

SENATE FILE NO. SF0035

Tolling authority for I-80.

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

A BILL

for

1 AN ACT relating to highways; granting powers to the
2 transportation commission; defining duties of the
3 transportation commission and the department of
4 transportation; granting tolling authority for interstate
5 80; creating a program for the planning and implementation
6 of tolling on interstate 80; providing for the review of
7 tolling plans; creating accounts; specifying the allowable
8 deposits and withdrawals from the accounts; granting
9 bonding authority; requiring accounting and reporting;
10 authorizing loans from the state highway fund; providing
11 rulemaking authority; authorizing alternative design and
12 construction methods; allowing assistance between state
13 agencies; and providing for an effective date.

14

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

16

1 **Section 1.** W.S. 24-16-101 through 24-16-117 are
2 created to read:

3

4

CHAPTER 16

5

INTERSTATE 80 TOLLING

6

7

24-16-101. Purpose.

8

9 In order to finance, construct, operate and maintain
10 interstate 80 and accommodate the needs of the traveling
11 public through safe, efficient, convenient and modern
12 vehicular traffic, it is necessary and in the public
13 interest to provide for the financing, construction,
14 operation, regulation and maintenance of interstate 80
15 under a tolled configuration. The tolled configuration
16 will allow interstate 80 to be maintained and to be
17 operated in a way that will reduce increasing traffic
18 congestion, delays, hazards, injuries and fatalities. For
19 this purpose, it is necessary to authorize the Wyoming
20 transportation commission, with legislative approval, to
21 create and supervise a tolling program within the
22 department of transportation to impose tolls and exercise
23 other powers regarding interstate 80 that are necessary,
24 equitable and appropriate to carry out these purposes.

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24-16-102. Definitions.

(a) As used in this act:

(i) "Alternative design and construction delivery methods" means design and construction services as defined in W.S. 16-6-701;

(ii) "Bond" means notes, warrants, bonds and temporary bonds issued under this act;

(iii) "Chief engineer" means the person appointed by the director of the department of transportation in accordance with W.S. 24-2-106;

(iv) "Commission" means the Wyoming transportation commission;

(v) "Construct" or "construction" means the planning, designing, engineering, right-of-way acquisition, installation, construction or reconstruction of interstate 80;

1 (vi) "Department" means the department of
2 transportation;

3
4 (vii) "Director" means the director of the
5 department of transportation;

6
7 (viii) "Interstate 80" and "interstate 80
8 corridor" means the entire length of interstate 80 in
9 Wyoming, or as specifically designated in the project
10 master plan;

11
12 (ix) "Local government" means a municipal or
13 county government;

14
15 (x) "Project" means an existing highway or
16 additional lane capacity that is part of interstate 80 and
17 related highway improvements, maintenance and services and
18 all matters related to the imposition and collection of
19 tolls on interstate 80. As outlined by the commission and
20 the project master plan, this may include the planning,
21 financing, construction, operation and maintenance of a
22 comprehensive interstate 80 toll facility;

23

1 (xi) "Project master plan" means a comprehensive
2 plan for the project as required by this act and which must
3 be presented to the legislature for approval;

4
5 (xii) "Project phase" means a discrete portion
6 of the project that may be constructed, operated,
7 maintained or financed independently of other portions of
8 the project;

9
10 (xiii) "Special toll revenue account" and "STRA"
11 mean the account created for the deposit of funds from
12 tolling operations of the project and from which debt
13 issued for the project shall be repaid;

14
15 (xiv) "Toll" means compensation paid for the use
16 of interstate 80, or any part thereof, by vehicular or
17 other traffic;

18
19 (xv) "Tolling program chief" means the
20 administrator of the tolling program housed within the
21 department;

22
23 (xvi) "Toll revenues" means all revenues
24 generated by the project;

1

2 (xvii) "This act" means W.S. 24-16-101 through
3 24-16-117.

4

5 **24-16-103. Authority to toll.**

6

7 The department has authority to impose tolls on interstate
8 80 and take all other actions necessary for the project
9 pursuant to a project master plan which has been approved
10 by the legislature.

11

12 **24-16-104. Statewide tolling program creation.**

13

14 Upon approval of the project master plan by the
15 legislature, the director with the approval of the
16 commission may operate a statewide tolling program which
17 shall be limited to the project. The tolling program shall
18 operate as a division of the department and the director
19 shall, with the consent of the commission, appoint a
20 tolling program chief who shall possess qualifications as
21 may be established by the commission. The tolling program
22 chief shall oversee all aspects of the tolling program.

