

**DRAFT ONLY  
NOT APPROVED FOR  
INTRODUCTION**

HOUSE BILL NO.

Local impact assistance payments.

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

A BILL

for

1 AN ACT relating to impact assistance payments; amending  
2 requirements related to impact assistance payments;  
3 providing definitions; specifying applicability; and  
4 providing for an effective date.

5

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

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8 \*\*\*\*\*  
9 \*\*\*\*\*

10

**STAFF COMMENT**

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12 **This draft is based on the engrossed version of 2021 Senate**  
13 **File 82.**

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15 \*\*\*\*\*  
16 \*\*\*\*\*

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1           **Section 1.** W.S. 39-15-111(c) and (d) by creating a new  
2 paragraph (iii) and 39-16-111(d) and (e) by creating a new  
3 paragraph (iii) are amended to read:

4

5           **39-15-111. Distribution.**

6

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

1 state government project which is expected to continue in  
2 phases for an indefinite period of time, the department of  
3 revenue shall discontinue payments under this section when  
4 construction of any phase has ceased or been substantially  
5 completed for twelve (12) consecutive months. The person  
6 constructing the industrial facility and the counties  
7 affected by the construction of the industrial facility  
8 shall provide evidence at the public hearing held pursuant  
9 to W.S. 35-12-110(f)(i) of the mitigated and unmitigated  
10 impacts that the construction will have on the counties,  
11 cities and towns determined by the industrial siting  
12 council to be affected by the construction of the  
13 industrial facility. The industrial siting council shall  
14 review the evidence of the impacts and determine, applying  
15 a preponderance of evidence standard, the dollar amount of  
16 the unmitigated impacts. The council shall state, in the  
17 order issued under W.S. 35-12-113(a), the total dollar  
18 amount of the impact assistance payment and ~~the reasons for~~  
19 ~~determining that~~ include specific findings of fact  
20 detailing the basis for the total dollar amount  
21 determination. The impact assistance payment shall be  
22 distributed by the department of revenue in an amount and  
23 on a schedule determined by the council, based on evidence

1 presented at the hearing. Under no circumstances shall the  
2 total dollar amount of the impact assistance payment exceed  
3 ~~two and seventy-six hundredths percent (2.76%)~~ two and  
4 twenty-five hundredths percent (2.25%) of the total  
5 estimated material costs of the facility, as those costs  
6 are determined by the council. The impact assistance  
7 payments shall be distributed to the county treasurer and  
8 the county treasurer will distribute to the county and to  
9 the cities and towns therein based on a ratio established  
10 by the industrial siting council during a public hearing  
11 held in accordance with W.S. 35-12-110(f)(i). In  
12 determining the distribution ratio, the industrial siting  
13 council may consider the extent and location of the  
14 unmitigated impacts, the populations of the affected  
15 counties, cities and towns, including any disproportionate  
16 impacts on smaller communities, and any other equitable  
17 factor. The industrial siting council shall review the  
18 distribution ratio for construction projects on a regular  
19 basis and make appropriate adjustments. A governing body  
20 which is primarily affected by the facility, or any person  
21 issued a permit pursuant to W.S. 35-12-106, may petition  
22 the industrial siting council for review and adjustment of  
23 the distribution ratio or the amount of the impact

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

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

3

4 (d) As used in subsection (c) of this section:

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6 (iii) "Unmitigated impact" means an expense:

7

8 (A) Incurred by a county, city or town  
9 directly or indirectly attributable to the construction of  
10 an industrial facility;

11

12 (B) That is not otherwise mitigated by any  
13 other entity;

14

15 (C) For medical services, fire and law  
16 enforcement services, roads and public utilities. Expenses  
17 shall be supported by an analysis prepared by the county,  
18 city or town of the current excess capacity in each of  
19 these areas. Expenses in these areas may include the  
20 employment of additional employees or officers only if the  
21 county, city or town has determined overtime compensation  
22 or contract labor would not be appropriate; and

23

1                   (D) Excluding expenses for which a county,  
2 city or town previously received an impact assistance  
3 payment unless the county, city or town can demonstrate the  
4 expenses are new or ongoing.

5

6           **39-16-111. Distribution.**

7

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

1 that in the case of an industrial facility or a federal or  
2 state government project which is expected to continue in  
3 phases for an indefinite period of time, the department of  
4 revenue shall discontinue payments under this section when  
5 construction of any phase has ceased or been substantially  
6 completed for twelve (12) consecutive months. The person  
7 constructing the industrial facility and the counties  
8 affected by the construction of the industrial facility  
9 shall provide evidence at the public hearing held pursuant  
10 to W.S. 35-12-110(f)(i) of the mitigated and unmitigated  
11 impacts that the construction will have on the counties,  
12 cities and towns determined by the industrial siting  
13 council to be affected by the construction of the  
14 industrial facility. The industrial siting council shall  
15 review the evidence of the impacts and determine, applying  
16 a preponderance of evidence standard, the dollar amount of  
17 the unmitigated impacts. The council shall state, in the  
18 order issued under W.S. 35-12-113(a), the total dollar  
19 amount of the impact assistance payment and ~~the reasons for~~  
20 ~~determining that~~ include specific findings of fact  
21 detailing the basis for the total dollar amount  
22 determination. The impact assistance payment shall be  
23 distributed by the department of revenue in an amount and



1 on a schedule determined by the council, based on evidence  
2 presented at the hearing. Under no circumstances shall the  
3 total dollar amount of the impact assistance payment exceed  
4 ~~two and seventy six hundredths percent (2.76%)~~ two and  
5 twenty-five hundredths percent (2.25%) of the total  
6 estimated material costs of the facility, as those costs  
7 are determined by the council. The impact assistance  
8 payments shall be distributed to the county treasurer and  
9 the county treasurer will distribute to the county and to  
10 the cities and towns therein based on a ratio established  
11 by the industrial siting council during a public hearing  
12 held in accordance with W.S. 35-12-110(f)(i). In  
13 determining the distribution ratio, the industrial siting  
14 council may consider the extent and location of the  
15 unmitigated impacts, the populations of the affected  
16 counties, cities and towns, including any disproportionate  
17 impacts on smaller communities, and any other equitable  
18 factor. The industrial siting council shall review the  
19 distribution ratio for construction projects on a regular  
20 basis and make appropriate adjustments. A governing body  
21 which is primarily affected by the facility, or any person  
22 issued a permit pursuant to W.S. 35-12-106, may petition  
23 the industrial siting council for review and adjustment of

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

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

3

4 (e) As used in subsection (d) of this section:

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6 (iii) "Unmitigated impact" means as defined by  
7 W.S. 39-15-111(d)(iii).

8

9 **Section 2.** This act shall only apply to impact  
10 assistance payments for industrial facility permit  
11 applications submitted on or after the effective date of  
12 this act. The impact assistance payments for industrial  
13 facilities that are not subject to this act shall be  
14 determined on the basis of the law as it existed at the  
15 time the request for the impact assistance payment was  
16 submitted to the industrial siting council.

17

18 **Section 3.** This act is effective July 1, 2022.

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20

(END)