ENROLLED ACT NO. 55, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING 2003 GENERAL SESSION

AN ACT relating to the natural gas pipeline authority; modifying powers of the authority; granting additional bonding authority and otherwise modifying bonding authority; modifying legislative findings; repealing certain restrictions on powers of the authority; making conforming amendments; adding enforcement, penalty and confidentiality provisions; providing for a loan to the authority; providing for repayment of the loan; specifying severability of provisions relating to the natural gas pipeline authority; and providing for an effective date.

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

Section 1. W.S. 37-5-107 through 37-5-109 are created to read:

### 37-5-107. Definitions.

(a) As used in this act:

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

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

(iii) "This act" means 37-5-101 through 37-5-109.

BILL COPY 3/3/2003 - 8:19 AM

ENROLLED ACT NO. 55, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING 2003 GENERAL SESSION

#### 37-5-108. Subpoena.

(a) For the purpose of any investigation or proceeding under this act, the authority or any officer designated by it may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records which the authority deems relevant or material to the inquiry.

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

(C) In consideration of the authority's request pursuant to subsection (b) of this section, the Wyoming district court shall review the request in camera to protect the confidentiality of the information sought. The Wyoming district court may also restrict disclosure of any any confidential information in other proceeding, administrative or judicial, and may order that the information be sealed.

### 37-5-109. Confidential information.

All information obtained by the authority in connection with any hearing or investigation under this act which contains or which might reveal proprietary data shall be considered as confidential for the purpose of this act.

ENROLLED ACT NO. 55, SENATE

## FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING 2003 GENERAL SESSION

The authority shall not disclose confidential information to any person, governmental entity or agency without prior written consent from the owner of the confidential information. Any board or staff member who discloses or causes to be disclosed any confidential information is guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars (\$1,000.00), or both.

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

#### 37-5-101. Wyoming natural gas pipeline authority.

(b) The authority shall be governed by a board composed of five (5) members appointed by the governor, with the advice and consent of the senate. The members of the initial board shall be appointed for staggered terms, two (2) members for terms of one (1) year each and the other members for terms of two (2), three (3) and four (4) years, respectively, as designated at the time of appointment. Thereafter all members shall be appointed for four (4) year terms. The governor may remove any member as provided in W.S. 9-1-202. Vacancies shall be filled by appointment by the governor in accordance with W.S. 28-12-101. The members shall elect from the membership a chairman, vice-chairman and secretary. Persons appointed

ENROLLED ACT NO. 55, SENATE

# FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING 2003 GENERAL SESSION

as members shall be qualified voters of the state of Wyoming with special knowledge, as evidenced by college degrees or courses, or with at least five (5) years experience in managerial positions, in the field of natural or associated natural resource production, qas transportation, marketing industrial or consumption. Members of the board may receive the same per diem, expenses and travel allowance as members of the legislature while in actual attendance at meetings of the board and the performance of their duties relative thereto. The attorney general shall serve as attorney for the authority.

#### 37-5-102. Purposes.

The purpose for which the authority is created is (a) to plan, finance, construct, develop, acquire, maintain and operate a natural gas pipeline system or systems within or without the state of Wyoming to facilitate the production, transportation, distribution and delivery of natural gas and hydrocarbons, in the gaseous phase and associated natural resources produced in this state, including natural gas and hydrocarbons in the gaseous phase associated natural resources received as royalties "in kind" pursuant to mineral leases by the state, its agencies and political subdivisions, which authorize the lessor to receive royalties, or received as royalties from the federal In order to provide for the financing, government. construction, development, maintenance and operation of the pipeline system, the authority may lease or rent facilities constructed pursuant to the authority conferred herein, and all facilities, structures and properties incidental and thereto, to facilitate the necessary production, transportation, distribution and delivery of natural gas and hydrocarbons in the gaseous phase from point of production associated natural resources to point of

ENROLLED ACT NO. 55, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING 2003 GENERAL SESSION

consumption or to the point of distribution for consumption.