23

24 **24-16-105. Special toll revenue account (STRA).**

1

2 (a) There is created an account to be known as the
3 STRA. All toll revenues received from the project shall be
4 deposited into the STRA. All monies received pursuant to
5 the authority of the commission to issue bonds also shall
6 be deposited into the STRA. The STRA may contain separate
7 accounts for each project phase which shall consist of all
8 toll revenue collected from each respective phase of the
9 project and any monies from bonds issued for that phase.
10 The department may deposit or permit others to deposit
11 other monies into the STRA but in no event may revenues
12 from any tax otherwise available for general purposes be
13 deposited into the STRA. The entire STRA shall be pledged
14 only for the repayment of debt for the project or as
15 authorized under this act.

16

17 (b) All funds within the STRA shall be held in trust
18 by the state treasurer to be invested and reinvested
19 pursuant to W.S. 9-4-715(a), (d) and (e) in a manner to
20 obtain the highest return possible. Any interest or
21 revenues earned on the investment or deposit of monies in
22 the account shall remain in the account and shall not be
23 credited to the general fund. The state treasurer shall
24 invest funds, or withhold funds from investment, and comply

1 with all requirements of the internal revenue service and
2 the bond indenture, so as not to interfere with the bonding
3 provisions and bonding capacity granted in this act and to
4 insure that all bonds will remain tax free investments.

5

6 (c) The department shall prepare an annual accounting
7 of all funds deposited into the STRA and all other STRA
8 activity.

9

10 (d) The department may expend monies in the STRA to
11 pay for principal on bonds, as the bonds mature or are
12 redeemed prior to maturity, for the purchase of such bonds,
13 the payment of interest on such bonds or the payment of any
14 redemption premium required to be paid when the bonds are
15 redeemed prior to maturity. Unless the expenditure of such
16 monies would reduce the STRA to an amount less than the
17 amount which is pledged in the proceedings authorizing the
18 issuance of bonds secured by the STRA, monies in the STRA
19 may also be used to fund the administration, planning,
20 financing, construction, operation, maintenance or repair
21 of the project and for the acquisition of land within the
22 interstate 80 corridor required for the project. The
23 commission shall have exclusive authority to approve

1 budgets and the expenditure of monies from the STRA for the
2 project.

3

4 (e) Once the department has paid the costs of
5 constructing the project, including reasonable and prudent
6 contingencies, paid all debt service on all bonds issued to
7 finance the project and reimbursed the state highway fund
8 for any state highway fund monies transferred to the STRA
9 or tolling operating account under this act, plus interest,
10 the commission shall recommend to the legislature to adjust
11 toll rates on the project so that toll revenues are as
12 close as reasonably possible to the amount required for the
13 ongoing operation, maintenance and necessary replacement of
14 the project. If required under an approved project master
15 plan, the rate may be set by the legislature to generate
16 revenues necessary to fund any impact assistance program
17 available to local governments.

18

19 **24-16-106. Tolling operating account.**

20

21 (a) There is created an account to be known as the
22 tolling operating account. The commission may transfer
23 nonrestricted monies from the state highway fund to the
24 tolling operating account for use by the department in

1 defraying expenses incurred for the project prior to the
2 receipt of bond proceeds or toll revenues.

3

4 (b) When the department receives sufficient bond
5 proceeds or toll revenues in the STRA to implement, operate
6 and maintain the project on an annual basis, the department
7 may use excess revenue to reimburse the state highway fund
8 for monies deposited into the tolling operating account
9 together with interest.

10

11 **24-16-107. Toll highway project master plan; review.**

12

13 (a) The department shall develop a project master
14 plan for the project that describes, but is not limited to:

15

16 (i) The goals for the project;

17

18 (ii) The physical project description;

19

20 (iii) The construction phasing and estimated
21 capital costs;

22

23 (iv) The tolling approach and toll rate
24 structure;

1

2 (v) The operations and maintenance plans;

3

4 (vi) The toll revenue projections and financial
5 plans;

6

7 (vii) The recommended civil penalties for
8 failing to pay a toll when required or other violations of
9 tolling requirements, the proceeds of which shall be
10 applied to the operation of the project;

11

12 (viii) Identification of persons or entities
13 exempt from toll fees or toll requirements;

14

15 (ix) The option of establishing a program which
16 would provide impact assistance to local governments
17 negatively impacted by tolling on interstate 80, including
18 a detailed method for determining the assistance available
19 to each local government and the time for delivery of the
20 assistance;

21

22 (x) The extension of criminal and traffic
23 regulation laws to the project;

24

1 (xi) Plans for the provision of law enforcement
2 and courtesy patrols, if any, for the project;

3

4 (xii) An outreach program utilizing the
5 department's public consultative policy for public
6 outreach;

7

8 (xiii) Any other federally required information.

