

SENATE FILE NO. SF0085

Natural gas pipeline authority.

Sponsored by: Senator(s) Hawks and Representative(s) Law

A BILL

for

1 AN ACT relating to the natural gas pipeline authority;  
 2 modifying powers of the authority; granting additional  
 3 bonding authority and otherwise modifying bonding  
 4 authority; modifying legislative findings; repealing  
 5 certain restrictions on powers of the authority; making  
 6 conforming amendments; adding enforcement, penalty and  
 7 confidentiality provisions; providing an appropriation;  
 8 authorizing positions; and providing for an effective date.

9

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

11

12 **Section 1.** W.S. 37-5-107 through 37-5-110 are created  
 13 to read:

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15 **37-5-107. Definitions.**

16

17 (a) As used in this act:

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2 (i) "Associated natural resource" means any  
3 substance, element or compound, either gaseous, liquid or  
4 solid, associated with the production, refining or  
5 processing of crude oil or natural gas. The term includes,  
6 but is not limited to, propane, butanes, ethane, methane,  
7 carbon dioxide, sulphur, helium, nitrogen and natural gas  
8 liquids;

9

10 (ii) "Natural gas" means hydrocarbons or  
11 nonhydrocarbons which at atmospheric conditions of  
12 temperature and pressure are in a gaseous phase;

13

14 (iii) "This act" means 37-5-101 through  
15 37-5-110.

16

17 **37-5-108. Subpoena.**

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19 (a) For the purpose of any investigation or  
20 proceeding under this act, the authority or any officer  
21 designated by it may administer oaths and affirmations,  
22 subpoena witnesses, compel their attendance, take evidence,  
23 and require the production of any books, papers,  
24 correspondence, memoranda, agreements or other documents or

1 records which the authority deems relevant or material to  
2 the inquiry.

3

4 (b) In case of contumacy by, or refusal to obey a  
5 subpoena issued to, any person, the Wyoming district court,  
6 upon application by the authority, may issue to the person  
7 an order requiring him to appear before the authority or  
8 the officer designated by it, there to produce documentary  
9 evidence if so ordered or to give evidence touching the  
10 matter under investigation or in question. Failure to obey  
11 the order of the court may be punished by the court as a  
12 contempt of court.

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14 **37-5-109. False statement; penalty.**

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16 Any person who willfully makes a statement knowing the  
17 statement made to be false or misleading in any material  
18 respect, shall upon conviction be fined not more than five  
19 thousand dollars (\$5,000.00) or imprisoned not more than  
20 three (3) years, or both.

21

22 **37-5-110. Confidential information.**

23

1 All information obtained by the authority in connection  
2 with any hearing or investigation under this act which  
3 contains or which might reveal proprietary data shall be  
4 considered as confidential for the purpose of this act.  
5 The authority shall not disclose confidential information  
6 without prior consent from the owner of the confidential  
7 information.

8

9           **Section 2.** W.S. 37-5-101(b), 37-5-102,  
10 37-5-103(a)(iv) and by creating new paragraphs (x) through  
11 (xii) and by renumbering (x) as (xiii), 37-5-104(c) through  
12 (e), (j) and by creating a new subsection (k), 37-5-105,  
13 37-5-201(a)(i) through (iii), 37-5-202(a)(iv) by creating  
14 new paragraphs (v) and (vi) and by renumbering (v) as  
15 (vii), 37-5-203(a) through (e), (h) and by creating a new  
16 subsection (n), 37-5-204(a) and by creating a new  
17 subsection (d), 37-5-206 and 37-5-208(a) are amended to  
18 read:

19

20           **37-5-101. Wyoming natural gas pipeline authority.**

21

22           (b) The authority shall be governed by a board  
23 composed of five (5) members appointed by the governor,  
24 with the advice and consent of the senate. The members of

