

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Highway revenue bonds.

Sponsored by: Joint Transportation, Highways & Military
Affairs Interim Committee

A BILL

for

1 AN ACT relating to administration of the government;
2 authorizing state revenue bonds for highway construction,
3 improvement and maintenance; pledging a portion of federal
4 mineral royalty revenue for bond repayment; creating an
5 account; making conforming amendments; and providing for an
6 effective date.

7

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

9

10 **Section 1.** W.S. 9-4-608 is created to read:

11

1 **9-4-608. Distribution and use; highway construction,**
2 **improvement and maintenance projects and bonds; purposes.**

3
4 (a) Prior to the distribution of revenues received
5 under this article to the general fund under W.S. 9-4-
6 601(d), there is hereby pledged and shall be deducted from
7 the revenues otherwise to be distributed under W.S. 9-4-
8 601(d)(iv), an amount specified in W.S. 9-4-601(d)(x),
9 which shall be credited to a bond repayment account,
10 created by the department of transportation, pursuant to
11 the terms of a resolution, indenture or other appropriate
12 proceeding authorizing the issuance of revenue bonds under
13 this section. The revenues deducted under this subsection
14 shall be used as provided by this section.

15
16 (b) The Wyoming transportation commission may borrow
17 money in a principal amount not to exceed XX dollars (\$XX)
18 by the issuance from time to time of one (1) or more series
19 of revenue bonds and may encumber revenues under subsection
20 (a) of this section for bonds in total amounts not to
21 exceed XX dollars (\$XX) issued for the construction,
22 improvement and maintenance of highways under subsection
23 (f) of this section. Any bonds issued under this section,

1 together with any interest accruing thereon and any prior
2 redemption premiums due in connection therewith, are
3 payable and collectible solely out of revenues authorized
4 under subsection (a) of this section. The bondholders shall
5 not look to any general or other fund of the state for
6 payment of the bonds except the revenues pledged in this
7 section. The bonds shall not constitute an indebtedness or
8 a debt within the meaning of any constitutional or
9 statutory provision or limitation. The bonds shall not be
10 considered or held to be general obligations of the state
11 but shall constitute its special obligations and the
12 Wyoming transportation commission shall not pledge the
13 state's full faith and credit for payment of the bonds.

14

15 *****
16 *****
17 **STAFF COMMENT**
18 **The Committee will need to determine the maximum authorized**
19 **principal amount of revenue bonds the Wyoming Department of**
20 **Transportation may issue.**

21

22 **The bill draft states that revenue bonds issued under this**
23 **section do not constitute constitutional or statutory debt.**
24 **A court is not bound by this characterization and would**
25 **likely examine the substance of the financing structure,**
26 **rather than rely on the statutory characterization alone,**
27 **in determining whether the bonds constitute debt for**
28 **purposes of any constitutional or statutory provision or**
29 **limitation.**

30 *****
31 *****

1

2 (c) Except as otherwise provided in this section,
3 bonds issued under this section shall be in a form, issued
4 in a manner, at, above or below par at a discount not
5 exceeding ten percent (10%) of the principal amount of the
6 bonds, at public or private sale, and issued with recitals,
7 terms, covenants, conditions and other provisions not
8 contrary to other applicable statutes, as may be provided
9 by the Wyoming transportation commission in a resolution
10 authorizing their issuance and in an indenture or other
11 appropriate proceeding.

12

13 (d) Any bonds issued under this section:

14

15 (i) Shall be of denominations of five thousand
16 dollars (\$5,000.00) or multiples thereof;

17

18 (ii) Shall be fully negotiable within the
19 meaning of and for all purposes of the Uniform Commercial
20 Code;

21

22 (iii) Shall mature at a time or times not
23 exceeding thirty (30) years from their date;

1

2 (iv) Shall bear interest payable annually,
3 semiannually or at other designated intervals, but the
4 first interest payment date shall be for interest accruing
5 for any period not exceeding one (1) year;

6

7 (v) Shall be made payable in lawful money of the
8 United States at the office of the state treasurer or by a
9 trustee, registrar, paying agent or transfer agent within
10 or outside the state of Wyoming;

11

12 (vi) Shall be printed at a place the Wyoming
13 transportation commission determines.

