

HOUSE BILL NO. HB0178

Tobacco securitization.

Sponsored by: Select Committee on Capital Financing and
Investments

A BILL

for

1 AN ACT relating to public funds; establishing a corporation
2 as a state instrumentality to securitize specified tobacco
3 settlement proceeds; specifying corporate directors, powers
4 and duties; authorizing the sale of future tobacco receipts
5 as specified; authorizing the sale of securities by the
6 corporation as specified; providing for the redistribution
7 of federal mineral royalties, severance taxes, specified
8 state investment earnings and proceeds related to the
9 tobacco master settlement agreement; creating an account
10 within the permanent Wyoming mineral trust fund; providing
11 for the deposit of the tobacco settlement trust account and
12 other deposits to the account; repealing the tobacco
13 settlement trust account; and providing for an effective
14 date.

15

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

1

2 **Section 1.** W.S. 9-4-1205 through 9-4-1216 are created
3 to read:

4

5 **9-4-1205. Short title.**

6

7 This act shall be known and may be cited as the "Wyoming
8 Tobacco Securitization Act."

9

10 **9-4-1206. Definitions.**

11

12 (a) As used in this act:

13

14 (i) "Ancillary facility" means any revolving
15 credit agreement, agreement establishing a line of credit
16 or letter of credit, reimbursement agreement, interest rate
17 exchange agreement, currency exchange agreement, interest
18 rate swap, floor or cap, option, put or call or similar
19 arrangement to hedge payment, currency, rate, spread or
20 similar exposure, or any float agreement, forward
21 agreement, investment agreement, insurance contract, surety
22 bond, commitment to purchase or sell securities, purchase
23 or sale agreement, or commitment or other contract or
24 agreement or other security or investment arrangement

1 approved by the corporation, including without limitation
2 any arrangement referred to in W.S. 9-4-1209;

3

4 (ii) "Benefited parties" means persons that
5 enter into ancillary facilities with the corporation
6 according to the provisions of this act;

7

8 (iii) "Code" means the United States Internal
9 Revenue Code of 1986, as amended, and any successor
10 provision of law;

11

12 (iv) "Corporation" means the Wyoming Tobacco
13 Securitization Corporation established by W.S. 9-4-1207;

14

15 (v) "Costs of issuance" means any item of
16 expense directly or indirectly payable or reimbursable by
17 the corporation and related to the authorization, sale or
18 issuance of securities, including without limitation
19 underwriting fees, and fees and expenses of lawyers,
20 consultants, rating agencies, advisors and fiduciaries;

21

22 (vi) "Financing costs" means all capitalized
23 interest, capitalized operating expenses, operating and
24 debt service reserves, costs of issuance, costs of credit

1 and liquidity enhancements and any other costs as the
2 corporation determines to be necessary or desirable in
3 issuing, securing and marketing the securities;

4

5 (vii) "Interest rate exchange agreement" means a
6 written contract with a counterparty to provide for an
7 exchange of payments based upon fixed or variable interest
8 rates;

9

10 (viii) "Master settlement agreement" means the
11 settlement agreement as defined by W.S. 9-4-1201(a)(v);

12

13 (ix) "Net proceeds" means the amount of proceeds
14 remaining following each sale of securities by the
15 corporation which are not required by the corporation to
16 establish and fund reserve funds and to provide the
17 financing costs and other expenses and fees related to the
18 authorization, sale and issuance of securities;

19

20 (x) "Operating expenses" means the operating
21 expenses of the corporation, including without limitation
22 the cost of preparation of accounting and other reports,
23 costs of maintenance of the ratings on the securities,
24 insurance premiums, costs of meetings or other required

1 activities of the corporation, and fees and expenses
2 incurred for lawyers, consultants, advisors and
3 fiduciaries, payments in respect of termination of any
4 ancillary facility and costs incurred to preserve the tax-
5 exempt status of securities;

6

7 (xi) "Outstanding" means, when used with respect
8 to securities, all securities other than securities that
9 shall have been paid in full at maturity, or that shall
10 have otherwise been redeemed, defeased or discharged, or
11 that may be deemed not outstanding pursuant to agreements
12 with the holders thereof;

13

14 (xii) "Pledged tobacco revenues" means that
15 portion of the TSRs sold to the corporation pursuant to
16 W.S. 9-4-1208 that is pledged to the repayment of any
17 securities pursuant to the terms of the applicable
18 corporation resolution, trust agreement or trust indenture;

19

20 (xiii) "Qualifying statute" means W.S. 9-4-1202;

21

22 (xiv) "Residual interests" means the
23 unencumbered tobacco revenues, the net proceeds not
24 previously paid to the state and the income of the

1 corporation that is in excess of the corporation's
2 requirements to pay its operating expenses, debt service,
3 sinking fund requirements, reserve fund requirements and
4 any other contractual obligations to the holders or that
5 may be incurred in connection with the issuance or
6 administration of the securities, the amounts of which, if
7 any, shall be determined by the corporation annually;

8

9 (xv) "Sale agreement" means any agreement
10 authorized pursuant to W.S. 9-4-1208 in which the state
11 sells TSRs to the corporation;