1 the initial board shall be appointed for staggered terms,  
2 two (2) members for terms of one (1) year each and the  
3 other members for terms of two (2), three (3) and four (4)  
4 years, respectively, as designated at the time of  
5 appointment. Thereafter all members shall be appointed for  
6 four (4) year terms. The governor may remove any member as  
7 provided in W.S. 9-1-202. Vacancies shall be filled by  
8 appointment by the governor in accordance with W.S.  
9 28-12-101. The members shall elect from the membership a  
10 chairman, vice-chairman and secretary. Persons appointed  
11 as members shall be qualified voters of the state of  
12 Wyoming with special knowledge, as evidenced by college  
13 degrees or courses, or with at least five (5) years  
14 experience in managerial positions, in the field of natural  
15 gas or associated natural resource production,  
16 transportation, marketing or industrial consumption.  
17 Members of the board may receive the same per diem,  
18 expenses and travel allowance as members of the legislature  
19 while in actual attendance at meetings of the board and the  
20 performance of their duties relative thereto. The attorney  
21 general shall serve as attorney for the authority.

22

23 **37-5-102. Purposes.**

24

1 (a) The purpose for which the authority is created is  
2 to plan, finance, construct, develop, acquire, maintain and  
3 operate a ~~natural gas~~ pipeline system or systems within or  
4 without the state of Wyoming to facilitate the production,  
5 transportation, distribution and delivery of natural gas  
6 and ~~hydrocarbons, in the gaseous phase and~~ associated  
7 natural resources produced in this state, including natural  
8 gas and ~~hydrocarbons in the gaseous phase~~ associated  
9 natural resources received as royalties "in kind" pursuant  
10 to mineral leases by the state, its agencies and political  
11 subdivisions, which authorize the lessor to receive  
12 royalties, or received as royalties from the federal  
13 government. In order to provide for the financing,  
14 construction, development, maintenance and operation of the  
15 pipeline system, the authority may lease or rent facilities  
16 constructed pursuant to the authority conferred herein, and  
17 all facilities, structures and properties incidental and  
18 necessary thereto, to facilitate the production,  
19 transportation, distribution and delivery of natural gas  
20 and ~~hydrocarbons in the gaseous phase from point of~~  
21 ~~production~~ associated natural resources to point of  
22 consumption or to the point of distribution for  
23 consumption.

24

1           (b) The system ~~shall~~may be inclusive of pipelines,  
2 pumps, storage and all other facilities, structures and  
3 properties incidental and necessary or useful in the  
4 production, transportation, distribution and delivery of  
5 natural gas and ~~hydrocarbons in the gaseous phase from any~~  
6 ~~and all points of production~~ associated natural resources  
7 to points of sale, consumption or to the point or points of  
8 distribution for consumption.

9  
10           (c) The authority shall establish and collect fees,  
11 schedule of fees, rentals and other charges for the use of  
12 the facilities of the authority, including capacity  
13 procured by the authority pursuant to subsection (e) of  
14 this section, as the board may determine, and may borrow  
15 funds for the execution of the purposes of the authority,  
16 and mortgage and pledge any lease or leases granted,  
17 assigned or subleased by the authority.

18  
19           (d) ~~Anything in this act to the contrary~~  
20 ~~notwithstanding~~ Except as provided in this section, the  
21 authority shall not exercise any of the rights or powers  
22 granted to it in this section, if private persons, firms,  
23 or corporations are performing the acts, constructing or  
24 have constructed the facilities, or are providing the

1 services contemplated by the authority. Prior to exercising  
2 any rights or powers granted to it in this section, the  
3 authority shall publish in a newspaper of general  
4 circulation in Cheyenne, and in a newspaper in the area  
5 where the facilities or services are contemplated, in the  
6 manner prescribed by law, a notice describing the acts,  
7 facilities, or services contemplated by the authority, and  
8 private persons, firms or corporations wishing to perform  
9 the acts, construct the facilities or provide the services  
10 described in the notice shall have a period of thirty (30)  
11 days from the date of last publication of the notice within  
12 which to notify the authority of intention to perform the  
13 acts, construct the facilities, or provide the services  
14 described in the notice. In the absence of notification by  
15 a private person, firm or corporation, or if a person, firm  
16 or corporation, having given notice of intention to perform  
17 the acts, construct the facilities, or provide the services  
18 contemplated by the authority, fails to commence same  
19 within ninety (90) days from the date of notification of  
20 the authority of its intention, the authority may proceed  
21 to perform the acts, construct the facilities, or provide  
22 the services originally contemplated. At any time a  
23 private person, firm or corporation is performing the acts,  
24 constructing the facilities or providing the services