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

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

Anything in this act to the (d) <del>contrary</del> notwithstanding Except as provided in this section, the authority shall not exercise any of the rights or powers granted to it in this section, if private persons, firms, or corporations are performing the acts, constructing or have constructed the facilities, or are providing the services contemplated by the authority. Prior to exercising any rights or powers granted to it in this section, the authority shall publish in a newspaper of general circulation in Cheyenne, and in a newspaper in the area where the facilities or services are contemplated, in the manner prescribed by law, a notice describing the acts, facilities, or services contemplated by the authority, and private persons, firms or corporations wishing to perform the acts, construct the facilities or provide the services

BILL COPY 3/3/2003 - 8:19 AM

ENROLLED ACT NO. 55, SENATE

# FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING 2003 GENERAL SESSION

described in the notice shall have a period of thirty (30) ninety (90) days from the date of last publication of the notice within which to notify the authority of intention to perform the acts, construct the facilities, or provide the services described in the notice, including an anticipated timeline for completion of the acts, construction or services. In the absence of notification by a private person, firm or corporation, or if a person, firm or corporation, having given notice of intention to perform the acts, construct the facilities, or provide the services contemplated by the authority, fails to commence same within ninety (90) one hundred eighty (180) days from the date of notification of the authority of its intention, the authority may proceed to perform the acts, construct the facilities, or provide the services originally contemplated. A private person, firm or corporation that has made necessary applications to acquire any federal, state, local or private permits, certificates or other authorizations or approvals necessary to perform the acts, construct the facilities or provide the services pursuant to this subsection within the time required is deemed to have commenced the same. At any time a private person, firm or corporation has given notice of its intent to perform or is performing the acts, constructing the facilities or providing the services contemplated by the authority, the authority may conduct hearings or meetings with such person, firm or corporation to obtain information to assess the progress toward completion of the intended acts to be performed, the facilities to be constructed or the services to be provided. If it appears to the authority that progress or completion of any or all of the intended acts may be delayed for one (1) year or more, the authority may proceed to perform the acts, construct the facilities, or provide the services originally contemplated.

ENROLLED ACT NO. 55, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING 2003 GENERAL SESSION

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

### 37-5-103. Powers of the authority.

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

(iv) Plan, finance, construct, develop, acquire, maintain and operate within <u>or without</u> the state of Wyoming, pipelines, pumps, storage and other attendant facilities and equipment necessary therefor and all other property, structures, equipment, facilities and works of public improvement necessary or useful for the accomplishment of the purposes for which the authority was created;

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

(xi) Work in consultation and coordination with, but not limited to, the Wyoming energy commission and the Wyoming business council to develop, promote and identify markets for natural gas and associated natural resource and facilitate the aggregation of supply for those markets;

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

ENROLLED ACT NO. 55, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING 2003 GENERAL SESSION

 $\frac{(x)(xiii)}{(xiii)}$  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.

(b) The sole recourse of any party contracting with the authority shall be against the authority and there shall be no cause of action against the state, or any county, municipality or other political subdivision of the state.

#### 37-5-104. Bonds.

(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 scaled 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, acquired, extended or improved with the proceeds of the bonds, subject only to prior payment of the reasonable and necessary expenses of operating and maintaining the system. Any bonds issued hereunder may also be payable from unexpended bond proceeds. Any holder of the bonds or of any of the coupons thereto attached may by appropriate

ENROLLED ACT NO. 55, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING 2003 GENERAL SESSION

legal action compel performance of all duties required of the authority in order to enforce payment of the bonds when due. If any bond issued hereunder is permitted to go into default as to principal or interest, any court of competent jurisdiction may, pursuant to the application of the holder of the bonds, appoint a receiver for the system, who shall operate the system and collect and distribute the revenues thereof pursuant to the provisions and requirements of the resolution authorizing the bonds.

(e) If more than one series of bonds is issued payable from the revenues of the system <u>or bond proceeds</u>, priority of lien on the revenues shall depend on the time of the delivery of the bonds, each series enjoying a lien prior and superior to that enjoyed by any series of bonds subsequently delivered, except that where provision is made in the proceedings authorizing any issue or series of bonds for the issuance of additional bonds in the future on a parity therewith pursuant to procedure or restrictions provided in such proceedings, additional bonds may be issued in the future on a parity with the issue or series in the manner so provided in such proceedings <u>be as</u> provided by the resolution authorizing the bonds.

