

SENATE FILE NO. SF0019

Impact assistance payments-maximum percentages and review.

Sponsored by: Joint Minerals, Business & Economic  
Development Interim Committee

A BILL

for

1 AN ACT relating to industrial development and siting;  
2 specifying that the industrial siting council may increase  
3 the impact assistance payments of specified projects beyond  
4 the maximum allowable percentages; requiring approval of  
5 increases; specifying that approvals are not subject to  
6 judicial review; making conforming amendments; specifying  
7 applicability; and providing for an effective date.

8

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

10

11 **Section 1.** W.S. 35-12-105(c), 39-15-111(c),  
12 (d)(intro) and by creating a new subsection (r) and  
13 39-16-111(d), (e)(intro) and by creating a new subsection  
14 (p) are amended to read:

15

1           **35-12-105. Appointment and duties of administrator;**  
2 **staff; rules and regulations.**

3  
4           (c) The director, administrator and the staff of the  
5 division are authorized to the extent possible, at the  
6 request of local governments, to provide technical  
7 assistance to local governments in the preparation of  
8 anticipated impacts related to a proposed project  
9 consistent with W.S. 39-15-111(c), ~~and~~ (d) and (r) and  
10 39-16-111(d), ~~and~~ (e) and (p) and negotiation of agreements  
11 with applicants as provided for in W.S. 35-12-107.

12  
13           **39-15-111. Distribution.**

14  
15           (c) If any person commences after the effective date  
16 of this act to construct an industrial facility, as that  
17 term is defined in W.S. 35-12-102, under a permit issued  
18 pursuant to W.S. 35-12-106, or if the federal or state  
19 government commences to construct any project within this  
20 state with an estimated construction cost as specified in  
21 the definition of industrial facility in W.S. 35-12-102 the  
22 department of revenue shall thereafter pay to the county  
23 treasurer and the county treasurer will distribute to the

1 county, cities and towns of that county in which the  
2 industrial facility or project is located, impact  
3 assistance payments from the monies available under  
4 paragraph (b)(i) of this section. Each payment to the  
5 county treasurer shall be equal to an amount determined by  
6 the industrial siting council under this subsection and  
7 shall continue during the period of construction except  
8 that in the case of an industrial facility or a federal or  
9 state government project which is expected to continue in  
10 phases for an indefinite period of time, the department of  
11 revenue shall discontinue payments under this section when  
12 construction of any phase has ceased or been substantially  
13 completed for twelve (12) consecutive months. The person  
14 constructing the industrial facility and the counties  
15 affected by the construction of the industrial facility  
16 shall provide evidence at the public hearing held pursuant  
17 to W.S. 35-12-110(f)(i) of the mitigated and unmitigated  
18 impacts that the construction will have on the counties,  
19 cities and towns determined by the industrial siting  
20 council to be affected by the construction of the  
21 industrial facility. The industrial siting council shall  
22 review the evidence of the impacts and determine, applying  
23 a preponderance of evidence standard, the dollar amount of

1 the unmitigated impacts. The council shall state, in the  
2 order issued under W.S. 35-12-113(a), the total dollar  
3 amount of the impact assistance payment and include  
4 specific findings of fact detailing the basis for the total  
5 dollar amount determination and if requested by the  
6 affected county, city or town, its justification for  
7 rejecting, in whole or in part, an application for an  
8 impact assistance payment. The impact assistance payment  
9 shall be distributed by the department of revenue in an  
10 amount and on a schedule determined by the council, based  
11 on evidence presented at the hearing. Under no  
12 circumstances shall the total dollar amount of the impact  
13 assistance payment exceed the maximum allowable percentage  
14 specified in this subsection of the total estimated  
15 material costs of the facility, as those costs are  
16 determined by the council. The maximum allowable percentage  
17 shall be two and twenty-five hundredths percent (2.25%) for  
18 facilities with total estimated materials costs of three  
19 hundred fifty million dollars (\$350,000,000.00) or less  
20 except as otherwise provided in this subsection, two  
21 percent (2%) for facilities with total estimated materials  
22 costs in excess of three hundred fifty million dollars  
23 (\$350,000,000.00) but less than eight hundred fifty million

