

HOUSE BILL NO. HB0154

Build Wyoming loan program.

Sponsored by: Management Council

A BILL

for

1 AN ACT relating to administration of government; creating
 2 the build Wyoming program providing for loans from the
 3 permanent Wyoming mineral trust fund; providing for
 4 administration; specifying loan requirements; creating a
 5 loss reserve account; providing for rulemaking; providing
 6 for the use of specified funds to fund the loss reserve
 7 account; providing for a study; and providing for an
 8 effective date.

9

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

11

12 **Section 1.** W.S. 16-1-111 through 16-1-114 are created
 13 to read:

14

15 **16-1-111. Definitions.**

16

1 (a) As used in W.S. 16-1-111 through 16-1-114:

2

3 (i) "Board" means the state loan and investment
4 board to include the office of state lands and investments;

5

6 (ii) "Build Wyoming program" means the loan
7 program authorized under W.S. 16-1-111 through 16-1-114;

8

9 (iii) "Infrastructure project" means a capital
10 construction project which may lawfully be undertaken
11 within the powers of the political subdivision authorized
12 to receive a loan under the build Wyoming program and
13 includes the purchase of land, buildings, facilities and
14 rights of way needed to complete the project;

15

16 (iv) "Political subdivision" means any city,
17 town, county, school district, community college district,
18 joint powers board or special district in this state as
19 defined in paragraph (vi) of this subsection;

20

21 (v) "Road or street project" means the
22 construction, maintenance or improvement of a public
23 street, road or alley within a city, town or county,

1 including curbs and gutters, and includes the purchase of
2 land, buildings and facilities and rights of way needed to
3 complete the project;

4

5 (vi) Special district means:

6

7 (A) Airport joint powers boards;

8

9 (B) Fire protection districts;

10

11 (C) Museum districts;

12

13 (D) Recreation districts;

14

15 (E) Regional transportation authorities;

16

17 (F) Rural health care districts;

18

19 (G) Sanitary and improvement districts;

20

21 (H) Senior citizens' service districts;

22

23 (J) Solid waste disposal districts;

1

2

(K) Water and sewer districts.

3

4

**16-1-112. Loans to political subdivisions;
requirements; limitations; rulemaking.**

5

6

7 (a) The state loan and investment board may negotiate
8 and make loans from the permanent Wyoming mineral trust
9 fund to political subdivisions of this state as provided in
10 the build Wyoming program. The aggregate sum of all
11 outstanding loans made under the build Wyoming program
12 shall not exceed five hundred million dollars
13 (\$500,000,000.00) including all loans previously made and
14 outstanding. The board shall adopt rules and procedures as
15 it deems advisable or necessary to administer the program.

16

17 (b) Loans shall be available for infrastructure
18 projects to political subdivisions and made in accordance
19 with this section. Loans shall be available for road or
20 street projects only to cities, towns and counties and made
21 in accordance with this section and W.S. 16-1-113. The
22 aggregate sum of loans made for infrastructure projects
23 shall not exceed two hundred fifty million dollars

1 (\$250,000,000.00) and shall not exceed two hundred fifty
2 million dollars (\$250,000,000.00) for road or street
3 projects, including all loans previously made and
4 outstanding.

5

6 (c) In making loans under the build Wyoming program,
7 the board shall establish requirements and standards which
8 it determines to be necessary or advisable in accordance
9 with the following:

10

11 (i) To qualify for a loan an applicant shall
12 demonstrate:

13

14 (A) A commitment by the applicant to
15 adequately maintain the project for which the loan is
16 requested during a reasonable period of time;

17

18 (B) That all project costs will be funded
19 at the time of receipt of the loan, with funding sources
20 specified within the project application;

21

1 (C) Compliance with any other criteria
2 developed by the board consistent with W.S. 16-1-111
3 through 16-1-114.