1 contemplated by the authority, the authority may conduct  
2 hearings or meetings with such person, firm or corporation  
3 to obtain information to assess the progress toward  
4 completion of the intended acts to be performed, the  
5 facilities to be constructed or the services to be  
6 provided. If the authority determines that progress or  
7 completion of any or all of the intended acts will be  
8 delayed for one (1) year or more, the authority may proceed  
9 to perform the acts, construct the facilities, or provide  
10 the services originally contemplated.

11

12 (e) The authority may acquire, purchase, hold, use,  
13 lease, license, sell, transfer and dispose of the right to  
14 capacity in any pipeline system or systems within or  
15 without the state of Wyoming in order to facilitate the  
16 production, transportation, distribution or delivery of  
17 natural gas and associated natural resources produced in  
18 this state. The provisions of subsection (d) of this  
19 section shall not apply to the authority in exercising any  
20 power pursuant to this subsection.

21

22 **37-5-103. Powers of the authority.**

23

1 (a) In exercising the rights and powers granted to  
2 it, the authority shall be vested with authority to:

3  
4 (iv) Plan, finance, construct, develop, acquire,  
5 maintain and operate within or without the state of  
6 Wyoming, pipelines, pumps, storage and other attendant  
7 facilities and equipment necessary therefor and all other  
8 property, structures, equipment, facilities and works of  
9 public improvement necessary or useful for the  
10 accomplishment of the purposes for which the authority was  
11 created;

12  
13 (x) Conduct hearings, gather and develop  
14 relevant data consistent with duties and the powers of the  
15 authority;

16  
17 (xi) Work in consultation and coordination with  
18 the Wyoming energy commission and the Wyoming business  
19 council to develop, promote and identify markets for  
20 natural gas and associated natural resource and facilitate  
21 the aggregation of supply for those markets;

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23 (xii) Advocate new pipeline capacity before the  
24 Federal Energy Regulatory Commission;

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**37-5-104. Bonds.**

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~~(\*) (xiii)~~ Do any and all things necessary or proper for the development, regulation and accomplishment of the purposes of the authority within the limitations of authority granted by this act.

(c) The bonds or other obligations issued under authority of this section ~~shall~~ may be sold by the authority, ~~the bonds or other obligations to be sold to the highest bidder on sealed proposals at public sale at not less than par and accrued interest, after publication of notice of sale at least seven (7) days in advance of the date of sale in newspapers or financial journals published at places the authority may determine, reserving to the authority the right to reject any and all bids~~ at, above or below par value, at public or private sale, in a manner and from time to time as determined by the authority.

(d) Except as provided by subsection (k) of this section, any bonds issued hereunder shall be payable from and be secured by the pledge of the revenues derived from the operation of the pipeline system, as constructed,

1 acquired, extended or improved with the proceeds of the  
2 bonds, subject only to prior payment of the reasonable and  
3 necessary expenses of operating and maintaining the system.  
4 Any bonds issued hereunder may also be payable from  
5 unexpended bond proceeds. Any holder of the bonds or of  
6 any of the coupons thereto attached may by appropriate  
7 legal action compel performance of all duties required of  
8 the authority in order to enforce payment of the bonds when  
9 due. If any bond issued hereunder is permitted to go into  
10 default as to principal or interest, any court of competent  
11 jurisdiction may, pursuant to the application of the holder  
12 of the bonds, appoint a receiver for the system, who shall  
13 operate the system and collect and distribute the revenues  
14 thereof pursuant to the provisions and requirements of the  
15 resolution authorizing the bonds.

16  
17 (e) If more than one series of bonds is issued  
18 payable from the revenues of the system or bond proceeds,  
19 priority of lien on the revenues shall ~~depend on the time~~  
20 ~~of the delivery of the bonds, each series enjoying a lien~~  
21 ~~prior and superior to that enjoyed by any series of bonds~~  
22 ~~subsequently delivered, except that where provision is made~~  
23 ~~in the proceedings authorizing any issue or series of bonds~~  
24 ~~for the issuance of additional bonds in the future on a~~

1 ~~parity therewith pursuant to procedure or restrictions~~  
2 ~~provided in such proceedings, additional bonds may be~~  
3 ~~issued in the future on a parity with the issue or series~~  
4 ~~in the manner so provided in such proceedings~~ be as  
5 provided by the resolution authorizing the bonds.