12

13 (xvi) "Securities" means any securities,
14 including any bonds, notes and other evidence of
15 indebtedness issued by the corporation pursuant to W.S.
16 9-4-1210;

17

18 (xvii) "State" means the state of Wyoming;

19

20 (xviii) "State representative" means the state
21 acting through the state treasurer;

22

23 (xix) "State's tobacco receipts" means the asset
24 of the state consisting of:

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(A) All payments scheduled to be received by the state, pursuant to the master settlement agreement, with respect to a consecutive period of time not to exceed forty-one (41) years; and

(B) The state's rights to receive the payments stated in subparagraph (A) of this paragraph;

(xx) "Trustee" means any bank or trust company located within or without the state acting as trustee under the corporation resolution, trust agreement or trust indenture providing for issuance and payment of the securities by the corporation, provided that there may be co-trustees and separate trustees for separate issues of securities;

(xxi) "TSRs" means the portion, which may include any or all, of the state's tobacco receipts sold to the corporation pursuant to this act and any sale agreement;

(xxii) "Unencumbered tobacco revenues" means that portion, if any, of the TSRs that, by the terms of a

1 sale agreement made pursuant to W.S. 9-4-1208(a), is not
2 pledged to service debt issued by the corporation, required
3 to make targeted accelerated payments on principal of
4 outstanding securities, nor, upon the occurrence of
5 specific events, has been trapped for the benefit of
6 bondholders;

7

8 (xxiii) "This act" means W.S. 9-4-1205 through
9 9-4-1216.

10

11 **9-4-1207. Wyoming tobacco securitization corporation;**
12 **organization, members and duties.**

13

14 (a) There is hereby established a public body
15 corporate and politic, with corporate succession, to be
16 known as the "Wyoming Tobacco Securitization Corporation".
17 The corporation is hereby constituted as a public
18 instrumentality exercising public and essential
19 governmental functions, and the exercise by the corporation
20 of the powers conferred by this act shall be deemed and
21 held to be an essential governmental function of the state.
22 The corporation shall be treated and accounted for as a
23 separate and distinct legal entity from the state with
24 separate corporate purposes and powers as set forth in this

1 act. The assets, liabilities and funds of the corporation
2 shall not be assets, liabilities or funds of the state and
3 shall not be used to pay any debt or obligation of the
4 state.

5
6 (b) The corporation's membership shall consist of
7 seven (7) directors of who are appointed by the governor
8 with the advice and consent of the senate and the executive
9 director of the corporation. Not more than four (4) of the
10 appointed directors shall be from the same political party.
11 Directors shall serve for staggered terms of four (4) years
12 each. No appointed director shall serve more than two (2)
13 successive four (4) year terms. A director's term may be
14 terminated by the governor under the same procedure and in
15 the same manner as provided by W.S. 9-1-202(a) or a
16 majority vote of the senate. Directors shall continue in
17 office until their successors are appointed and qualified.
18 If a vacancy occurs, the governor shall appoint a successor
19 to serve in accordance with W.S. 28-12-101. The board of
20 directors shall select one (1) of its members to act as
21 chairman of the board of directors and one (1) member to
22 act as treasurer. The board of directors appoints the
23 executive director of the corporation, who serves as the
24 executive secretary to the board and is the chief executive

1 officer of the corporation. The executive director serves
2 at the pleasure of the board. The executive director shall
3 be an ex officio member of the board but may not vote. No
4 vacancy in the membership of the corporation shall impair
5 the right of a quorum of the members to exercise all the
6 powers and perform all the duties of the corporation.

7

8 (c) The directors, other than the executive director,
9 shall receive compensation for each day or part thereof in
10 which they are engaged in performance of their official
11 duties at the same rate as state legislators and shall be
12 reimbursed for actual and necessary expenses incurred in
13 the performance of their official duties. The board shall
14 fix the salary of the executive director.

15

16 (d) The board shall determine the date, time, place
17 and method of notice for all regular meetings of the board.
18 A majority of the voting directors of the corporation
19 constitutes a quorum for the transaction of any business or
20 the exercise of any power or function of the corporation.
21 All matters shall be decided by a majority vote of the
22 voting members of the board.

23

1 (e) Upon request of the corporation, any state agency
2 may temporarily assign to the corporation officers and
3 employees as it deems necessary to assist the corporation
4 in carrying out its functions and duties under this act.
5 Officers and employees so assigned shall not lose their
6 status or rights as public employees.

7

8 (f) Upon request of the corporation, any state agency
9 may lend technical assistance, render advice and attend
10 meetings with the directors and agents of the corporation
11 as the corporation requires in carrying out its functions
12 and duties.

13

14 (g) No member, officer or agent of the corporation
15 shall be subject to personal liability on any securities,
16 ancillary facilities or other debts or obligations of the
17 corporation or for any acts or omissions as members,
18 officers or agents in carrying out the powers and duties
19 conferred by this act.

