaway student scholarship reserve account created by  
21 W.S. 21-16-1302(b);

22

1           (iv) One million two hundred thousand dollars  
2 (\$1,200,000.00), or as much thereof as is available, from  
3 the legislative stabilization reserve account to the  
4 excellence in higher education endowment reserve account  
5 created by W.S. 9-4-719(k).

6

7           (b) Amounts transferred pursuant to subsection (a) of  
8 this section shall be securely deposited into the reserve  
9 accounts required by subsection (a) of this section and  
10 shall not be invested or otherwise deposited in a manner  
11 inconsistent with the way in which funds in the respective  
12 reserve accounts were invested on July 1, 2022 until:

13

14           (i) The state treasurer's office certifies in  
15 writing to the office of state lands and investments and  
16 the state loan and investment board that investment policy  
17 statements have been adopted pursuant to W.S. 9-4-716 that  
18 provide for the investment of the transferred amounts as  
19 part of a total return investment strategy and that all  
20 accounting and financial reporting systems are available  
21 and are operating in a condition that allows fully  
22 compliant accounting and reporting on the investment and

1 handling of all transferred funds and associated earnings;  
2 and

3  
4 (ii) The state loan and investment board, after  
5 having received and considered the certification required  
6 by paragraph (i) of this subsection, provides written  
7 notice to the state treasurer's office that the office is  
8 authorized to begin investing and depositing transferred  
9 funds in a manner consistent with the adopted investment  
10 policies and using fully compliant financial accounting and  
11 reporting practices.

12

13 **Section 3.** It is the intent of the legislature that  
14 the five hundred thirty-three thousand five hundred  
15 seventy-nine dollar (\$533,579.00) appropriation from the  
16 Hathaway scholarship expenditure account to the department  
17 of education for the payment of administrative expenses in  
18 2022 Wyoming Session Laws, Chapter 51, Section 2, Section  
19 206 not be requested to be paid from, nor be paid from, the  
20 Hathaway scholarship expenditure account in the 2025-2026  
21 fiscal biennium or any subsequent fiscal biennium.

22

23 **Section 4.**

1

2 (a) The legislature finds that:

3

4 (i) The state of Wyoming has established  
5 inviolate permanent funds in the Wyoming constitution.  
6 These permanent funds are invested, and the earnings from  
7 those investments are expended, for specified  
8 constitutional and statutory purposes and on behalf of  
9 specified beneficiaries;

10

11 (ii) The permanent funds include the permanent  
12 Wyoming mineral trust fund, the common school account  
13 within the permanent land fund, the excellence in higher  
14 education endowment fund and the Hathaway student  
15 scholarship endowment fund;

16

17 (iii) The state maintains four (4) permanent  
18 fund reserve accounts, one (1) for each of the permanent  
19 funds identified in paragraph (ii) of this subsection, that  
20 guaranty distributions to the important beneficiaries of  
21 the permanent funds in the event investment earnings are  
22 insufficient to satisfy annual distribution requirements;

23

1           (iv) Because of the current size of the reserve  
2 accounts and the need for each reserve account to maintain  
3 assets that can be liquidated to satisfy guaranty  
4 obligations, some reserve accounts and portions of their  
5 related permanent funds are invested using shorter-term or  
6 income-focused strategies. These shorter-term and  
7 income-focused strategies provide important and necessary  
8 liquidity, but they have historically provided a  
9 meaningfully lower investment return when compared to funds  
10 invested in longer-term, but more illiquid, "total return"  
11 investment strategies;

12

13           (v) The Wyoming state treasurer's office  
14 estimates that, over the last five (5) years, the state of  
15 Wyoming has forgone investment earnings in excess of three  
16 hundred seventy million dollars (\$370,000,000.00) by  
17 maintaining small reserve account balances that require the  
18 use of shorter-term and income-focused investment  
19 strategies;

20

21           (vi) By ensuring that permanent fund reserve  
22 accounts maintain balances that can cover at least five (5)  
23 years, and preferably seven (7) years, of their annual

1 spending obligations, those accounts and their associated  
2 permanent funds can be more fully invested in longer-term,  
3 historically higher-yielding "total return" strategies  
4 while still providing the necessary liquidity to meet their  
5 guaranty obligations;

6

7 (vii) To ensure that each permanent fund reserve  
8 account is funded to at least five (5) times its annual  
9 spending obligations, a transfer of funds to each reserve  
10 account is necessary. These transfers are provided by this  
11 act and total six hundred thirty-nine million six hundred  
12 thousand dollars (\$639,600,000.00). Although these  
13 transfers are sizeable, historical total return strategy  
14 investment earnings indicate that these transfers will  
15 provide enhanced investment returns to the state of Wyoming  
16 that will exceed the transferred amounts within a short  
17 period of time. Further, the transfers and the associated  
18 investment earnings will help ensure that the state of  
19 Wyoming can satisfy its future obligations in the face of  
20 potentially declining mineral revenues;

21

22 (viii) The significant benefits of employing  
23 longer-term, total return investment strategies will last



1 only as long as Wyoming's permanent fund reserve accounts  
2 are adequately funded and maintain at least five (5) to  
3 seven (7) years of their respective annual spending  
4 obligations;

5

6 (ix) Although Wyoming's permanent funds are  
7 constitutionally protected from legislative appropriation,  
8 the state's permanent fund reserve accounts are not.  
9 Consequently, restraint and a long-term commitment by the  
10 Wyoming legislature will be necessary to maintain funding  
11 for the reserve accounts at the amounts provided by this  
12 act and at levels that maximize investment returns and  
13 provide maximum benefits to the beneficiaries of Wyoming's  
14 permanent funds. The legislature should not jeopardize the  
15 benefits of the permanent fund reserve accounts by  
16 encumbering the reserve accounts with new guarantees or  
17 other extraneous obligations;

18

19 (x) By committing the funds and making the  
20 statutory changes contained in this act, the legislature is  
21 adopting a long-term commitment to funding Wyoming's  
22 permanent fund reserve accounts at a level that maximizes

1 investment returns and provides maximum benefits to  
2 permanent fund beneficiaries and to the state of Wyoming.

3

4 **Section 5.** This act is effective July 1, 2023.

5

6

(END)