9

10 (b) Upon completion, the project master plan shall be
11 presented to the commission. If the project master plan is
12 approved by the commission it then shall be submitted to
13 the legislature for consideration. If approved by the
14 legislature, the plan shall be implemented.

15

16 **24-16-108. Powers and duties of the commission.**

17

18 (a) The commission shall have the following powers
19 and duties regarding the project:

20

21 (i) To advise the department;

22

23 (ii) To develop and present for approval the
24 project master plan as required by this act;

1

2 (iii) To issue bonds as authorized by this act;

3

4 (iv) To make recommendations to the legislature
5 for the establishment, increase or decrease of fees, tolls,
6 rates and charges related to the project;

7

8 (v) To establish, charge and collect fees and
9 charges for the use of other property of the project,
10 subject to an approved project master plan;

11

12 (vi) To acquire, hold title to and dispose of
13 real and personal property as necessary in the exercise of
14 its powers and the performance of its duties;

15

16 (vii) To acquire or cause to be acquired any and
17 all necessary rights-of-way as provided by W.S. 24-2-102
18 and 24-2-109;

19

20 (viii) To make and to enter into contracts or
21 agreements, including intergovernmental agreements or
22 agreements with private persons, necessary or incidental to
23 the exercise of its powers and the performance of its
24 duties;

1

2 (ix) To employ or contract for the services of
3 consultants for the rendering of professional, financial
4 and technical assistance and advice;

5

6 (x) To prepare or cause to be prepared the
7 project master plan and to make recommendations for
8 amendments to the project master plan;

9

10 (xi) To plan, acquire, construct, operate,
11 regulate and maintain the project;

12

13 (xii) To construct, maintain and operate
14 stations for the collection of tolls from the project as
15 required by an approved project master plan;

16

17 (xiii) To set and adopt, on an annual basis, a
18 budget for the project;

19

20 (xiv) To restrict specified vehicles from
21 driving in designated lanes within the project based on the
22 project master plan;

23

1 (xv) To contract for and accept any gifts or
2 grants or loans of funds or property or financial or other
3 aid in any form from the federal government or any agency
4 or instrumentality thereof, or from any other source;

5

6 (xvi) Upon the issuance of any bond authorized
7 by this act, to report to the state treasurer in such form
8 as the treasurer may require, the terms of all bonds
9 issued, including the maturity of the issuance and revenues
10 pledged for the issuance and prior issuances;

11

12 (xvii) To require that no later than September 1
13 of each year after the approval of the project master plan
14 by the legislature, the department present a report to the
15 joint transportation, highways and military affairs interim
16 committee and the joint appropriations interim committee.
17 The report shall include a summary of the project's
18 activities for the previous year, a statement of current
19 toll rates, a summary of the status of any current
20 construction or other development on the project, a
21 statement of the project's revenues and expenses, a summary
22 of the results of any evaluation of the project conducted
23 by the department and any recommendations for toll rate or
24 other modifications to the project master plan.

1

2 **24-16-109. Rulemaking authority.**

3

4 The commission and the department shall have the authority
5 to promulgate rules and regulations necessary for the
6 project and to carry out their obligations and duties under
7 this act.

8

9 **24-16-110. Bonds.**

10

11 (a) Subject to subsection (b) of this section, the
12 commission may issue bonds in principal amounts the
13 commission determines necessary to provide sufficient funds
14 for achieving the tasks required by the project master plan
15 and necessary for the project. All bonds issued under
16 this act are negotiable instruments under the laws of the
17 state unless expressly provided to the contrary on the face
18 of the bonds.

19

20 (b) The commission may issue and have outstanding
21 bonds in an aggregate amount not exceeding the amount
22 authorized in a legislatively approved project master plan.

23

1 (c) All proceeds from the sale of bonds shall be
2 deposited into the account created by W.S. 24-16-105.

3

4 (d) All bonds issued by the commission are payable
5 solely out of special funds consisting of all or part of
6 the account created by W.S. 24-16-105. Bond proceeds
7 shall be used only for the project as provided in the
8 project master plan. The bonds shall bear interest at the
9 rates, be executed and delivered at times and in
10 denominations, be of terms and maturities, be in bearer
11 form or in registered form as to principal and interest or
12 principal alone and bear manual or facsimile signatures and
13 seals as determined by the commission.

14

15 (e) Bonds may be payable in installments and may bear
16 maturities not exceeding forty-five (45) years from the
17 date issued as determined by the commission.

