

WORKING DRAFT

HOUSE BILL NO. _____

Specific purpose excise tax.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

1 AN ACT relating to taxation and revenue; increasing the
 2 specific purpose excise tax rate as specified; imposing
 3 limits on combined rates of certain optional excise tax
 4 rates imposed by a county; amending, clarifying and
 5 conforming related provisions; providing for applicability
 6 of the act; and providing for an effective date.

7

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

9

10 **Section 1.** W.S. 9-4-604(a)(intro), (g)(i)(A) and
 11 (ii)(intro) and (h)(i)(A), 39-15-111(c), 39-15-204(a)(iii)
 12 and by creating a new paragraph (iv), 39-16-111(d) and
 13 39-16-204(a)(ii) and by creating a new paragraph (iii) are
 14 amended to read:

15

16 **9-4-604. Distribution and use; capital construction**
 17 **projects and bonds; municipal, county and special district**
 18 **purposes.**

19

20

***** STAFF COMMENTS *****

21

1 **W.S. 39-15-202(d) states that no applicant to the**
2 **state for grant or loan funds shall be penalized**
3 **for failure to enact the tax provided in W.S.39-**
4 **15-204(a)(iii) (the specific purpose tax). The**
5 **amendments to W.S. 9-4-604(a)(intro) and**
6 **(g)(ii)(intro) strike the reference to W.S. 39-**
7 **15-204(a)(iii) to conform to the provision of**
8 **W.S. 39-15-202(d).**
9

10
11 (a) Revenues received under W.S. 9-4-601(a)(vi) and
12 (b)(i) shall be credited to a capital construction account.
13 No money shall be expended from the account until the money
14 has been appropriated by the legislature to the state loan
15 and investment board through the normal budget process to
16 be used in the board's discretion for any purpose
17 authorized by this section. The revenues shall be used to
18 finance state revenue bonds as provided by this section.
19 The balance shall be used for the making of loans or grants
20 to incorporated cities and towns, counties and special
21 districts as provided in this section. No loan or grant
22 shall be made by the state loan and investment board under
23 the provisions of this section until the loan or grant
24 application has been referred by the board to a state
25 agency for review as determined by the board. The state
26 agency shall provide the board with a written review of any
27 loan or grant application referred to the agency and any
28 other assistance requested by the board. No grant shall be
29 made by the state loan and investment board under this
30 section to any county unless the county imposes at least
31 eleven (11) or ninety-one and sixty-seven one-hundredths
32 percent (91.67%) of the available mills authorized by
33 article 15, section 5 of the Wyoming constitution, or
34 unless the county is imposing the optional sales tax
35 authorized under W.S. 39-15-204(a)(i). ~~or (iii).~~ No grant
36 shall be made by the state loan and investment board under
37 this section to any municipality unless the municipality
38 imposes at least seven (7) or eighty-seven and five-tenths
39 percent (87.5%) of the available mills authorized by
40 article 15, section 6 of the Wyoming constitution. No
41 grant shall be made by the state loan and investment board
42 under this section to any special district or other lawful
43 entity which imposes less than eighty percent (80%) of any
44 authorized mill levy. The state loan and investment board
45 may waive the taxation requirements imposed by this
46 subsection for good cause shown such as other funding
47 sources, but in no case shall the state loan and investment

1 board authorize any grant to any municipality under this
2 section which does not impose at least two (2) or twenty-
3 five percent (25%) of the available mills authorized by
4 article 15, section 6 of the Wyoming constitution. The
5 state loan and investment board shall grant money as
6 authorized by this section only when the board finds the
7 grant is necessary to:

8
9 (g) Not to exceed forty million dollars
10 (\$40,000,000.00) of the total proceeds of all bonds issued
11 under subsection (b) of this section may be loaned or
12 granted to incorporated cities and towns. Loans or grants
13 shall be made only under the following conditions:

14
15 (i) Loans may be made for municipal purposes
16 with or without interest. If the state loan and investment
17 board deems it necessary to secure the loan, no security
18 other than pledges of specified revenue to repay a loan
19 shall be required. Before a loan application is approved
20 the board shall determine by proper investigation that:

21
22 (A) The applicant will fully utilize all
23 local revenue sources reasonably and legally available for
24 repaying the loan for which an application is made
25 excluding the ~~one cent (\$.01)~~ local optional sales tax
26 authorized by W.S. 39-15-204(a)(iii) and 39-16-204(a)(ii);