14

15 (e) The Wyoming transportation commission may retain
16 the services of a financial advisor and sell the bonds to
17 an underwriter, either by competitive or negotiated bid.
18 The terms of any contract, including fees to be paid, shall
19 be available for public review and inspection.

20

21 (f) Proceeds from the sale of state revenue bonds
22 under this section shall be credited into the highway
23 construction, improvement and maintenance account created

1 by subsection (j) of this section, an account within the
2 state highway fund established under W.S. 24-1-119 and
3 shall be expended for the construction, improvement and
4 maintenance of highways as authorized by the Wyoming
5 transportation commission. Pending expenditure, the state
6 treasurer shall invest bond proceeds in a manner that
7 complies with all requirements of the internal revenue
8 service to ensure the bonds will remain tax free
9 investments.

10
11 (g) The Wyoming transportation commission may issue
12 refunding revenue bonds:

13
14 (i) To refund and discharge and extend or
15 shorten the maturities of all or any part of any
16 outstanding bonds issued under this section, including any
17 interest thereon in arrears or about to become due;

18
19 (ii) For the purpose of reducing interest costs
20 on bonds issued under this section or effecting other
21 economies; or

1 (iii) For the purpose of modifying or
2 eliminating any contractual limitations or provisions
3 contained in any indenture or other proceedings authorizing
4 outstanding bonds issued under this section.

5
6 (h) Any refunding permitted by subsection (g) of this
7 section shall be accomplished in the manner prescribed by
8 W.S. 16-5-101 through 16-5-119, except any refunding
9 revenue bonds authorized by the Wyoming transportation
10 commission under this subsection shall not constitute an
11 indebtedness or a debt within the meaning of any
12 constitutional or statutory provision or limitation or be
13 considered general obligations of the state. The Wyoming
14 transportation commission shall not pledge the state's full
15 faith and credit to the payment of the refunding revenue
16 bonds. The refunding revenue bonds shall constitute special
17 obligations of the state and may be payable only from
18 sources authorized in this section for the payment of the
19 bonds refunded. The principal amount of any bonds that have
20 been refunded need not be taken into account in computing
21 compliance with the maximum amounts of bonds authorized to
22 be issued by subsection (b) of this section.

23

1 (j) There is created within the state highway fund a
2 separate account known as the highway construction,
3 improvement and maintenance account. The account shall
4 include all proceeds from the issuance of state revenue
5 bonds credited to the account under subsection (f) of this
6 section. Any unexpended balance in the account shall be
7 invested by the state treasurer in accordance with law and
8 the investment earnings shall be credited to the account.
9 Notwithstanding W.S. 9-2-1008, 9-2-1012(e) or 9-4-207,
10 unobligated and unexpended funds in the account shall not
11 lapse or revert and shall remain available for distribution
12 as provided in this subsection. All funds in the account
13 are continuously appropriated to the department of
14 transportation. The department of transportation shall
15 expend funds in the account only for the construction,
16 improvement and maintenance of highways. The department of
17 transportation shall not expend funds for the construction
18 or acquisition of highway facilities for projects
19 authorized under W.S. 24-11-101 relating to mineral
20 extractive industries or other industrial development.

21

22 (k) The exercise of the powers granted by this section
23 constitutes the performance of an essential government

1 function. The Wyoming transportation commission shall not
2 be required to pay any taxes levied by any municipality or
3 political subdivision of the state. The Wyoming
4 transportation commission's projects and monies and any
5 bonds issued under this section and the income therefrom,
6 shall be free from taxation of every kind by the state,
7 municipalities and political subdivisions of the state.

8
9 (m) The bonds of the Wyoming transportation commission
10 are legal investments that may be used as collateral for
11 insurance companies, banks, savings and loan associations,
12 investment companies, trustees and other fiduciaries that
13 may properly and legally invest funds in their control or
14 belonging to them in bonds of the commission.