4

5 (ii) The determination of whether to make the
6 loan shall include consideration of:

7

8 (A) The contribution of the project to
9 health, safety and welfare;

10

11 (B) The applicant's need for the project
12 and financial needs of the applicant in relation to the
13 project;

14

15 (C) The ability of the applicant to repay
16 the loan;

17

18 (D) The taxation effort of the applicant.
19 No loan shall be made to any county unless the county
20 imposes at least eleven (11) or ninety-one and sixty-seven
21 hundredths percent (91.67%) of the available mills
22 authorized by article 15, section 5 of the Wyoming
23 constitution. No loan shall be made to any municipality

1 unless the municipality imposes at least seven (7) or
2 eighty-seven and five-tenths percent (87.5%) of the
3 available mills authorized by article 15, section 6 of the
4 Wyoming constitution. No loan shall be made to any special
5 district which imposes less than eighty percent (80%) of
6 any authorized mill levy.

7

8 (iii) A loan under this section shall be at an
9 interest rate of one-tenth of one percent (.1%) multiplied
10 by each year of the initial loan term. In the event of
11 prepayment of a loan, the interest rate shall be calculated
12 at the actual loan period, but no refund of interest
13 payment shall be made to the borrowing entity;

14

15 (iv) Loans shall not exceed an initial term of
16 twenty-five (25) years for repayment;

17

18 (v) Adequate security for loans shall be
19 required and may include:

20

21 (A) A pledge of the revenues for the
22 project for which the loan was granted;

23

1 (B) A pledge of other revenues available to
2 the entity receiving the loan;

3

4 (C) A mortgage covering all or any part of
5 the project or by a pledge of the lease of the project;

6

7 (D) Any other security device or
8 requirement deemed advantageous or necessary by the board.

9

10 (vi) The board shall require annual financial
11 statements from entities receiving loans under this
12 section;

13

14 (vii) No loan shall be made without the written
15 opinion of the attorney general certifying the legality of
16 the transaction and all documents connected therewith. An
17 election approving the project and borrowing for the
18 project by the qualified electors of the borrowing entity
19 shall be required only if the attorney general determines
20 such an election is otherwise required by law;

21

22 (viii) The board, whenever it deems necessary
23 for the better protection of the Wyoming state permanent

1 mineral trust fund, may refinance any delinquent loan
2 granted under the build Wyoming program and reamortize the
3 loan over not more than thirty (30) years from the date of
4 refinancing. All costs of refinancing the loan shall be
5 paid by the borrowing entity and no loan shall be
6 refinanced where it appears refinancing will jeopardize the
7 collection of the loan. A fee of one percent (1%) of the
8 amount of the reamortized loan shall be paid by the
9 borrowing entity to the board to be credited to the account
10 created by W.S. 16-1-114. The rate of interest for any
11 refinanced loan shall be that specified under paragraph
12 (iii) of this subsection multiplied by the total years of
13 the initial and refinanced loan period, but not to exceed a
14 total maximum of two and one-half percent (2.5%);

15

16 (ix) The board shall by rule establish
17 allocations of loans to be made for infrastructure projects
18 under this section. In establishing allocations the board
19 shall consider the type and size of political subdivisions
20 eligible for loans and shall allocate a percentage of loans
21 available each year to cities and towns as a group, to
22 schools and community colleges as a group and to counties
23 and remaining eligible entities as a group. Within each

1 group the board shall consider and may further allocate
2 funds based upon the population of eligible entities within
3 a group.

4

5 (d) No money shall be loaned under this section to
6 any entity for any water development or sewerage purpose if
7 the funding sought is available under any other program
8 funded in whole or in part with state funds, including W.S.
9 9-4-604, 16-1-109, 16-1-201 through 16-1-207, 16-1-301
10 through 16-1-308 or chapter 2 of title 41 of Wyoming
11 statutes. The board shall establish procedures under which
12 an applicant may demonstrate that funding sought for the
13 project under the build Wyoming program is not in fact
14 available under any other state funded program.