27
28 (ii) Grants may be made for municipal purposes
29 either standing alone or in conjunction with a loan under
30 paragraph (i) of this subsection. Grants may be applied for
31 by a joint powers board with the approval of the city or
32 town which is a member of the board or by one (1) or more
33 cities or towns and shall not be pledged to be payable over
34 a term of years but shall be distributed within a
35 reasonable time following approval. Grants shall be used to
36 finance not more than fifty percent (50%) of the cost of
37 any portion of a project which is unable to be financed
38 under paragraph (i) of this subsection and projects for
39 street, curb, gutter or storm drainage improvements
40 provided the state loan and investment board may make
41 grants in excess of fifty percent (50%) if the board
42 determines that the applicant or the member cities or towns
43 if the applicant is a joint powers board, either levied at
44 least seven (7) mills for operating expenses including
45 special district levies chargeable against the general city
46 or town levy during the current fiscal year or is imposing
47 the optional tax permitted by W.S. 39-15-204(a)(i) ~~or (iii)~~

1 at the time of the application and is utilizing all other
2 local revenue sources reasonably and legally available to
3 finance the project and:

4
5 (h) Not to exceed twenty million dollars
6 (\$20,000,000.00) of the total proceeds of all bonds issued
7 under subsection (b) of this section may be loaned or
8 granted to counties or special districts. As used in this
9 subsection "special districts" means hospital districts,
10 fire protection districts, sanitary and improvement
11 districts, solid waste disposal districts, service and
12 improvement districts and water and sewer districts.
13 Notwithstanding any other provision of law, no special
14 district, either standing alone or as a member of a joint
15 powers board, shall receive any grant or loan under this
16 section until the special district's grant or loan
17 application has received a written review from the board of
18 county commissioners in any county in which the special
19 district is located. The board of county commissioners
20 shall review: (1) the ability of the special district to
21 fund the project through bonds, (2) whether the project is
22 adverse to the needs, plans or general welfare of the
23 county, (3) whether the special district has utilized local
24 funding resources, and (4) whether the special district has
25 met county standards. If any part of the special district
26 lies within five (5) miles of the corporate limits of any
27 city or town, the special district's grant or loan
28 application shall also receive a written review from the
29 governing body of the city or town. The written review
30 shall be submitted to the state loan and investment board
31 by the special district with its grant or loan application.
32 Loans or grants shall be made only under the following
33 conditions:

34
35 (i) Loans, with or without interest, may only be
36 made for county or special district purposes which are
37 permitted by law. If the state loan and investment board
38 deems it necessary to secure the loan, no security other
39 than pledges of specified revenue to repay a loan shall be
40 required. Before a loan application is approved the board
41 shall determine by proper investigation that:

42
43 (A) The applicant will fully utilize all
44 local revenue sources reasonably and legally available for
45 repaying the loan excluding the ~~one cent (\$.01)~~ local
46 optional sales tax under W.S. 39-15-204(a)(iii) and 39-16-
47 204(a)(ii);

1
2 **39-15-111. Distribution.**
3

4 (c) If any person commences after the effective date
5 of this act to construct an industrial facility, as that
6 term is defined in W.S. 35-12-102, under a permit issued
7 pursuant to W.S. 35-12-106, or if the federal or state
8 government commences to construct any project within this
9 state with an estimated construction cost as specified in
10 the definition of industrial facility in W.S. 35-12-102 the
11 state treasurer shall thereafter pay to the county
12 treasurer and the county treasurer will distribute to the
13 county, cities and towns of that county in which the
14 industrial facility or project is located, impact
15 assistance payments from the monies available under
16 paragraph (b)(i) of this section. Each payment to the
17 county treasurer shall be equal to the excess of each
18 monthly payment made under paragraph (b)(iii) of this
19 section during the period of construction over the base
20 period amount and shall continue during the period of
21 construction except that in the case of an industrial
22 facility or a federal or state government project which is
23 expected to continue in phases for an indefinite period of
24 time, the state treasurer shall discontinue payments under
25 this section and establish a new base period when
26 construction of any phase has ceased or been substantially
27 completed for twelve (12) consecutive months. The impact
28 assistance payments shall be distributed to the county
29 treasurer and the county treasurer will distribute to the
30 county and to the cities and towns therein based on a ratio
31 established by the industrial siting council during a
32 public hearing held in accordance with W.S. 35-12-110. The
33 industrial siting council shall review the distribution
34 ratio for construction projects on a regular basis and make
35 appropriate adjustments. A governing body which is
36 primarily affected by the facility, or any person issued a
37 permit pursuant to W.S. 35-12-106, may petition the
38 industrial siting council for review and adjustment of the
39 distribution ratio upon a showing of good cause. The impact
40 assistance payment shall be in addition to all other
41 distributions under this section, but no impact assistance
42 payment shall be made for any period in which the county or
43 counties are not imposing the ~~full one percent (1%)~~ maximum
44 tax authorized by W.S. 39-15-204(a)(i) and 39-16-204(a)(i).
45 For purposes of this subsection, the industrial facility or
46 federal or state government project will be deemed to be
47 located in the county in which a majority of the

1 construction costs will be expended, provided that upon a
2 request from the county commissioners of any adjoining
3 county to the industrial siting council, the council may
4 determine that the social and economic impacts from
5 construction of the industrial facility or federal or state
6 government project upon the adjoining county are
7 significant and establish the ratio of impacts between the
8 counties and certify that ratio to the state treasurer who
9 will thereafter distribute the impact assistance payment to
10 the counties pursuant to that ratio.