1 dollars (\$850,000,000.00) and one and one-half percent  
2 (1.50%) for facilities with total estimated materials costs  
3 of eight hundred fifty million dollars (\$850,000,000.00) or  
4 more. For facilities with total estimated materials costs  
5 of three hundred fifty million dollars (\$350,000,000.00) or  
6 less, the council may increase the maximum allowable  
7 percentage to not more than two and seventy-six hundredths  
8 percent (2.76%) if the council includes in the specific  
9 findings required under this subsection that the maximum  
10 allowable percentage of two and twenty-five hundredths  
11 percent (2.25%) is insufficient to mitigate the identified  
12 impacts. For facilities with total estimated materials  
13 costs exceeding three hundred fifty million dollars  
14 (\$350,000,000.00), the council may increase the maximum  
15 allowable percentage to not more than two and seventy-six  
16 hundredths percent (2.76%) in accordance with subsection  
17 (r) of this section. The council shall submit a report to  
18 the joint appropriations committee and the joint minerals,  
19 business and economic development interim committee not  
20 later than ten (10) business days after increasing the  
21 maximum allowable percentage as specified in this  
22 subsection, including data to support the increase. The  
23 impact assistance payments shall be distributed to the

1 county treasurer and the county treasurer will distribute  
2 to the county and to the cities and towns therein based on  
3 a ratio established by the industrial siting council during  
4 a public hearing held in accordance with W.S.  
5 35-12-110(f)(i). In determining the distribution ratio, the  
6 industrial siting council may consider the extent and  
7 location of the unmitigated impacts, the populations of the  
8 affected counties, cities and towns, including any  
9 disproportionate impacts on smaller communities, and any  
10 other equitable factor. The industrial siting council shall  
11 review the distribution ratio for construction projects on  
12 a regular basis and make appropriate adjustments. A  
13 governing body which is primarily affected by the facility,  
14 or any person issued a permit pursuant to W.S. 35-12-106,  
15 may petition the industrial siting council for review and  
16 adjustment of the distribution ratio or the amount of the  
17 impact assistance payment upon a showing of good cause. The  
18 impact assistance payment shall be in addition to all other  
19 distributions under this section, but no impact assistance  
20 payment shall be made for any period in which the county or  
21 counties are not imposing at least a one percent (1%) tax  
22 authorized by W.S. 39-15-204(a)(i) and 39-16-204(a)(i) or  
23 at least a total of a two percent (2%) sales tax authorized

1 under W.S. 39-15-204(a)(i), (iii) and (vi) and at least a  
2 total of a two percent (2%) use tax authorized under W.S.  
3 39-16-204(a)(i), (ii) and (v). For purposes of this  
4 subsection, the industrial facility or federal or state  
5 government project will be deemed to be located in the  
6 county in which a majority of the construction costs will  
7 be expended, provided that upon a request from the county  
8 commissioners of any adjoining county to the industrial  
9 siting council, the council may determine that the social  
10 and economic impacts from construction of the industrial  
11 facility or federal or state government project upon the  
12 adjoining county are significant and establish the ratio of  
13 impacts between the counties and certify that ratio to the  
14 department of revenue who will thereafter distribute the  
15 impact assistance payment to the counties pursuant to that  
16 ratio. Each county, city and town that receives a  
17 distribution under this subsection shall provide an annual  
18 report to the industrial siting council describing how the  
19 impact assistance payment was expended. The report shall  
20 first be submitted not later than one (1) year after the  
21 impact assistance payment is approved and annually each  
22 year thereafter for the duration in which distributions are  
23 made and until all distributions are expended. The

1 industrial siting council shall adopt rules as necessary to  
2 implement this subsection.