15

16 (e) In accordance with the provisions of W.S.
17 4-10-911, in applying the prudent investor standard
18 pursuant to W.S. 9-4-715(d), the state loan and investment
19 board shall not consider the interest rate of return
20 provided under the build Wyoming program in comparison to
21 returns which might or might not be gained from other
22 investments. Rather, the board shall acknowledge the
23 legislative determination that returns to the state through

1 investment in streets and roads and other infrastructure at
2 the local government level can outweigh the return on
3 investments in securities or other investments which might
4 appear greater on their face. The legislature has
5 established fixed low interest rates for the build Wyoming
6 program loans in recognition of that determination and the
7 need to invest permanent Wyoming mineral trust funds in
8 local government infrastructure in order to increase and
9 diversify the state's economy, and the legislature's
10 authority to specify by law conditions and terms under
11 which monies in the permanent Wyoming mineral trust fund
12 may be loaned to political subdivisions of the state. The
13 board shall also recognize the legislature's determination
14 that the full amount of loans authorized under the build
15 Wyoming program is a prudent allocation of investments from
16 the permanent Wyoming mineral trust fund for purposes of
17 assessing diversification of investments under W.S.
18 9-4-715(d) and (e). The ability of a recipient of a loan
19 under the build Wyoming program to repay the loan and
20 security provided under the loan agreement shall be
21 considered as provided in the build Wyoming program.

22

1 (f) Political subdivisions receiving loans under the
2 build Wyoming program shall report the expenditures and
3 progress of the project related to the loan to the board at
4 least annually or more frequently if deemed advisable by
5 the board. At the end of the term of the loan, the entity
6 shall provide to the board a comprehensive report that
7 shall, at minimum, include a cumulative financial review
8 and a list of the accomplishments as a result of the loan.

9

10 (g) On or before June 30 of each year, the board
11 shall report information on the administration of loans
12 made under the build Wyoming program to the joint
13 appropriations committee and the joint minerals, business
14 and economic development interim committee. The report
15 shall include a list of all loan requests made in the
16 previous twelve (12) months, the amount approved by
17 project, expenditures by project and the progress for each
18 project as of the date of the report, including outstanding
19 loan amounts, repayment schedules and any delinquencies.

20

21 (h) A political subdivision may expend any other
22 funds in conjunction with funds from a loan under the build
23 Wyoming program for any authorized project.

1

2 **16-1-113. Road and street projects.**

3

4 (a) The board may make loans from the permanent
5 Wyoming mineral trust fund to cities, towns and counties
6 for road or street projects. Any qualifying city, town or
7 county with a demonstrated need for a road or street
8 project may submit an application to the board for a loan
9 on forms prescribed by and subject to rules promulgated by
10 the board.

11

12 (b) To qualify for a road or street project loan, in
13 addition to the requirements of W.S. 16-1-112, an applicant
14 shall demonstrate that all related infrastructure including
15 water and sewer is or will be in place at the time of
16 receipt of the loan. No loan shall be provided under this
17 section to any city, town or county that has any
18 outstanding or unpaid loan under this section.

19

20 (c) Any loan under this section shall be at an
21 interest rate of one and one-half percent (1.5%). Loans
22 under this section shall not exceed an initial term of
23 twenty (20) years for repayment. Any reamortization of a

1 loan under this section shall be for not more than twenty
2 (20) years from the date of refinancing. The rate of
3 interest for any refinanced loan under this section shall
4 be one and one-half percent (1.5%) for the first twenty
5 (20) years of the loan and at an amount set by the board
6 for terms greater than twenty (20) years, but not to exceed
7 two and one-half percent (2.5%).

8
9 (d) The total loans under this section provided in
10 any one (1) year shall not exceed one hundred million
11 dollars (\$100,000,000.00). Not more than thirty-five
12 million dollars (\$35,000,00.00) of road or street loans
13 shall be made in any one (1) year to:

14
15 (i) Towns as defined in W.S. 15-1-101(a)(xiv);

16

17 (ii) Cities as defined in W.S. 15-1-101(a)(iv);

18

19 (iii) Counties.

