

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Impact assistance payments-prepayments and bonding.

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

A BILL

for

1 AN ACT relating to industrial development and siting;
2 authorizing the award of a preconstruction payment for
3 industrial siting impact assistance payments; providing for
4 bonding requirements for industrial siting impact
5 assistance payments as specified; specifying applicability;
6 and providing for an effective date.

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

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12 **STAFF COMMENT**

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14 In 2026 Wyoming Session Laws, Chapter 19 (2026 Senate File
15 79), the use-tax statutes in title 39, chapter 16 of the

1 Wyoming statutes were repealed. As a result, this bill only
2 amends W.S. 39-15-111(c) to accomplish the purposes of the
3 bill concerning impact-assistance payments.
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8 Section 1. W.S. 39-15-111(c) is amended to read:
9

10 39-15-111. Distribution.
11

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

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

1 rejecting, in whole or in part, an application for an
2 impact assistance payment. The impact assistance payment
3 shall be distributed by the department of revenue in an
4 amount and on a schedule determined by the council, based
5 on evidence presented at the hearing. The council may
6 include a prepayment to be made before the period of
7 construction in the impact assistance payment schedule,
8 provided that the prepayment shall not exceed twenty
9 percent (20%) of the total impact assistance payment made
10 to an affected county, city or town. A prepayment
11 authorized by the council under this subsection shall be
12 distributed by the department of revenue not later than
13 forty-five (45) days after the permit under W.S. 35-12-106
14 is issued. Any permit issued by the council that includes
15 distribution of a scheduled payment to be made before the
16 period of construction shall also include a condition that
17 the permit applicant submit a bond to the department of
18 environmental quality for the amount of the prepayment. Any
19 bond required under this subsection shall be submitted to
20 the department of environmental quality not later than
21 forty-five (45) days after the permit is issued. 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. The council shall submit a report to the joint
23 appropriations committee and the joint minerals, business

1 and economic development interim committee not later than
2 ten (10) business days after increasing the maximum
3 allowable percentage as specified in this subsection,
4 including data to support the increase. The impact
5 assistance payments shall be distributed to the county
6 treasurer and the county treasurer will distribute to the
7 county and to the cities and towns therein based on a ratio
8 established by the industrial siting council during a
9 public hearing held in accordance with W.S. 35-12-
10 110(f)(i). In determining the distribution ratio, the
11 industrial siting council may consider the extent and
12 location of the unmitigated impacts, the populations of the
13 affected counties, cities and towns, including any
14 disproportionate impacts on smaller communities, and any
15 other equitable factor. The industrial siting council shall
16 review the distribution ratio for construction projects on
17 a regular basis and make appropriate adjustments. A
18 governing body which is primarily affected by the facility,
19 or any person issued a permit pursuant to W.S. 35-12-106,
20 may petition the industrial siting council for review and
21 adjustment of the distribution ratio or the amount of the
22 impact assistance payment upon a showing of good cause. The
23 impact assistance payment shall be in addition to all other

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

1 impact assistance payment is approved and annually each
2 year thereafter for the duration in which distributions are
3 made and until all distributions are expended. The
4 industrial siting council shall adopt rules as necessary to
5 implement this subsection.

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9 **STAFF COMMENT**

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11 **For the Committee's reference, the term "period of**
12 **construction" that is used in the bill draft is defined in**
13 **W.S. 39-15-111(d):**

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

16
17 (i) "Period of construction" begins at the
18 commencement of construction and ends when the physical
19 components of the industrial facility or federal or state
20 government project are ninety percent (90%) complete,
21 provided, if payments are already being made under this
22 act, commencement of construction of another industrial
23 facility or federal or state government project will not be
24 considered for purposes of establishing a new impact
25 assistance payment amount or determining when payments will
26 commence under this act, but will only be considered for
27 determining when the period of construction ends;

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29 **The Committee may wish to consider the following with this**
30 **bill draft:**

- 31
32 • **The maximum percentage of the prepayment (the 20% is**
33 **the figure that was included in the language that the**
34 **Department of Environmental Quality provided).**
35 • **Whether language concerning forfeiture of the bond**
36 **should be included in the bill draft (for example, if**
37 **a permittee does not proceed with an industrial**
38 **facility or if the scope of construction of the**

- 1 industrial facility is reduced to where a lower
2 impact-assistance payment would be available).
- 3 • Whether language should be included specifying the
4 disposition of a prepayment if a project is later
5 cancelled (to where there is no unmitigated impact
6 because there is no project).
 - 7 • Whether the Industrial Siting Council should have
8 discretion to require a bond for facilities where a
9 prepayment is awarded.
 - 10 • Whether additional language or requirements for a
11 prepayment should be included in statute.

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16 **Section 2.** This act shall apply to all impact
17 assistance payments made as a result of industrial facility
18 permit applications submitted on and after the effective
19 date of this act.

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

22

23 (END)