20

21 (h) The corporation may be dissolved by act of the
22 legislature on condition that the corporation has no debts
23 or obligations outstanding or that provision has been made
24 for the payment or retirement of such debts or obligations

1 in accordance with their terms. Upon any such dissolution
2 of the corporation, all property, funds and assets thereof
3 shall be vested in the state. Prior to dissolution, the
4 corporation's income shall accrue to the benefit of the
5 state and to the extent that funds are available shall be
6 distributed to the state upon its request provided, the
7 corporation shall not make any distribution to the state
8 that would result in a violation of any obligation of the
9 corporation or render the corporation unable to meet its
10 obligations when due.

11

12 (j) The corporation shall submit an annual report in
13 the manner provided by W.S. 9-2-1014.

14

15 (k) The corporation shall submit its budget for
16 review as provided by W.S. 9-2-1010 through 9-2-1014. This
17 section shall not impair or affect any pledge of special
18 funds of the corporation to the payment of the revenue
19 bonds authorized by this act.

20

21 **9-4-1208. Sale agreement.**

22

23 (a) The state representative may sell to the
24 corporation, and the corporation may purchase all or a part

1 of the state's tobacco receipts, at one time or from time
2 to time, pursuant to one (1) or more sale agreements. Any
3 such sale agreement shall provide that the purchase price
4 payable by the corporation to the state for such TSRs shall
5 consist of the net proceeds of the securities issued to
6 finance such purchase price and the right to receive
7 residual interests, if any. Specifically, the state
8 representative shall negotiate any sales agreement to be
9 structured to anticipate the existence of unencumbered
10 tobacco revenues and make provisions for the release of
11 unencumbered tobacco revenues to the state. Any sale
12 agreement may contain terms and conditions deemed
13 appropriate by the state representative to carry out and
14 effectuate the purposes of this section, including
15 designation of the period of years with respect to which
16 the state's tobacco receipts are sold and due and covenants
17 binding the state in favor of the corporation and its
18 assignees, the owners of its securities and benefited
19 parties, including without limitation the state pledge and
20 agreement as set forth in W.S. 9-4-1213 and covenants
21 deemed appropriate by the state representative to establish
22 and maintain the security of the securities or ancillary
23 facilities and the exemption of interest on the securities
24 from federal income taxation. The attorney general shall

1 assist the state representative to effect the sale of the
2 state's tobacco receipts.

3

4 (b) Any sale agreement shall contain provisions for
5 the early redemption or defeasance under the governing
6 documents of any outstanding securities issued by the
7 corporation from funds appropriated by the legislature for
8 that purpose.

9

10 (c) Any transfer of all or any portion of the state's
11 tobacco receipts to the corporation pursuant to a sale
12 agreement shall constitute an absolute sale and assignment
13 of all of the state's right, title and interest in and to
14 the state's tobacco receipts so transferred and shall not
15 constitute the grant of a security interest in, or pledge
16 of, such state tobacco receipts to secure a borrowing. The
17 state shall have no right, title or interest in or to the
18 state tobacco receipts so transferred to the corporation,
19 and the state tobacco receipts so transferred shall be
20 property of the corporation and not of the state. The
21 state tobacco receipts so transferred shall not be subject
22 to garnishment, levy, execution, attachment or any other
23 process, writ or remedy in connection with the assertion or

1 enforcement of any debt, claim, settlement or judgment
2 against the state.

3

4 (d) On or before the effective date of any such sale,
5 the state through the attorney general, upon direction of
6 the corporation, shall notify the escrow agent under the
7 master settlement agreement that such TSRs have been sold
8 to the corporation and irrevocably instruct such escrow
9 agent that, as of and after such date, such TSRs are to be
10 paid directly to the corporation or the trustee for the
11 benefit of the owners of the securities of the corporation
12 and benefited parties that are secured by a pledge of
13 pledged tobacco revenues, until such securities and
14 ancillary facilities are no longer outstanding. Any
15 officer or agent of the state who shall receive any such
16 TSRs shall hold the same in trust for the corporation or
17 such trustee, as applicable, and shall promptly remit the
18 same to the corporation or such trustee, as applicable.

19

20 (e) The net proceeds of the securities paid to the
21 state for the TSRs and any earnings thereon shall never be
22 pledged to, nor made available for, payment of the
23 securities or any interest or redemption price thereon or
24 any other debt or obligation of the corporation. The net

1 proceeds of the securities shall be paid to or upon the
2 order of the state as directed by the state representative
3 and shall be distributed as follows:

4
5 (i) Sixty-nine and eight-tenths percent (69.8%)
6 to the school capital construction account established
7 under W.S. 21-15-111(a) (i);

8
9 (ii) Twenty-two and six-tenths percent (22.6%)
10 into the capital construction account to be expended as
11 provided by W.S. 9-4-604(k) (i);

12
13 (iii) Seven and six-tenths percent (7.6%) into
14 the capital construction account to be expended for the
15 purposes specified in W.S. 9-4-604(k) (ii).