15
16 (n) The state pledges to the holders of any bonds
17 issued under this section that the state will not limit or
18 alter the rights vested in the Wyoming transportation
19 commission to fulfill the terms of agreements made with the
20 holders, or in any way impair the rights and remedies of
21 the holders, until the bonds together with the interest,
22 with the interest on any unpaid installments of interest
23 and all costs and expenses in connection with any action or

1 proceeding by or on behalf of the holders, are fully met
2 and discharged. The Wyoming transportation commission is
3 authorized to include this pledge of the state in any
4 agreement with the holders of the bonds. Nothing in this
5 subsection shall be construed to obligate the state to
6 pledge or appropriate any general funds or other state
7 funds for payment of the bonds issued under this section if
8 the revenues pledged under subsection (a) of this section
9 are insufficient.

10
11 **Section 2.** W.S. 9-4-601(d)(iv) and by creating a new
12 paragraph (x), 24-1-119 and 24-8-101 are amended to read:

13
14 **9-4-601. Distribution and use; funds, accounts,**
15 **cities and towns benefited; exception for bonus payments.**

16
17 (d) Except as provided in subsection (o) of this
18 section, any revenue received under subsection (a) of this
19 section in excess of two hundred million dollars
20 (\$200,000,000.00) shall be distributed as follows:

(iv) Subject to paragraphs (vii), ~~and~~ (ix) and
(x) of this subsection, two-thirds (2/3) to the general
fund;

(x) After all payments are made under paragraphs
(vii) and (ix) of this subsection, from the amounts that
would otherwise be distributed to the general fund under
paragraph (iv) of this subsection, the next XX dollars
(\$XX) shall be distributed to the bond repayment account
created under W.S. 9-4-608(a). These funds are continuously
appropriated to the department of transportation upon
deposit to the account for purposes of W.S. 9-4-608.

STAFF COMMENT
The Committee will need to determine the amount that shall
be distributed to bond repayment account under this
paragraph for repayment of revenue bonds issued under W.S.
9-4-608.

24-1-119. State highway fund created; income and
expenditure.

1 There is created a fund known as the state highway fund, to
2 the credit of which the state treasurer, who is designated
3 as the state official to receive all amounts paid by the
4 United States under the act of congress approved July 11,
5 1916, shall place all monies previously received for the
6 fund, all money subsequently received from the United
7 States, under cooperative agreements as authorized, all
8 money derived from taxes levied for such purpose or
9 appropriated for the fund, all monies received from the
10 sale of state bonds for highway construction or
11 improvement, all money received from the counties under
12 cooperative agreements as hereinbefore authorized, and all
13 other monies received from donations or bequests, which may
14 be accepted by the commission on behalf of the state of
15 Wyoming, or from any source designated by law for that
16 purpose. All monies in the fund shall be available for the
17 purpose of this act without further appropriation and no
18 warrant shall be drawn on the fund excepting on a voucher
19 approved by the director of the department of
20 transportation or an assistant authorized by the director
21 and approved by the transportation commission. Except for
22 bonds issued pursuant to W.S. 9-4-608, it is provided that
23 seventy-five percent (75%) of the amount of any bond issue

1 subsequently issued by the state of Wyoming for the
2 construction or improvement of state highways, after the
3 payment of overhead expense, shall be apportioned to and
4 spent in each county in the proportion which the assessed
5 valuation of each county by the last general assessment
6 bears to the total assessment of the state.

7
8 **24-8-101. Purpose, issuance and disposal.**

9
10 For the purpose of providing funds for the construction and
11 improvement of public roads and highways in Wyoming, the
12 state treasurer, with the approval of the governor is
13 hereby authorized from time to time within the limits of
14 the amount authorized by law to issue and dispose of bonds
15 of the state of Wyoming to be designated as highway bonds.

16 Bonds issued under this chapter shall be separate and
17 distinct from bonds issued under W.S. 9-4-608 for the
18 purposes of highway construction, improvement and
19 maintenance.

20
21 **Section 3.** This act is effective July 1, 2027.

22
23 (END)