6  
7 (j) The board of the authority may authorize the  
8 issuance of bonds for the purpose of refunding, extending  
9 and unifying the whole or any part of the principal,  
10 interest and redemption premiums on any outstanding bonds  
11 issued under the authority of this act. The refunding bonds  
12 may either be sold and the proceeds applied to or deposited  
13 in escrow for the retirement of the outstanding bonds, or  
14 may be delivered in exchange for the outstanding bonds. The  
15 refunding bonds shall be authorized in all respects as  
16 original bonds are herein required to be authorized. The  
17 board of the authority in authorizing the refunding bonds,  
18 shall provide for the security of the bonds, the sources  
19 from which the bonds are to be paid and for the rights of  
20 the holders thereof in all respects as herein provided for  
21 other bonds issued under the authority of this act. The  
22 board may also provide that the refunding bonds shall have  
23 the same or different priority of lien on the revenues

1 pledged for their payment as was enjoyed by the bonds  
2 refunded.

3  
4 (k) The board of the authority may authorize the  
5 issuance of bonds for the purpose of purchasing natural gas  
6 pipeline capacity as authorized by W.S. 37-5-102(e). Any  
7 bonds so issued shall be payable solely from and be secured  
8 solely by the pledge of the revenues derived from the  
9 subsequent sale, lease or other disposal of the capacity  
10 purchased or from bond proceeds. Bonds issued pursuant to  
11 this subsection shall be authorized in all respects as  
12 other bonds of the authority are herein required to be  
13 authorized. The board, in authorizing the bonds, shall  
14 provide for the security of the bonds, the sources from  
15 which the bonds are to be paid and for the rights of the  
16 holders thereof.

17

18 **37-5-105. Use of net revenues.**

19

20 (a) The authority, acting alone or in cooperation  
21 with any agency of the state of Wyoming ~~shall~~may use and  
22 employ any net revenues derived from the pipeline system  
23 herein authorized or from any other source, after providing  
24 all cost of maintenance and operation of the pipeline

1 system and after making the required principal and interest  
2 payments on any revenue bonds issued hereunder and any  
3 other payments provided in any resolution or resolutions  
4 authorizing the issuance and sale of revenue bonds and  
5 obligations, in extending and improving the pipeline system  
6 as the board of the authority may determine to be warranted  
7 by the needs for additional intrastate transportation  
8 facilities. ~~If the board determines that no need exists,  
9 the net revenues shall be paid to the state treasurer for  
10 credit to the state general fund.~~

11  
12 (b) Revenues derived from the issuance of bonds for  
13 the purpose of purchasing pipeline capacity as authorized  
14 by W.S. 37-5-104(k) shall be used for such purchases and to  
15 make principal and interest payments on such bonds as  
16 provided by the authority in the resolution authorizing the  
17 issuance of the revenue bonds.

18  
19 (c) If the board determines that no need exists, net  
20 revenues derived under this chapter shall be paid to the  
21 state treasurer for credit to the state general fund.

22  
23 **37-5-201. Legislative findings.**  
24

1 (a) The legislature finds that:

2

3 (i) There are in Wyoming extensive reserves of  
4 natural gas and associated natural resources and  
5 insufficient pipeline facilities to allow for the efficient  
6 marketing of or to warrant the development ~~and marketing of~~  
7 those reserves. Additional pipelines are necessary to  
8 maximize the price received for natural gas and associated  
9 natural resources produced in Wyoming;

10

11 (ii) Unless natural gas and associated natural  
12 resource reserves are developed and marketed, ~~drilling~~  
13 ~~activity and associated production operations will remain~~  
14 ~~at the current low level for some years to come~~ employment  
15 opportunities and revenue benefits accruing to the state  
16 will suffer and an important national resource will not be  
17 used;