16
17 **9-4-1209. Powers of the corporation.**

18
19 (a) The corporation shall have the power to:

20
21 (i) Sue and be sued;

22
23 (ii) Have a seal and alter the same at its
24 pleasure provided that a seal shall not be required to make

1 any securities, agreement or other document or instrument
2 of the corporation legal, valid, binding or in full force
3 and effect;

4

5 (iii) Make and alter bylaws for its organization
6 and internal management;

7

8 (iv) Make and execute contracts including
9 without limitation sale agreements, trust agreements, trust
10 indentures, bond purchase agreements, tax regulatory
11 agreements, continuing disclosure agreements, ancillary
12 facilities and all other instruments necessary or
13 convenient for the exercise of its powers and functions;

14

15 (v) Engage the services of financial advisors
16 and experts, placement agents, underwriters, accountants
17 and such other advisors, consultants, lawyers and agents as
18 may be necessary to effectuate the purposes of this act;

19

20 (vi) Pay its operating expenses, financing costs
21 and costs of issuance;

22

1 (vii) Borrow money in its name and issue
2 negotiable securities and provide for the rights of the
3 holders thereof;

4
5 (viii) Procure insurance against any loss in
6 connection with its activities, properties and assets in
7 such amount and from such insurers as it deems desirable;

8
9 (ix) Invest any funds or other monies under its
10 custody and control in investments that are legal
11 investments under the laws of the state or, notwithstanding
12 any law to the contrary, in any ancillary facility or in
13 obligations the interest on which is exempt from federal
14 income taxation under the code or shares or participation
15 interests in funds or trusts that invest solely in such
16 obligations, and may direct the trustee for any securities
17 to invest any funds or other monies held by the trustee in
18 any investments authorized or permitted in the corporation
19 resolution, trust agreement or trust indenture applicable
20 to such securities;

21
22 (x) Pledge all or any part of its revenues or
23 assets, including without limitation TSRs, as security for
24 the payment of the principal of and interest on any

1 securities issued by it pursuant to this act and any
2 agreements made in connection therewith and for its
3 obligations under any ancillary facility;

4

5 (xi) Procure insurance, letters of credit or
6 other credit enhancement with respect to securities issued
7 pursuant to this act, or facilities for the payment of
8 tenders of securities, or facilities for the payment upon
9 maturity of short-term securities;

10

11 (xii) Enter into any ancillary facility with any
12 person under such terms and conditions as the corporation
13 may determine, including without limitation provisions as
14 to default or early termination and indemnification by the
15 corporation or any benefited party for loss of benefits as
16 a result thereof;

17

18 (xiii) Procure insurance, letters of credit or
19 other credit enhancement with respect to any ancillary
20 facility described in this section;

21

22 (xiv) Provide security for the payment or
23 performance of its obligations with respect to any
24 ancillary facility from such sources and with the same

1 effect as is authorized by this act with respect to
2 security for securities;

3

4 (xv) Modify, amend or replace any existing, or
5 enter into a new, ancillary facility for the purpose of
6 reducing or eliminating a situation of risk or exposure
7 under an existing ancillary facility, including but not
8 limited to a counterparty downgrade, default or other
9 potential economic loss;

10

11 (xvi) Do any and all things necessary or
12 convenient to carry out its purposes and exercise the
13 powers expressly given and granted in this act.

14

15 **9-4-1210. Securities of the corporation.**

16

17 (a) The corporation shall have power and is hereby
18 authorized from time to time to issue securities in such
19 principal amount or amounts as the corporation shall
20 determine to be necessary to provide sufficient funds for
21 achieving its authorized purposes, consisting of the
22 purchase of all or a portion of the state's tobacco
23 receipts pursuant to W.S. 9-4-1208 and the payment of or
24 provision for financing costs.

1

2 (b) The issuance of securities shall be authorized by
3 resolution of the corporation. Securities, including
4 securities issued to refund securities, may be issued
5 without obtaining the consent of any department, division,
6 commission, board, bureau or agency of the state, and
7 without any other proceedings or the occurrence of any
8 other conditions other than those which are specifically
9 required by this act. Every issue of securities of the
10 corporation shall be special revenue obligations payable
11 from and secured by a pledge of pledged tobacco revenues
12 and other assets, including those proceeds of such
13 securities deposited in reserve funds for the benefit of
14 holders of securities, earnings on funds of the corporation
15 and such other funds as may become available, upon such
16 terms and conditions and as specified by the corporation in
17 the resolution under which the securities are issued or in
18 a related trust agreement or trust indenture.

19

20 (c) The corporation shall have the power and is
21 hereby authorized from time to time to issue securities,
22 whenever it deems refunding expedient, to refund any
23 securities by the issuance of new securities, whether the
24 securities to be refunded have or have not matured, and to

1 issue securities partly to refund securities then
2 outstanding and partly for any of its other authorized
3 purposes. The refunding securities may be exchanged for
4 the securities to be refunded or sold and the proceeds
5 applied to the purchase, redemption or payment of such
6 securities.