20

21 **16-1-114. Loss reserve account created; deposits;**
22 **disposition of funds.**

23

1 (a) Revenues received by the board for deposit in the
2 loss reserve account under the build Wyoming program shall
3 be transmitted to the state treasurer for deposit to the
4 credit of the loss reserve account. Funds in the account
5 shall be used for the purposes specified in subsection (b)
6 of this section and to pay the administrative and legal
7 expenses of the board in making collections and foreclosing
8 on loans made pursuant to the build Wyoming program. If at
9 the end of any fiscal year, the amount in the loss reserve
10 account exceeds five percent (5%) of the outstanding
11 balance of loans under the build Wyoming program, the
12 amount in excess of the five percent (5%) shall be
13 transferred and credited to the permanent Wyoming mineral
14 trust fund reserve account in accordance with W.S. 9-4-719.

15
16 (b) If, as a result of default in the payment of any
17 loan made under the build Wyoming program, there occurs a
18 nonrecoverable loss either to the corpus of, or interest
19 due to the permanent Wyoming mineral trust fund, the state
20 loan and investment board shall restore the loss to the
21 permanent fund using any funds available in the loss
22 reserve account created by subsection (a) of this section.
23 If the funds in the loss reserve account are insufficient

1 to restore the full amount of the loss, the board shall
2 submit a detailed report of the loss to the legislature and
3 shall request an appropriation to restore the balance of
4 the loss to the permanent fund.

5

6 **Section 2.** W.S. 9-4-719(b) is amended to read:

7

8 **9-4-719. Investment earnings spending policy**
9 **permanent funds.**

10

11 (b) There is created the permanent Wyoming mineral
12 trust fund reserve account. Beginning June 30, 2018, the
13 state treasurer shall transfer funds quarterly from the
14 permanent Wyoming mineral trust fund reserve account to the
15 build Wyoming loss reserve account in an amount necessary
16 to ensure that as of the last day of each quarter there is
17 an unobligated, unencumbered balance equal to five percent
18 (5%) of the balance of outstanding loans under the build
19 Wyoming program. Any funds transferred to the loss reserve
20 account pursuant to this subsection which are not necessary
21 to maintain the five percent (5%) balance shall be
22 transferred back to the permanent Wyoming mineral trust
23 fund reserve account on the last day of the quarter.

1 Beginning July 1, 2016 for fiscal year 2017 and each fiscal
2 year thereafter, the state treasurer shall transfer
3 unobligated funds from this account to the general fund as
4 necessary to ensure that an amount equal to two and
5 one-half percent (2.5%) of the previous five (5) year
6 average market value of the permanent Wyoming mineral trust
7 fund, calculated on the first day of the fiscal year, is
8 available for expenditure annually during each fiscal year.
9 As soon as possible after the end of each of the fiscal
10 years beginning on and after July 1, 2017, revenues in this
11 account in excess of one hundred fifty percent (150%) of
12 the spending policy amount in subsection (d) of this
13 section shall be credited to the permanent Wyoming mineral
14 trust fund.

15

16 **Section 3.**

17

18 (a) The joint minerals, business and economic
19 development interim committee shall review all existing
20 programs providing loans or grants from state funds to
21 local governmental entities. The review shall include at
22 least the following aspects of each program:

23

1 (i) Administration of the program;

2

3 (ii) Funding source;

4

5 (iii) Eligible projects;

6

7 (iv) Entities eligible for funds;

8

9 (v) Terms of grants and loans, including fees
10 imposed;

11

12 (vi) Use of funds generated or repaid under the
13 program;

14

15 (vii) Specific limitations on use of funds
16 imposed by law or rule;

17

18 (viii) Other legal requirements specified by law
19 or rule for entities receiving funds or imposed upon the
20 state for the distribution of funds.

21

22 (b) The committee shall evaluate the continued need
23 for each program, whether modifications should be made for

1 each program to bring greater uniformity to programs
2 providing grants and loans of state funds to local
3 governmental entities and whether the program should be
4 incorporated fully or partially into the build Wyoming
5 program. The committee shall sponsor legislation as it
6 determines appropriate for introduction in the 2019 general
7 and budget session.

8

9 **Section 4.** This act is effective immediately upon
10 completion of all acts necessary for a bill to become law
11 as provided by Article 4, Section 8 of the Wyoming
12 Constitution.

13

14

(END)