

SENATE FILE NO. SF0009

Revenue bonds for agricultural endeavors.

Sponsored by: Joint Agriculture, State and Public Lands &  
Water Resources Interim Committee

A BILL

for

1 AN ACT relating to revenue bonds; authorizing the Wyoming  
2 business council to issue revenue bonds as specified for  
3 agriculture processing projects; specifying that municipal,  
4 county and joint powers board industrial development  
5 projects and purposes include agricultural and  
6 agricultural-related projects; limiting bond eligibility;  
7 requiring rulemaking; and providing for effective dates.

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

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11 **Section 1.** W.S. 9-12-109(b) by creating a new  
12 paragraph (vi) and by creating new subsections (e) through  
13 (n), 15-1-701(a)(ii) and (b) and 15-1-702 by creating a new  
14 subsection (d) are amended to read:

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1           **9-12-109. Promotion of agriculture; financing of**  
2 **agriculture processing projects; revenue bonds.**

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4           (b) The council shall meet not fewer than two (2)  
5 times per year to solicit input from industry groups, the  
6 department of agriculture and the Wyoming governor's office  
7 to:

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9           (vi) Issue and have outstanding bonds to  
10 finance, construct, develop, maintain or operate  
11 agriculture processing projects for international, in-state  
12 and interstate sales, which bonds shall not exceed per  
13 project an amount of fifty million dollars  
14 (\$50,000,000.00). The principal amount of any bonds that  
15 have been retired, redeemed, defeased or refunded by the  
16 council need not be taken into account in computing  
17 compliance with the maximum amounts of bonds authorized to  
18 be issued under this paragraph. The exercise of the powers  
19 granted by this paragraph constitutes the performance of an  
20 essential governmental function. Any bonds issued under  
21 this paragraph and the income therefrom shall be free from  
22 taxation of every kind by the state, municipalities and  
23 political subdivisions of the state. Revenue bonds under

1 this paragraph shall be issued according to subsections (e)  
2 through (n) of this section.

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4 (e) In addition to the powers otherwise granted to  
5 the council and subject to the limits under paragraph  
6 (b)(vi) of this section, the council may issue bonds in  
7 principal amounts the council determines necessary to  
8 provide sufficient funds for achieving its purposes under  
9 paragraph (b)(vi) of this section, including the reduction  
10 of principal, the payment of interest, the establishment of  
11 reserves, the costs of administration and for the purpose  
12 of defraying all other associated costs. The council may  
13 enter into contracts to insure the payment of principal and  
14 interest, for interest rate exchange contracts and for  
15 financial guarantees to lower the cost of its borrowing.  
16 All bonds issued under this subsection:

17  
18 (i) Are negotiable instruments under the laws of  
19 this state unless expressly provided to the contrary on the  
20 face of the bonds;

21  
22 (ii) Are payable solely out of special funds  
23 consisting of all or part of the council's revenues,

1 receipts, monies and assets, as designated in the  
2 proceedings under which the bonds are authorized;

3  
4 (iii) Shall bear interest at fixed or variable  
5 rates, be executed and delivered at times and in  
6 denominations, be of terms and maturities, be in registered  
7 form as to principal and interest or principal alone, and  
8 bear manual or facsimile signatures and seals as the  
9 council determines;

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11 (iv) Are not general obligations of this state  
12 nor of any political subdivision of this state. The bonds  
13 shall solely be the obligation of the council and shall  
14 recite on their face that they do not constitute  
15 obligations of the state or any political subdivisions of  
16 the state;

17  
18 (v) May be payable in installments and may bear  
19 maturities not exceeding forty (40) years from the date  
20 issued as the council determines;

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1           (vi) Together with interest may be payable at a  
2 time or place whether within or outside the state, as the  
3 council determines;

4  
5           (vii) May contain an option to redeem all or any  
6 part as may be specified. The price of redemption, the  
7 terms and conditions and the procedure of notice shall be  
8 set forth by the council and may appear on the face of the  
9 bonds;

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11           (viii) May be sold at, above or below par value,  
12 at public or private sale, in a manner and from time to  
13 time as determined by the council. The council may pay  
14 legal fees, expenses, premiums and commissions that it  
15 finds necessary or advantageous to this state in connection  
16 with the issuance and sale;

17  
18           (ix) Are legal investments that may be used as  
19 collateral for public funds of the state, insurance  
20 companies, banks, savings and loan associations, investment  
21 companies, trustees and other fiduciaries that may properly  
22 and legally invest funds in their control or belonging to  
23 them in bonds of the council;

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(x) May contain other provisions not inconsistent with this subsection.

(f) The principal and interest on any revenue bonds that the council issues shall be secured by a pledge of revenues from the operation of the agriculture processing project financed, by a first mortgage on the facilities, by guarantees and pledges of the entity owning the project, or of the parent corporation owning the entity, or by any combination thereof or other security as the council may determine to be reasonable and prudent. The guarantees and pledges shall be no less favorable to the council than those granted other lenders of the same class. The council may require additional payments, as negotiated, to bondholders to be made either in a lump sum at the time of retirement of the bonds or annually from the time of retirement of the bonds until project use is terminated or may require additional incentives from the owner of the project to prospective bondholders so long as the incentives are not contrary to the Wyoming constitution. The council may require such other security for repayment of the bonds as it deems necessary.

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2       (g) Each pledge, agreement, mortgage or other  
3 instrument made for the benefit or security of any revenue  
4 bonds of the council is valid and binding from the time  
5 when made. The revenues, receipts, monies and assets  
6 pledged are immediately subject to the lien of the pledge  
7 without delivery or further act. The lien is valid and  
8 binding against persons having claims of any kind against  
9 the council whether or not the persons have actual notice  
10 of the lien. The resolution or the indenture or other  
11 instrument by which a pledge is created need not be  
12 recorded or filed.