7
8 (d) The securities of the corporation of each issue
9 shall be dated, shall bear interest at such fixed or
10 variable rates, payable at or prior to maturity, shall be
11 subject to such terms of redemption, prepayment or tender,
12 and shall mature at such time or times, as may be
13 determined by the corporation. The principal and interest
14 of such securities may be made payable in any lawful
15 medium. The corporation shall determine the form of the
16 securities, either coupon, registered or book entry form,
17 and the manner of execution of the securities and shall fix
18 the denomination or denominations of the securities and the
19 place or places of payment of principal and interest
20 thereof. If any officer whose signature or a facsimile
21 thereof appears on any securities or coupons shall cease to
22 be such officer before the delivery of such securities,
23 such signature or facsimile shall nevertheless be valid and
24 sufficient for all purposes as if he had remained in office

1 until such delivery. The securities may be issued in
2 coupon or in registered form or both, as the corporation
3 may determine, and provisions may be made for the
4 registration of any coupon securities as to principal alone
5 and as to both principal and interest and for the
6 reconversion of any securities registered as to both
7 principal and interest into coupon securities. The
8 corporation may also provide for temporary securities and
9 for the replacement of any security that shall become
10 mutilated or shall be destroyed or lost.

11

12 (e) The corporation may sell such securities, either
13 at public or private sale on a negotiated basis, in such
14 manner and at such price or prices, as the corporation may
15 determine. The proceeds of such securities shall be
16 disbursed for the purposes for which such securities were
17 issued as the laws of the state, including this act, the
18 sale agreement and the resolution authorizing the issuance
19 of such securities or the related trust agreement or trust
20 indenture may provide.

21

22 (f) Any pledge made by the corporation shall be valid
23 and binding from and after the time the pledge is made.
24 The revenues or other assets so pledged or earnings on the

1 investment thereof shall immediately be subject to the lien
2 of such pledge without any physical delivery thereof or
3 further act, and the lien of any such pledge shall be valid
4 and binding as against all parties having claims of any
5 kind in tort, contract or otherwise against the
6 corporation, irrespective of whether such parties have
7 notice thereof. Notwithstanding any other provision of law
8 to the contrary, neither the resolution nor any trust
9 agreement or trust indenture or ancillary facility or other
10 instrument by which a pledge is created or by which the
11 corporation's interest in pledged tobacco revenues or other
12 assets or earnings thereon is pledged or assigned need be
13 filed or recorded in any public records in order to protect
14 the pledge thereof or perfect the lien thereof as against
15 third parties. Uniform Commercial Code-Secured Transactions
16 shall not apply to any pledge made by the corporation.

17

18 (g) Notwithstanding the provisions of any law to the
19 contrary, any securities issued pursuant to this act shall
20 be fully negotiable, and each holder or owner of such a
21 security or other obligation, or of any coupon appurtenant
22 thereto, by accepting the security or coupon shall be
23 conclusively deemed to have agreed that the security or
24 coupon is and shall be fully negotiable, subject only to

1 any applicable provisions of the securities for
2 registration.

3

4 (h) In the discretion of the corporation, any
5 securities issued by the corporation and any ancillary
6 facility may be secured by a trust agreement or trust
7 indenture by and between the corporation and the trustee
8 thereunder. Such trust agreement or trust indenture or
9 resolution providing for the issuance of such securities
10 may provide for the creation and maintenance of such
11 accounts and reserves as the corporation shall determine to
12 be proper and may include covenants setting forth the
13 duties of the corporation in relation to the securities,
14 the income to the corporation, the related sale agreement
15 with respect to the sale of the state's tobacco receipts
16 and the pledged tobacco revenues. Such trust agreement or
17 trust indenture or resolution may contain provisions
18 respecting the custody, safeguarding and application of all
19 monies and securities and may contain such provisions for
20 protecting and enforcing the rights and remedies, pursuant
21 thereto and to the sale agreement, of the owners of the
22 securities and benefited parties as the corporation may
23 determine to be necessary or appropriate. It shall be
24 lawful for any bank or trust company incorporated under the

1 laws of the state which may act as depository of the
2 proceeds of securities or of any other funds or obligations
3 received on behalf of the corporation to furnish such
4 indemnifying bonds or to pledge such obligations as may be
5 required by the corporation. Any such trust agreement or
6 trust indenture or resolution may contain such other
7 provisions as the corporation may deem reasonable and
8 proper for priorities and subordination among the owners of
9 the securities and other benefited parties. Any reference
10 in this act to a resolution of the corporation shall
11 include any trust agreement or trust indenture authorized
12 thereby.

13

14 (j) The corporation may enter into, amend or
15 terminate, as it determines to be necessary or appropriate,
16 any ancillary facilities:

17

18 (i) To facilitate the issuance, sale, resale,
19 purchase, repurchase or payment of securities; or

20

21 (ii) To attempt to hedge risk or achieve a
22 desirable effective interest rate, interest rate mode or
23 cash flow.

24

1 (k) The determination of the corporation that an
2 ancillary facility or the amendment or termination thereof
3 is necessary or appropriate shall be conclusive. Such
4 ancillary facility shall be made upon the terms and
5 conditions established by the corporation, including
6 without limitation provisions as to security, default,
7 termination, payment, remedy and consent to service of
8 process.

9

10 (m) Securities and ancillary facilities may contain a
11 recital that they are issued pursuant to this act, which
12 recital shall be conclusive evidence of their validity and
13 the regularity of the proceedings relating thereto.

14

15 (n) The use and application of the proceeds of any
16 sale of the state's tobacco receipts or securities of the
17 corporation shall not in any way affect the legality or
18 validity of that sale or those securities.