3

4 (d) As used in ~~subsection~~ subsections (c) and (r) of  
5 this section:

6

7 (r) For industrial facilities for which the total  
8 estimated materials costs exceed three hundred fifty  
9 million dollars (\$350,000,000.00), the industrial siting  
10 council may increase the maximum allowable percentage of  
11 any impact assistance payment to not more than two and  
12 seventy-six hundredths percent (2.76%) in accordance with  
13 the following:

14

15 (i) The council shall include in the specific  
16 findings required under subsection (c) of this section that  
17 the maximum allowable percentage, as applicable, for the  
18 industrial facility is insufficient to mitigate the  
19 identified impacts;

20

21 (ii) Upon making the findings required in  
22 paragraph (i) of this subsection, the council shall forward  
23 the proposed percentage increase, the permit order or



1 decision and, if requested by the board, the record of the  
2 hearing, to the state loan and investment board. The board  
3 shall not accept or consider any new evidence in its  
4 consideration under this paragraph. Not later than the next  
5 regularly scheduled board meeting after receiving a  
6 proposed percentage increase for an impact assistance  
7 payment, the state loan and investment board shall consider  
8 the council's proposed percentage increase and shall:

9  
10 (A) Approve the proposed percentage  
11 increase;

12  
13 (B) Deny the proposed percentage increase;  
14 or

15  
16 (C) Modify the proposed percentage increase  
17 to any percentage between the maximum allowable percentage  
18 as specified under subsection (c) of this section and the  
19 percentage that the council proposed.

20  
21 (iii) The council shall authorize that payments  
22 made under subsection (c) of this section be made at a  
23 percentage not to exceed the applicable maximum allowable

1 percentage specified in subsection (c) of this section  
2 while the proposed percentage increase is pending before  
3 the state loan and investment board;

4  
5 (iv) If the state loan and investment board  
6 approves or modifies the proposed percentage increase under  
7 paragraph (ii) of this subsection and upon direction by the  
8 council, the department shall make payments in an amount  
9 sufficient to make the payments equal to the amount  
10 necessary to make the impact assistance payment's increased  
11 percentage retroactive to the beginning of the period of  
12 construction;

13  
14 (v) The decision of the state loan and  
15 investment board to approve, deny or modify a proposed  
16 percentage increase under paragraph (ii) of this subsection  
17 is final and shall not be subject to further review by the  
18 industrial siting council. Nothing in this paragraph shall  
19 be construed to abrogate any other right of review  
20 specified in the Industrial Development Information and  
21 Siting Act.

22  
23 **39-16-111. Distribution.**

1

2 (d) If any person commences after the effective date  
3 of this act to construct an industrial facility, as that  
4 term is defined in W.S. 35-12-102, under a permit issued  
5 pursuant to W.S. 35-12-106, or if the federal or state  
6 government commences to construct any project within this  
7 state with an estimated construction cost as specified in  
8 the definition of industrial facility in W.S. 35-12-102 the  
9 department of revenue shall thereafter pay to the county  
10 treasurer and the county treasurer will distribute to the  
11 county, cities and towns of that county in which the  
12 industrial facility or project is located, impact  
13 assistance payments from the monies available under  
14 paragraph (b)(i) of this section. Each payment to the  
15 county treasurer shall be equal to an amount determined by  
16 the industrial siting council under this subsection and  
17 shall continue during the period of construction except  
18 that in the case of an industrial facility or a federal or  
19 state government project which is expected to continue in  
20 phases for an indefinite period of time, the department of  
21 revenue shall discontinue payments under this section when  
22 construction of any phase has ceased or been substantially  
23 completed for twelve (12) consecutive months. The person