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14       (h) The state pledges to the holders of any revenue  
15 bonds issued under subsection (e) of this section that the  
16 state will not limit or alter the rights vested in the  
17 council to fulfill the terms of agreements made with the  
18 holders, or in any way impair the rights and remedies of  
19 the holders until the bonds together with the interest,  
20 with interest on any unpaid installments of interest and  
21 all costs and expenses in connection with any action or  
22 proceeding by or on behalf of the holders are fully met and  
23 discharged. The council is authorized to include this

1 pledge of the state in any agreement with the holders of  
2 the bonds.

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4 (j) In addition to the powers otherwise granted to  
5 the council, in relation to revenue bonds under subsection  
6 (e) of this section, the council shall have the power to:

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8 (i) Provide for the issuance of bonds to refund  
9 any bonds of the council then outstanding, including for  
10 the payment of any redemption premium and any interest or  
11 premium accrued or to accrue to, the earliest or subsequent  
12 date of redemption, purchase or maturity of the bonds;

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14 (ii) Acquire, purchase, make prepayments for,  
15 finance, hold, use, lease, license, sell, transfer and  
16 dispose of an undivided or other interest in any  
17 agriculture processing project within or without the state  
18 of Wyoming to facilitate the financing, construction,  
19 development, maintenance or operation of agriculture  
20 processing projects in this state;

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1           (iii) Enter into loan or other agreements with  
2 respect to one (1) or more agriculture processing projects  
3 upon terms and conditions the council considers advisable;

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5           (iv) Make and execute agreements, contracts and  
6 other instruments necessary or convenient in the exercise  
7 of its powers and functions, including contracts with any  
8 individual, firm, corporation, governmental agency or other  
9 entity.

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11           (k) The council may assess and collect fees that are  
12 nonrefundable from applicants seeking to obtain council  
13 financing of an agriculture processing project in total  
14 amounts not to exceed fifty thousand dollars (\$50,000.00),  
15 which shall be credited to the state general fund. The  
16 council shall require that any entity receiving financing  
17 under subsection (e) of this section shall:

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19           (i) Be headquartered in Wyoming and organized  
20 under the laws of the state of Wyoming;

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22           (ii) Fall within the United States small  
23 business administration small business size standards for

1 its industry classification code, effective August 19,  
2 2019;

3  
4 (iii) Maintain records and accounts relating to  
5 the receipt and disbursements of loan proceeds and make the  
6 records available to the state auditor for inspection.

7  
8 (m) The council shall maintain such records and  
9 accounts of revenues and expenditures in relation to  
10 revenue bonds under subsection (e) of this section as  
11 required by the director of the state department of audit.  
12 The director of the state department of audit shall conduct  
13 an annual financial and legal compliance audit of the  
14 accounts of the council and file copies of the audit with  
15 the governor and the legislature.

16  
17 (n) The sole recourse of any party contracting with  
18 the council in relation to revenue bonds under subsection  
19 (e) of this section shall be against the council, and there  
20 shall be no cause of action against the state, or any  
21 county, municipality or other political subdivision of the  
22 state.

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1           15-1-701. Definitions; vesting of powers and  
2 privileges.

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4           (a) As used in this article:

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6                   (ii) "Project" means any land, building,  
7 pollution control facility or other improvement and all  
8 necessary and appurtenant real and personal properties,  
9 whether or not in existence, suitable for manufacturing,  
10 industrial, commercial or business enterprises, ~~or~~ for  
11 health care facilities or for manufacturing, processing or  
12 assembling agricultural or agricultural-related products.

13 ~~Project~~ "Project" may also mean an undivided interest as a  
14 tenant in common in an electrical generating facility or in  
15 pollution control facilities in connection therewith.

16 ~~Project~~ "Project" may also mean an energy improvements  
17 program;

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19           (b) In order to facilitate and promote the local  
20 health and general welfare, the sound economic growth of  
21 the state of Wyoming, the development of its natural  
22 resources, the protection of its natural environment, the  
23 expansion of agricultural and agricultural-related

1 industries, the provision of health care services, energy  
2 improvements and to promote employment opportunities for  
3 the citizens of Wyoming by creating or encouraging the  
4 expansion of manufacturing, industrial plants, processing  
5 facilities and all kinds of business, which contribute  
6 payrolls and tax base to the state of Wyoming, and by  
7 attracting to and encouraging the location or the expansion  
8 within this state of such plants, facilities and  
9 businesses, all of which are hereby declared to be and  
10 constitute public purposes, the counties and municipalities  
11 of the state of Wyoming are vested with the powers and  
12 privileges hereafter set forth in this article.

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14 **15-1-702. Powers of municipalities and counties;**  
15 **limitations.**

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17 (d) When issued for agricultural and  
18 agricultural-related projects, a municipality, county or  
19 joint powers board shall only issue bonds under this  
20 article to an entity that:

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22 (i) Is headquartered in Wyoming and organized  
23 under the laws of the state of Wyoming; and

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**Section 2.**

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(ii) Falls within the United States small business administration small business size standards for its industry classification code, effective August 19, 2019.

(a) The Wyoming business council shall promulgate rules as necessary to implement this act.

(b) Municipalities, counties or joint powers boards shall amend any rules or regulations as necessary to implement this act.

1           **Section 3.**

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3           (a) Except as provided in subsection (b) of this  
4 section, this act is effective July 1, 2022.

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6           (b) Sections 2 and 3 of this act are effective  
7 immediately upon completion of all acts necessary for a  
8 bill to become law as provided by Article 4, Section 8 of  
9 the Wyoming Constitution.

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(END)