19

20 **9-4-1211. State not liable on securities or any**
21 **ancillary facility.**

22

23 The issuance of securities under the provisions of this act
24 shall not directly or indirectly or contingently obligate

1 the state or any political subdivision thereof to pay any
2 amounts to the corporation or holder of any securities or
3 benefited party of any ancillary facility, or levy or
4 pledge any form of taxation whatsoever. The securities and
5 any ancillary facility shall not be a debt or liability of
6 the state or any agency or instrumentality thereof other
7 than the corporation as set forth in this act, either
8 legal, moral or otherwise, and nothing contained in this
9 act shall be construed to authorize the corporation to
10 incur any indebtedness on behalf of or in any way to
11 obligate the state or any political subdivision thereof,
12 and the securities and any ancillary facility shall contain
13 on the face thereof or other prominent place thereon a
14 statement to the foregoing effect.

15

16 **9-4-1212. Exemption from taxation.**

17

18 (a) It is hereby determined that the creation of the
19 corporation and the carrying out of its authorized purposes
20 is in all respects a public and governmental purpose for
21 the benefit of the people of the state and for the
22 improvement of their health, safety, welfare, comfort and
23 security, and that those purposes are public purposes and
24 that the corporation will be performing an essential

1 governmental function in the exercise of the powers
2 conferred upon it by this act.

3

4 (b) The property of the corporation and its assets,
5 income and operations shall be exempt from all taxation by
6 the state or by its political subdivisions.

7

8 (c) The securities of the corporation and the
9 interest thereon shall be exempt from all taxation by the
10 state or by its political subdivisions.

11

12 (d) The corporation, state or any political
13 subdivision of the state receiving net proceeds is
14 authorized to execute a tax regulatory agreement to assure
15 securities issued by the corporation are exempt from
16 federal income tax.

17

18 **9-4-1213. Agreement of state.**

19

20 (a) The state hereby pledges and agrees with the
21 corporation, and the owners of the securities of the
22 corporation and benefited parties, that until all
23 securities and ancillary facilities, together with the
24 interest thereon and all costs and expenses in connection

1 with any action or proceedings by or on behalf of holders
2 of securities or benefited parties, are fully paid and
3 discharged, the state will:

4

5 (i) Irrevocably direct through the attorney
6 general the escrow agent under the master settlement
7 agreement to transfer directly to the corporation or its
8 trustee assignee the TSRs;

9

10 (ii) Enforce the state's and the corporation's
11 rights to receive the TSRs under the terms of the master
12 settlement agreement;

13

14 (iii) Not amend the master settlement agreement
15 in any manner that would materially impair the rights of
16 the owners of the corporation's securities or of the
17 benefited parties;

18

19 (iv) Not limit or alter the rights of the
20 corporation to fulfill the terms of its agreements with
21 such owners or with the benefited parties;

22

23 (v) Not in any way impair the rights of the
24 corporation to receive TSRs or the rights and remedies of

1 such owners or of the benefited parties or the security for
2 such securities or ancillary facilities;

3

4 (vi) Diligently enforce the qualifying statute;

5

6 (vii) Not amend, supersede or repeal the
7 qualifying statute or this act in any way that would
8 materially adversely affect the amount of any payment to,
9 or materially impair the rights of, the corporation, such
10 owners or the benefited parties, provided, that nothing
11 herein shall be construed to preclude the state's
12 regulation of smoking or taxation and regulation of the
13 sale of cigarettes or enforcement of the master settlement
14 agreement. The state representative is authorized and
15 directed to include this pledge and agreement in sale
16 agreements and the corporation is authorized and directed
17 to include this pledge and agreement in any contract with
18 the holders of securities of the corporation and with the
19 benefited parties.

20

21 (b) The corporation shall have no authority to file a
22 voluntary petition under the United States bankruptcy code
23 or any successor thereto, and no governmental officer,
24 organization, entity or other person shall authorize the

1 corporation to be such a debtor. The state hereby
2 covenants with the owners of the securities of the
3 corporation and benefited parties that the state will not
4 limit or alter the bankruptcy prohibition prior to the date
5 that is one (1) year and one (1) day after the corporation
6 no longer has any securities or ancillary facilities
7 outstanding. The corporation is authorized and directed to
8 include this covenant as an agreement of the state in any
9 contract with the holders of securities of the corporation
10 and benefited parties.

11

12 **9-4-1214. Securities as legal investments.**

13

14 Notwithstanding any restriction contained in any other law,
15 rule, regulation or order to the contrary, the state and
16 all political subdivisions of the state, their officers,
17 boards, commissioners, departments or other agencies, all
18 banks, bankers, trust companies, savings banks and
19 institutions, building and loan associations, saving and
20 loan associations, investment companies and other persons
21 carrying on a banking or investment business, and all
22 executors, administrators, guardians, trustees and other
23 fiduciaries, and all other persons whatsoever who now are
24 or may hereafter be authorized to invest in bonds or other

1 obligations of the state, may properly and legally invest
2 any sinking funds, monies or other funds, including
3 capital, belonging to them or within their control, in any
4 securities issued by the corporation; and said securities
5 are hereby made securities which may properly and legally
6 be deposited with, and received by, any state municipal
7 officers or agency of the state, for any purpose for which
8 the deposit of bonds or other obligations of the state is
9 now, or may hereafter be, authorized by law.