1 constructing the industrial facility and the counties  
2 affected by the construction of the industrial facility  
3 shall provide evidence at the public hearing held pursuant  
4 to W.S. 35-12-110(f)(i) of the mitigated and unmitigated  
5 impacts that the construction will have on the counties,  
6 cities and towns determined by the industrial siting  
7 council to be affected by the construction of the  
8 industrial facility. The industrial siting council shall  
9 review the evidence of the impacts and determine, applying  
10 a preponderance of evidence standard, the dollar amount of  
11 the unmitigated impacts. The council shall state, in the  
12 order issued under W.S. 35-12-113(a), the total dollar  
13 amount of the impact assistance payment and include  
14 specific findings of fact detailing the basis for the total  
15 dollar amount determination and if requested by the  
16 affected county, city or town, its justification for  
17 rejecting, in whole or in part, an application for an  
18 impact assistance payment. The impact assistance payment  
19 shall be distributed by the department of revenue in an  
20 amount and on a schedule determined by the council, based  
21 on evidence presented at the hearing. Under no  
22 circumstances shall the total dollar amount of the impact  
23 assistance payment exceed the maximum allowable percentage

1 specified in this subsection of the total estimated  
2 material costs of the facility, as those costs are  
3 determined by the council. The maximum allowable percentage  
4 shall be two and twenty-five hundredths percent (2.25%) for  
5 facilities with total estimated materials costs of three  
6 hundred fifty million dollars (\$350,000,000.00) or less  
7 except as otherwise provided in this subsection, two  
8 percent (2%) for facilities with total estimated materials  
9 costs in excess of three hundred fifty million dollars  
10 (\$350,000,000.00) but less than eight hundred fifty million  
11 dollars (\$850,000,000.00) and one and one-half percent  
12 (1.50%) for facilities with total estimated materials costs  
13 of eight hundred fifty million dollars (\$850,000,000.00) or  
14 more. For facilities with total estimated materials costs  
15 of three hundred fifty million dollars (\$350,000,000.00) or  
16 less, the council may increase the maximum allowable  
17 percentage to not more than two and seventy-six hundredths  
18 percent (2.76%) if the council includes in the specific  
19 findings required under this subsection that the maximum  
20 allowable percentage of two and twenty-five hundredths  
21 percent (2.25%) is insufficient to mitigate the identified  
22 impacts. For facilities with total estimated materials  
23 costs exceeding three hundred fifty million dollars

1 (\$350,000,000.00), the council may increase the maximum  
2 allowable percentage to not more than two and seventy-six  
3 hundredths percent (2.76%) in accordance with subsection  
4 (p) of this section. The council shall submit a report to  
5 the joint appropriations committee and the joint minerals,  
6 business and economic development interim committee not  
7 later than ten (10) business days after increasing the  
8 maximum allowable percentage as specified in this  
9 subsection, including data to support the increase. The  
10 impact assistance payments shall be distributed to the  
11 county treasurer and the county treasurer will distribute  
12 to the county and to the cities and towns therein based on  
13 a ratio established by the industrial siting council during  
14 a public hearing held in accordance with W.S.  
15 35-12-110(f)(i). In determining the distribution ratio, the  
16 industrial siting council may consider the extent and  
17 location of the unmitigated impacts, the populations of the  
18 affected counties, cities and towns, including any  
19 disproportionate impacts on smaller communities, and any  
20 other equitable factor. The industrial siting council shall  
21 review the distribution ratio for construction projects on  
22 a regular basis and make appropriate adjustments. A  
23 governing body which is primarily affected by the facility,