18

19 (iii) ~~A lack of funds and incentives exists in~~  
20 ~~The private sector to develop~~ has not developed sufficient  
21 ~~new pipelines~~ pipeline capacity to transport the increased  
22 natural gas ~~due to the present economy and existing~~  
23 ~~depressed price for natural gas~~ production and associated  
24 natural resources;

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**37-5-202. Definitions.**

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4

(a) As used in this act:

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6

(iv) "Pipeline" means a ~~natural gas~~ pipeline and related facilities constructed for the purpose of transporting and treating natural gas and associated natural resources;

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(v) "Associated natural resource" means as defined pursuant to W.S. 37-5-107(a)(i);

13

14

15

(vi) "Natural gas" means as defined in W.S. 37-5-107(a)(ii);

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~~(v)~~ (vii) "This act" means W.S. 37-5-201 through 37-5-208.

19

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**37-5-203. Authority revenue bonds; issuance; amount.**

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(a) The authority may issue bonds to finance pipeline projects, which shall be located at least partially within Wyoming, in an amount not to exceed ~~two hundred fifty~~

1 ~~million dollars (\$250,000,000.00) or fifty percent (50%) of~~  
2 ~~the total cost of any single pipeline project, whichever is~~  
3 ~~less~~ one billion dollars (\$1,000,000,000.00). The financing  
4 of a pipeline project under this act, may include or  
5 consist solely of the purchase of natural gas pipeline  
6 capacity by the authority as authorized by subsection (n)  
7 of this section. The authority is exempt from the  
8 provisions of W.S. 37-5-102(d) to exercise the powers  
9 granted by this act. The authority shall acquire no  
10 ownership interest in any pipeline project financed  
11 pursuant to this act, except to realize upon a security  
12 interest. ~~The proceeds of the bonds shall not be made~~  
13 ~~available to the pipeline owner until construction of the~~  
14 ~~pipeline has been completed, and placed in service~~ or to  
15 purchase capacity in the pipeline as authorized by  
16 subsection (n) of this section.

17

18 (b) ~~When~~ The principal amount of any bonds ~~are issued~~  
19 ~~under the authority of subsection (a) of this section, the~~  
20 ~~total dollar principal amount on the face of the bonds~~  
21 ~~shall be subtracted from the total authorization under~~  
22 ~~subsection (a) of this section and may not again be~~  
23 ~~reissued or reused even though the bonds have been retired,~~  
24 ~~redeemed or refunded~~ which have been retired, redeemed,

1 defeased or refunded by the authority need not be taken  
2 into account in computing compliance with the maximum  
3 amounts of bonds authorized to be issued under subsection  
4 (a) of this section.

5  
6 (c) Subject to subsection (a) of this section, the  
7 authority may issue bonds in principal amounts the  
8 authority determines necessary to provide sufficient funds  
9 for achieving its purposes under this act, including the  
10 reduction of principal, the payment of interest, the  
11 establishment of reserves, the costs of administration and  
12 for the purpose of defraying all other associated costs.  
13 All bonds issued under this act are negotiable instruments  
14 under the laws of the state unless expressly provided to  
15 the contrary on the face of the bonds. The authority may  
16 enter into contracts to insure the payment of principal and  
17 interest, for interest rate exchange contracts and for  
18 financial guarantees or facilities to lower the cost of its  
19 borrowing.

20  
21 (d) All bonds issued by the authority are payable  
22 solely out of special funds consisting of all or part of  
23 its revenues, receipts, monies and assets, as designated in  
24 the proceedings under which the bonds are authorized. The

1 bonds shall bear interest at ~~the~~fixed or variable rates,  
2 be executed and delivered at times and in denominations, be  
3 of terms and maturities, be in bearer form or in registered  
4 form as to principal and interest or principal alone, and  
5 bear manual or facsimile signatures and seals as determined  
6 by the authority. Bonds issued by the authority are not  
7 general obligations of this state nor of any political  
8 subdivision of this state. The bonds shall be solely the  
9 obligation of the authority and shall recite on their face  
10 that they do not constitute obligations of the state or any  
11 political subdivisions of the state.