10

11 **9-4-1215. Preference for actions or proceedings**
12 **against the corporation.**

13

14 Any action or proceeding to which the corporation may be a
15 party, in which any question arises as to the validity of
16 this act or any matter authorized by this act, shall have
17 precedence in any court over other pending civil cases,
18 except election cases, and shall in every way be expedited.

19

20 **9-4-1216. Construction.**

21

22 This act and all powers granted hereby shall be liberally
23 construed to effectuate its intent and their purposes,
24 without implied limitations thereon. This act shall

1 constitute full and complete authority for all things
2 herein contemplated to be done and compliance with any
3 other law or regulation shall not be required for the sale
4 of the state's tobacco receipts, the sale and issuance of
5 securities by the corporation, entering into ancillary
6 facilities and other agreements or other matters authorized
7 by this act. All rights and powers herein granted shall be
8 cumulative with those derived from other sources and shall
9 not, except as expressly stated herein, be construed in
10 limitation thereof. Insofar as the provisions of this act
11 are inconsistent with the provisions of any other act,
12 general or special, the provisions of this act shall be
13 controlling.

14

15 **Section 2.** W.S. 9-4-204(n), 9-4-713 by creating a new
16 subsection (k), 9-4-1203(b) and (d), 9-4-601(a)(vi), (vii),
17 (b)(i)(intro), (A), (iv)(A) and (B) and 39-14-801(d)(ix)
18 are amended to read:

19

20 **9-4-204. Funds established; use thereof.**

21

22 (n) The permanent Wyoming mineral trust fund is to be
23 used to account for the proceeds from an excise tax levied
24 by constitutional or statutory law, on the privilege of

1 extracting or severing minerals designated by
2 constitutional or statutory law;—

3

4 (i) The proceeds of the fund are inviolate and
5 constitute a permanent or perpetual trust fund which shall
6 be invested, or loaned to political subdivisions of the
7 state, only as the legislature directs. All income from the
8 fund including income from the separate account established
9 pursuant to paragraph (ii) of this subsection shall be
10 deposited annually in the general fund;—

11

12 (ii) Funds deposited into the permanent Wyoming
13 mineral trust fund pursuant to W.S. 9-4-601(a)(vi) and
14 (vii), (b)(i) and (iv), 9-4-1203(b) and 39-14-801(d)(ix)
15 shall be deposited into a separate account within the fund,
16 and invested and accounted for separately from other monies
17 of the fund. Upon deposit into the general fund of income
18 earned from funds deposited pursuant to this paragraph, the
19 state treasurer shall transfer from the general fund to the
20 tobacco trust income account created by W.S. 9-4-1203(b) an
21 identical amount. Any reference in law to the permanent
22 Wyoming mineral trust fund shall not be interpreted to
23 include monies within the account established pursuant to

1 this paragraph unless specific reference is made to this
2 paragraph.

3

4 **9-4-713. Investment earnings spending policy -**
5 **permanent funds.**

6

7 (k) Funds deposited in the permanent Wyoming mineral
8 trust fund and accounted for separately within that fund
9 pursuant to W.S. 9-4-204(n)(ii) shall not be considered in
10 calculating the corpus of the fund, earnings or spending
11 policy amounts for purposes of this section.

12

13 **9-4-1203. Tobacco settlement trust fund established;**
14 **corpus inviolate; investment by state treasurer.**

15

16 (b) Funds deposited into the Wyoming tobacco
17 settlement trust fund established pursuant to subsection
18 (a) of this section ~~are intended to be inviolate and~~
19 ~~constitute a permanent or perpetual trust fund which shall~~
20 ~~be invested by the state treasurer as authorized by law and~~
21 ~~in a manner to obtain the highest return possible~~
22 ~~consistent with preservation of the corpus. Any earnings~~
23 ~~from investment of the corpus of the trust fund and shall,~~
24 on July 1, 2003, be deposited into the permanent Wyoming

1 mineral trust fund account created by W.S. 9-4-204(n) (ii).
2 Subject to the provisions of the Tobacco Securitization
3 Act, all funds received by the state of Wyoming ~~on or after~~
4 from March 15, 2002 through June 30, 2003 and on or after
5 July 1, 2006, as financial recovery under the terms of the
6 master settlement agreement specified in paragraph (a)(i)
7 of this section shall be credited by the state treasurer
8 into a separate trust fund income account within the
9 earmarked revenue fund. On and after July 1, 2003, through
10 June 30, 2006 any of the specified funds received by the
11 state shall be deposited as follows:

12
13 (i) Sixty-nine and eight-tenths percent (69.8%)
14 into the school capital construction account established
15 under W.S. 21-15-111(a) (i);

16
17 (ii) Twenty-two and six-tenths percent (22.6%)
18 into the capital construction account to be expended as
19 provided by W.S. 9-4-604(k) (i) or to fund bonds the
20 proceeds of which will be used under W.S. 9-4-604(g);

21
22 (iii) Seven and six-tenths percent (7.6%) into
23 the capital construction account to be expended for the
24 purposes specified in W.S. 9-4-604(k) (ii).