18

19 (f) As determined by the commission, bonds and
20 interest may be payable at a time or place whether within
21 or without the state. Bonds may contain other provisions
22 not inconsistent with this act.

23

1 (g) Any bonds issued by the commission may contain an
2 option to redeem all or any part as may be specified. The
3 price of redemption, the terms and conditions and the
4 procedure of notice shall be set forth in the proceedings
5 of the commission and may appear on the face of the bonds.

6

7 (h) Any bonds of the commission may be sold at, above
8 or below par value, at public or private sale, in a manner
9 and from time to time as determined by the commission. The
10 commission may pay legal fees, expenses, premiums and
11 commissions which it finds necessary or advantageous in
12 connection with the issuance and sale.

13

14 (j) Subject to the aggregate limits in subsection (b)
15 of this section, additional bonds for a particular purpose
16 may be issued provided the later issues shall recognize and
17 protect any prior pledge made for any prior issue.

18

19 (k) The commission may provide for the issuance of
20 its bonds to refund any bonds then outstanding, including
21 the payment of any redemption premium and any interest or
22 premium accrued or to accrue to, the earliest or subsequent
23 date of redemption, purchase or maturity of the bonds.
24 Refunding shall be accomplished in the manner prescribed by

1 W.S. 16-5-101 through 16-5-119 to the extent it is not
2 inconsistent with this act.

3

4 **24-16-111. Bonds; security therefor.**

5

6 (a) The principal and interest on any bonds issued by
7 the commission may be secured by a pledge of any revenues
8 authorized under this act for the applicable bonds. The
9 bondholders may not look to any general or other fund for
10 payment of the bonds except the revenues pledged therefor.
11 The bonds shall not constitute an indebtedness or a debt
12 within the meaning of any constitutional or statutory
13 provision or limitation. The bonds shall not be considered
14 or held to be general obligations of the state but shall
15 constitute its special obligations and the commission shall
16 not pledge the state's full faith and credit for payment of
17 the bonds.

18

19 (b) Each pledge, agreement or other instrument made
20 for the benefit or security of any bonds of the commission
21 is valid and binding from the time when made. The revenues
22 and other monies pledged are immediately subject to the
23 lien of the pledge without delivery or further act. The
24 lien is valid and binding against persons having claims of

1 any kind against the commission whether or not the persons
2 have actual notice of the lien. Neither the resolution nor
3 the indenture or other instrument by which a pledge is
4 created need be recorded or filed.

5

6 (c) The commission may provide in the proceedings
7 under which bonds are authorized that any part of the
8 project or project phase may be constructed, reconstructed
9 or improved by the commission or designee of the
10 commission, and may also provide for the time and manner of
11 and requisites for disbursements to be made for the cost of
12 construction and for all the certificates and approvals of
13 construction and disbursements as the commission considers
14 necessary.

15

16 (d) Any resolution or trust indenture under which
17 bonds of the commission are authorized may contain
18 provisions for vesting in a trustee the properties, rights,
19 powers and duties in trust as the commission determines.
20 This may include any or all of the rights, powers and
21 duties of the trustee appointed by the holders of any issue
22 of bonds pursuant to W.S. 24-16-115.

23

24 **24-16-112. Exemption from taxation.**

1

2 The exercise of the powers granted by this act constitutes
3 the performance of an essential governmental function. The
4 commission shall not be required to pay any taxes levied by
5 any municipality or political subdivision of the state.
6 The commission shall not be required to pay state taxes of
7 any kind. The commission's projects, property and monies
8 and any bonds issued under this act, and the income
9 therefrom, shall be free from taxation of every kind by the
10 state, municipalities and political subdivisions of the
11 state.

12

13 **24-16-113. Bonds as legal investments.**

14

15 The bonds of the commission are legal investments which may
16 be used as collateral for public funds of the state,
17 insurance companies, banks, savings and loan associations,
18 investment companies, trustees and other fiduciaries which
19 may properly and legally invest funds in their control or
20 belonging to them in bonds of the commission.

21

22 **24-16-114. State pledge not to impair bondholder's**
23 **rights and remedies.**

24

1 The state pledges to the holders of any bonds issued under
2 this act, that the state will not limit or alter the rights
3 vested in the commission to fulfill the terms of agreements
4 made with the holders, or in any way impair the rights and
5 remedies of the holders until the bonds together with the
6 interest, with interest on any unpaid installments of
7 interest and all costs and expenses in connection with any
8 action or proceeding by or on behalf of the holders are
9 fully met and discharged. The commission is to include this
10 pledge of the state in any agreement with the holders of
11 the bonds.