1 or any person issued a permit pursuant to W.S. 35-12-106,  
2 may petition the industrial siting council for review and  
3 adjustment of the distribution ratio or the amount of the  
4 impact assistance payment upon a showing of good cause.  
5 The impact assistance payment shall be in addition to all  
6 other distributions under this section, but no impact  
7 assistance payment shall be made for any period in which  
8 the county or counties are not imposing at least a one  
9 percent (1%) tax authorized by W.S. 39-15-204(a)(i) and  
10 39-16-204(a)(i) or at least a total of a two percent (2%)  
11 sales tax authorized under W.S. 39-15-204(a)(i), (iii) and  
12 (vi) and at least a total of a two percent (2%) use tax  
13 authorized under W.S. 39-16-204(a)(i), (ii) and (v). For  
14 purposes of this subsection, the industrial facility or  
15 federal or state government project will be deemed to be  
16 located in the county in which a majority of the  
17 construction costs will be expended, provided that upon a  
18 request from the county commissioners of an adjoining  
19 county to the industrial siting council, the council may  
20 determine that the social and economic impacts from  
21 construction of the industrial facility or federal or state  
22 government project upon the adjoining county are  
23 significant and establish the ratio of impacts between the

1 counties and certify that ratio to the department of  
2 revenue who will thereafter distribute the impact  
3 assistance payment to the counties pursuant to that ratio.  
4 Each county, city and town that receives a distribution  
5 under this subsection shall provide an annual report to the  
6 industrial siting council describing how the impact  
7 assistance payment was expended. The report shall first be  
8 submitted not later than one (1) year after the impact  
9 assistance payment is approved and annually each year  
10 thereafter for the duration in which distributions are made  
11 and until all distributions are expended. The industrial  
12 siting council shall adopt rules as necessary to implement  
13 this subsection.

14

15 (e) As used in ~~subsection~~ subsections (d) and (p) of  
16 this section:

17

18 (p) For industrial facilities for which the total  
19 estimated materials costs exceed three hundred fifty  
20 million dollars (\$350,000,000.00), the industrial siting  
21 council may increase the maximum allowable percentage of  
22 any impact assistance payment to not more than two and



1 seventy-six hundredths percent (2.76%) in accordance with  
2 the following:

3  
4 (i) The council shall include in the specific  
5 findings required under subsection (d) of this section that  
6 the maximum allowable percentage, as applicable, for the  
7 industrial facility is insufficient to mitigate the  
8 identified impacts;

9  
10 (ii) Upon making the findings required in  
11 paragraph (i) of this subsection, the council shall forward  
12 the proposed percentage increase, the permit order or  
13 decision and, if requested by the board, the record of the  
14 hearing, to the state loan and investment board. The board  
15 shall not accept or consider any new evidence in its  
16 consideration under this paragraph. Not later than the next  
17 regularly scheduled board meeting after receiving a  
18 proposed percentage increase for an impact assistance  
19 payment, the state loan and investment board shall consider  
20 the council's proposed percentage increase and shall:

21  
22 (A) Approve the proposed percentage  
23 increase;

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(B) Deny the proposed percentage increase;

or

(C) Modify the proposed percentage increase to any percentage between the maximum allowable percentage as specified under subsection (d) of this section and the percentage that the council proposed.

(iii) The council shall authorize that payments made under subsection (d) of this section be made at a percentage not to exceed the applicable maximum allowable percentage specified in subsection (d) of this section while the proposed percentage increase is pending before the state loan and investment board;

(iv) If the state loan and investment board approves or modifies the proposed percentage increase under paragraph (ii) of this subsection and upon direction by the council, the department shall make payments in an amount sufficient to make the payments equal to the amount necessary to make the impact assistance payment's increased

1 percentage retroactive to the beginning of the period of  
2 construction;

3

4 (v) The decision of the state loan and  
5 investment board to approve, deny or modify a proposed  
6 percentage increase under paragraph (ii) of this subsection  
7 is final and shall not be subject to further review by the  
8 industrial siting council. Nothing in this paragraph shall  
9 be construed to abrogate any other right of review  
10 specified in the Industrial Development Information and  
11 Siting Act.

12

13 **Section 2.** This act shall only apply to impact  
14 assistance payments for industrial facility permit  
15 applications submitted on and after the effective date of  
16 this act.

17

18 **Section 3.** This act is effective July 1, 2025.

19

20

(END)