12

13 (e) Bonds may be payable in installments and may bear  
14 maturities not exceeding ~~thirty (30)~~fifty (50) years from  
15 the date issued as determined by the authority.

16

17 (h) Any bonds ~~of the~~issued under authority of this  
18 section may be sold at, above or below par value, at public  
19 or private sale, in a manner and from time to time as  
20 determined by the authority. The authority may pay legal  
21 fees, expenses, premiums and commissions which it finds  
22 necessary or advantageous to this state in connection with  
23 the issuance and sale.

24

1       (n) The authority may acquire, purchase, hold, use,  
2 lease, license, sell, transfer and dispose of the right to  
3 capacity in any pipeline system or systems within or  
4 without the state of Wyoming in order to facilitate the  
5 production, transportation, distribution or delivery of  
6 natural gas and associated natural resources produced in  
7 this state. The provisions of W.S. 37-5-102(d) shall not  
8 apply to the authority in exercising any power pursuant to  
9 this subsection.

10  
11       **37-5-204. Authority revenue bonds; security; payments**  
12 **after retirement.**

13  
14       (a) Except as provided in subsection (d) of this  
15 section, the principal and interest on any bonds issued by  
16 the authority shall be secured by a pledge of revenues from  
17 the operation of the pipeline financed and by a first  
18 mortgage on the pipeline facilities and by such guarantees  
19 and pledges of the entity owning the pipeline or of the  
20 parent corporation owning said entity, if any, as the  
21 pipeline owner or parent may extend to lenders of the  
22 remaining debt financing. Such guarantees and pledges  
23 shall be no less favorable to the authority than those  
24 granted other lenders of the same class.

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**37-5-206. Bonds as legal investments.**

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(d) The authority may authorize the issuance of bonds for the purpose of purchasing natural gas pipeline capacity as authorized by W.S. 37-5-203(n). Any bonds so issued shall be payable solely from and be secured solely by the pledge of the revenues derived from the subsequent sale, lease or other disposal of the capacity purchased or from bond proceeds. Bonds issued pursuant to this subsection shall be authorized in all respects as other bonds of the authority are herein required to be authorized. The authority, in authorizing the bonds, shall provide for the security of the bonds, the sources from which the bonds are to be paid and for the rights of the holders thereof.

The bonds of the authority are legal investments which may be used as collateral for public funds of the state, insurance companies, banks, savings and loan associations, investment companies, trustees and other fiduciaries which may properly and legally invest funds in their control or belonging to them in bonds of the authority. With the written approval of the governor and the attorney general, the state treasurer ~~shall~~may invest monies from the

1 permanent Wyoming mineral trust fund in bonds of the  
2 authority in an amount approved by the state loan and  
3 investment board pursuant to W.S. 9-4-711(a)(iv) and  
4 specified by the governor and the attorney general but not  
5 to exceed the amount specified in W.S. 37-5-203(a), and the  
6 interest payable on the bonds invested in by the treasurer  
7 shall average over the lifetime of the bonds to be at least  
8 four percent (4%) and revenue under W.S. 37-5-204(b) shall  
9 be credited as received to the state general fund.

10

11 **37-5-208. Powers; duties; limitations.**

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13 (a) The authority has the powers granted by W.S.  
14 37-5-101 through ~~37-5-106~~37-5-110 as necessary to carry  
15 out the purposes of this act including the power to hire  
16 technical consultants, financial advisors and legal  
17 advisors and specifically including the powers granted by  
18 W.S. 37-5-103(a)(ii). In addition to the powers otherwise  
19 granted to the authority, in order to accomplish its  
20 purposes, the authority shall have the power:

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22 (i) To enter into loan agreements with respect  
23 to one (1) or more projects upon the terms and conditions  
24 the authority considers advisable;

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

**Section 3.** W.S. 37-5-203(k) and (m) and 37-5-208(e) are repealed.

**Section 4.** Two hundred seventy-nine thousand five hundred dollars (\$279,500.00) is appropriated from the general fund to the Wyoming natural gas pipeline authority for three (3) full-time equivalent positions and operating expenses incurred by the authority through June 30, 2004.

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

(END)