11
12 **39-15-204. Taxation rate.**
13

14 (a) In addition to the state tax imposed under W.S.
15 39-15-101 through 39-15-111 any county of the state may
16 impose the following excise taxes and any city or town may
17 impose the tax authorized by paragraph (ii) of this
18 subsection:

19
20 (iii) An excise tax not to exceed ~~one percent~~
21 ~~(1%)~~ two percent (2%) upon retail sales of tangible
22 personal property, admissions and services made within the
23 county. The total excise tax imposed within any county
24 under this paragraph shall not exceed ~~one percent (1%)~~ two
25 percent (2%). The revenue from the tax shall be used in a
26 specified amount for specific purposes authorized by the
27 qualified electors. Specific purposes shall not include
28 ordinary operations of local government except those
29 operations related to a specific project.

30
31 (iv) In no event shall the total excise tax
32 imposed within any county under the provisions of
33 paragraphs (i) and (iii) of this subsection exceed two
34 percent (2%).
35

36 **39-16-111. Distribution.**
37

38 (d) If any person commences after the effective date
39 of this act to construct an industrial facility, as that
40 term is defined in W.S. 35-12-102, under a permit issued
41 pursuant to W.S. 35-12-106, or if the federal or state
42 government commences to construct any project within this
43 state with an estimated construction cost as specified in
44 the definition of industrial facility in W.S. 35-12-102 the
45 state treasurer shall thereafter pay to the county
46 treasurer and the county treasurer will distribute to the
47 county, cities and towns of that county in which the

1 industrial facility or project is located, impact
2 assistance payments from the monies available under
3 paragraph (b)(i) of this section. Each payment to the
4 county treasurer shall be equal to the excess of each
5 monthly payment made under paragraph (b)(iii) of this
6 section during the period of construction over the base
7 period amount and shall continue during the period of
8 construction except that in the case of an industrial
9 facility or a federal or state government project which is
10 expected to continue in phases for an indefinite period of
11 time, the state treasurer shall discontinue payments under
12 this section and establish a new base period when
13 construction of any phase has ceased or been substantially
14 completed for twelve (12) consecutive months. The impact
15 assistance payments shall be distributed to the county
16 treasurer and the county treasurer will distribute to the
17 county and to the cities and towns therein based on a ratio
18 established by the industrial siting council during a
19 public hearing held in accordance with W.S. 35-12-110. The
20 impact assistance payment shall be in addition to all other
21 distributions under this section, but no impact assistance
22 payment shall be made for any period in which the county or
23 counties are not imposing the ~~full one percent (1%)~~ maximum
24 tax authorized by W.S. 39-15-204(a)(i) and 39-16-204(a)(i).
25 For purposes of this subsection, the industrial facility or
26 federal or state government project will be deemed to be
27 located in the county in which a majority of the
28 construction costs will be expended, provided that upon a
29 request from the county commissioners of an adjoining
30 county to the industrial siting council, the council may
31 determine that the social and economic impacts from
32 construction of the industrial facility or federal or state
33 government project upon the adjoining county are
34 significant and establish the ratio of impacts between the
35 counties and certify that ratio to the state treasurer who
36 will thereafter distribute the impact assistance payment to
37 the counties pursuant to that ratio.

38
39 **39-16-204. Taxation rate.**

40
41 (a) In addition to the state tax imposed under W.S.
42 39-16-101 through 39-16-111 any county of the state may
43 impose the following excise taxes authorized by paragraph
44 (ii) of this subsection:

45
46 (ii) An excise tax not to exceed ~~one percent~~
47 (1%) two percent (2%) upon sales and storage, use and

1 consumption of tangible personal property, within the
2 county. The total excise tax imposed within any county
3 under this paragraph shall not exceed ~~one percent (1%)~~ two
4 percent (2%). The revenue from the tax shall be used in a
5 specified amount for specific purposes authorized by the
6 qualified electors. Specific purposes shall not include
7 ordinary operations of local government except those
8 operations related to a specific project;:-

9
10 (iii) In no event shall the total excise tax
11 imposed within any county under the provisions of
12 paragraphs (i) and (ii) of this subsection exceed two
13 percent (2%).

14
15 **Section 2.** This act shall apply to any specific
16 purpose excise tax imposed on or after the effective date
17 of this act.

18
19 **Section 3.** This act is effective July 1, 2003.

20
21 (END)