12

13 **24-16-115. Appointment of trustee by bondholders;**
14 **powers and duties thereof.**

15

16 (a) If the commission defaults in the payment of
17 principal or interest on any bonds after they become due,
18 whether at maturity or upon call for redemption, and the
19 default continues for a period of thirty (30) days, or if
20 the commission fails or refuses to comply with the
21 provisions of this act, or defaults in any agreement made
22 with the holders of any bonds, the holders of twenty-five
23 percent (25%) in aggregate principal amount of the bonds of
24 the issue then outstanding, by instrument or instruments

1 filed in the office of the secretary of state, may appoint
2 a trustee to represent the holders of the bonds for the
3 purposes herein provided.

4

5 (b) The trustee may, and upon written request of the
6 holders of twenty-five percent (25%) in principal amount of
7 such bonds then outstanding shall, in his or its own name:

8

9 (i) By suit, action or proceeding enforce all
10 rights of the bondholders to require the commission to
11 carry out any other agreements with the holders of the
12 bonds and to perform its duties under this act;

13

14 (ii) Bring suit upon the bonds;

15

16 (iii) By action or suit, require the authority
17 to account as if it were the trustee of an express trust
18 for the holders of the bonds;

19

20 (iv) By action or suit, enjoin any acts or
21 things which may be unlawful or in violation of the rights
22 of the holders of the bonds;

23

1 (v) Declare all the bonds due and payable, and
2 if all defaults are made good, then, with the consent of
3 the holders of twenty-five percent (25%) of the principal
4 amount of the bonds then outstanding, to annul the
5 declaration and its consequences.

6
7 (c) In addition, the trustee has all the powers
8 necessary or appropriate for the exercise of any functions
9 specifically set forth in this act or incident to the
10 general representation of bondholders in the enforcement
11 and protection of their rights.

12

13 **24-16-116. Project delivery.**

14

15 Due to the potential size and complexity of the project,
16 alternative design and construction delivery methods may be
17 used if the chief engineer of the department determines
18 that using such methods is appropriate.

19

20 **23-16-117. Assistance by state agencies.**

21

22 Upon request of the commission, any state agency may lend
23 technical assistance, render advice and attend meetings
24 with the directors and employees of the commission or the

1 department as the commission requires in carrying out its
2 functions and duties under this act.

3

4 **Section 2.** W.S. 24-1-119 and 24-8-101 are amended to
5 read:

6

7 **24-1-119. State highway fund created; income and**
8 **expenditure.**

9

10 There is created a fund known as the state highway fund, to
11 the credit of which the state treasurer, who is designated
12 as the state official to receive all amounts paid by the
13 United States under the act of congress approved July 11,
14 1916, shall place all monies previously received for the
15 fund, all money subsequently received from the United
16 States, under cooperative agreements as authorized, all
17 money derived from taxes levied for such purpose or
18 appropriated for the fund, all monies received from the
19 sale of state bonds for highway construction or
20 improvement, all money received from the counties under
21 cooperative agreements as hereinbefore authorized, and all
22 other monies received from donations or bequests, which may
23 be accepted by the commission on behalf of the state of
24 Wyoming, or from any source designated by law for that

1 purpose. All monies in the fund shall be available for the
2 purpose of this act without further appropriation and no
3 warrant shall be drawn on the fund excepting on a voucher
4 approved by the director of the department of
5 transportation or an assistant authorized by the director
6 and approved by the transportation commission. Except for
7 bonds issued pursuant to W.S. 24-16-110 it is provided that
8 seventy-five percent (75%) of the amount of any bond issue
9 subsequently issued by the state of Wyoming for the
10 construction or improvement of state highways, after the
11 payment of overhead expense, shall be apportioned to and
12 spent in each county in the proportion which the assessed
13 valuation of each county by the last general assessment
14 bears to the total assessment of the state.

15

16 **24-8-101. Purpose, issuance and disposal.**

17

18 For the purpose of providing funds for the construction and
19 improvement of public roads and highways in Wyoming, the
20 state treasurer, with the approval of the governor is
21 hereby authorized from time to time within the limits of
22 the amount authorized by law to issue and dispose of bonds
23 of the state of Wyoming to be designated as highway bonds.

1 Bonds issued under this section shall not be considered
2 bonds issued under W.S. 24-16-110(b).

3

4 **Section 3.** This act is effective immediately upon
5 completion of all acts necessary for a bill to become law
6 as provided by Article 4, Section 8 of the Wyoming
7 Constitution.

8

9

(END)