1

2 (d) Funds not otherwise appropriated, expended or
3 obligated as provided in subsection (c) of this section
4 shall be transferred to the ~~tobacco settlement trust fund~~
5 permanent Wyoming mineral trust fund account created by
6 W.S. 9-4-204(n)(ii) on July 1 of each year following the
7 receipt of those funds.

8

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

11

12 (a) All monies received by the state of Wyoming from
13 the secretary of the treasury of the United States under
14 the provisions of the act of congress of February 25, 1920
15 (41 Stat. 437, 450; 30 U.S.C. §§ 181, 191), as amended, or
16 from lessees or authorized mine operators and all monies
17 received by the state from its sale of production from
18 federal mineral leases subject to the act of congress of
19 February 25, 1920 (41 Stat. 437, 450; 30 U.S.C. §§ 181,
20 191) as amended, except as provided by subsection (b) of
21 this section, shall be deposited in the trust and agency
22 fund and the first two hundred million dollars
23 (\$200,000,000.00) of revenues received in any fiscal year
24 shall be distributed by the state treasurer as provided in

1 this subsection. One percent (1%) of these revenues shall
2 be credited to the general fund as an administrative fee,
3 and the remainder shall be distributed as follows:

4
5 (vi) Except as provided in subsection (e) of
6 this section, three and seventy-five hundredths percent
7 (3.75%) to the permanent Wyoming mineral trust fund from
8 July 1, 2003 through June 30, 2006 and thereafter to the
9 capital construction account to be expended as provided by
10 W.S. 9-4-604(k)(i) or to fund bonds the proceeds of which
11 will be used under W.S. 9-4-604(g) and one and twenty-five
12 hundredths percent (1.25%) to the highway fund;

13
14 (vii) Two and seven-tenths percent (2.7%) to the
15 permanent Wyoming mineral trust fund from July 1, 2003
16 through June 30, 2006 and thereafter to the public school
17 capital construction account created by W.S.
18 21-15-111(a)(i);

19
20 (b) The state treasurer shall ascertain and withhold
21 all bonus payments received from the federal government
22 attributable to coal, oil shale or geothermal leases of
23 federal land within Wyoming and shall distribute it as
24 follows:

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10 21-15-111(a)(i):

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(i) Fifty percent (50%), the first seven million five hundred thousand dollars (\$7,500,000.00) of which shall be distributed as follows, but any amount in excess of seven million five hundred thousand dollars (\$7,500,000.00) per year shall be deposited into the permanent Wyoming mineral trust fund from July 1, 2003 through June 30, 2006 and thereafter to the school capital construction account established under W.S. 21-15-111(a)(i):

(A) Three-fourths (3/4) shall be credited to the permanent Wyoming mineral trust fund from July 1, 2003 through June 30, 2006. Thereafter three-fourths (3/4) shall be credited to the capital construction account for the purposes specified in W.S. 9-4-604(k)(i) or to fund bonds the proceeds of which will be used under W.S. 9-4-604(g);

(iv) For the fiscal year commencing July 1, 1994, and for each fiscal year thereafter:

(A) Ten percent (10%) but not to exceed one million six hundred thousand dollars (\$1,600,000.00) per

1 year, to an earmarked revenue fund account which may be
2 expended by the community college commission in accordance
3 with and in addition to appropriations available under W.S.
4 21-18-205(c). Any amount in excess of one million six
5 hundred thousand dollars (\$1,600,000.00) together with any
6 unexpended revenues within the account at the end of any
7 biennial budget period shall be credited to the permanent
8 Wyoming mineral trust fund from July 1, 2003 through June
9 30, 2006, and thereafter to the school capital construction
10 account established under W.S. 21-15-111(a)(i);

11

12 (B) Forty percent (40%) to the permanent
13 Wyoming mineral trust fund from July 1, 2003 through June
14 30, 2006, and thereafter to the school capital construction
15 account established under W.S. 21-15-111(a)(i).

16

17 **39-14-801. Severance tax distributions; distribution**
18 **account created; formula.**

19

20 (d) Deposits into the account created by subsection
21 (a) of this section shall be distributed as follows,
22 subject to subsections (b) and (c) of this section:

23

24 (ix) ~~To the capital construction account,~~ From

1 July 1, 2003 through June 30, 2006, two and eighty-three
2 hundredths percent (2.83%) to the permanent Wyoming mineral
3 trust fund. Thereafter, two and eighty-three hundredths
4 percent (2.83%) to the capital construction account, to be
5 expended for the purposes specified in W.S. 9-4-604(k)(ii).

6

7 **Section 3.** W.S. 9-4-1203(a) is repealed.

8

9 **Section 4.** Section 3 of this act is effective July 1,
10 2003. The balance of this act is effective immediately
11 upon completion of all acts necessary for a bill to become
12 law as provided by Article 4, Section 8 of the Wyoming
13 Constitution.

14

15

(END)