(j) The board of the authority may authorize the issuance of bonds for the purpose of refunding, extending and unifying the whole or any part of the principal, interest and redemption premiums on any outstanding bonds issued under the authority of this act. The refunding bonds may either be sold and the proceeds applied to or deposited in escrow for the retirement of the outstanding bonds, or may be delivered in exchange for the outstanding bonds. The refunding bonds shall be authorized in all respects as original bonds are herein required to be authorized. The board of the authority in authorizing the refunding bonds, the sources

BILL COPY 3/3/2003 - 8:19 AM

ENROLLED ACT NO. 55, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING 2003 GENERAL SESSION

from which the bonds are to be paid and for the rights of the holders thereof in all respects as herein provided for other bonds issued under the authority of this act. The board may also provide that the refunding bonds shall have the same <u>or different</u> priority of lien on the revenues pledged for their payment as was enjoyed by the bonds refunded.

(k) The board of the authority may authorize the issuance of bonds for the purpose of purchasing natural gas pipeline capacity as authorized by W.S. 37-5-102(e). 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 board, 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.

#### 37-5-105. Use of net revenues.

(a) The authority, acting alone or in cooperation with any agency of the state of Wyoming shall may use and employ any net revenues derived from the pipeline system herein authorized or from any other source, after providing all cost of maintenance and operation of the pipeline system and after making the required principal and interest payments on any revenue bonds issued hereunder and any other payments provided in any resolution or resolutions authorizing the issuance and sale of revenue bonds and obligations, in extending and improving the pipeline system as the board of the authority may determine to be warranted by the needs for additional intrastate transportation

ENROLLED ACT NO. 55, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING 2003 GENERAL SESSION

facilities. If the board determines that no need exists, the net revenues shall be paid to the state treasurer for credit to the state general fund.

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

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

#### 37-5-201. Legislative findings.

(a) The legislature finds that:

(i) There are in Wyoming extensive reserves of natural gas <u>and associated natural resources</u> and insufficient pipeline facilities to <u>allow for the efficient</u> <u>marketing of or to</u> warrant the development <u>and marketing</u> of those reserves. <u>Additional pipelines are necessary to</u> <u>maximize the price received for natural gas and associated</u> natural resources produced in Wyoming;

(ii) Unless natural gas <u>and associated natural</u> <u>resource</u> reserves are developed and marketed, <del>drilling</del> activity and associated production operations will remain at the current low level for some years to come <u>employment</u> <u>opportunities and revenue benefits accruing to the state</u> <u>will suffer</u> and an important national resource will not be used;

ENROLLED ACT NO. 55, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING 2003 GENERAL SESSION

(iii) <u>A lack of funds and incentives exists in</u> The private sector to develop has not developed sufficient new pipelines pipeline capacity to transport the <u>increased</u> natural gas <u>due to the present economy and existing</u> <u>depressed price for natural gas production and associated</u> natural resources;

#### 37-5-202. Definitions.

(a) As used in this act:

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

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

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

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

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

(a) The authority may issue bonds to finance pipeline projects, which shall may be located at least partially within or without the state of Wyoming, in an amount not to exceed two hundred fifty million dollars (\$250,000,000.00) or fifty percent (50%) of the total cost of any single pipeline project, whichever is less one billion dollars (\$1,000,000,000.00). The financing of a pipeline project under this act, may include or consist solely of the purchase of natural gas pipeline capacity by the authority

ENROLLED ACT NO. 55, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING 2003 GENERAL SESSION

as authorized by subsection (n) of this section. The authority is exempt from the provisions of W.S. 37-5-102(d) to exercise the powers granted by this act. The authority shall acquire no ownership interest in any pipeline project financed pursuant to this act, except to realize upon a security interest. The proceeds of the bonds shall not be made available to the pipeline owner until construction of the pipeline has been completed, and placed in service or to purchase capacity in the pipeline as authorized by subsection (n) of this section.

(b) When The principal amount of any bonds are issued under the authority of subsection (a) of this section, the total dollar principal amount on the face of the bonds shall be subtracted from the total authorization under subsection (a) of this section and may not again be reissued or reused even though the bonds have been retired, redeemed or refunded which have been retired, redeemed, defeased or refunded by the authority need not be taken into account in computing compliance with the maximum amounts of bonds authorized to be issued under subsection (a) of this section.

(c) Subject to subsection (a) of this section, the authority may issue bonds in principal amounts the authority determines necessary to provide sufficient funds for achieving its purposes under this act, including the reduction of principal, the payment of interest, the establishment of reserves, the costs of administration and for the purpose of defraying all other associated costs. All bonds issued under this act are negotiable instruments under the laws of the state unless expressly provided to the contrary on the face of the bonds. <u>The authority may</u> <u>enter into contracts to insure the payment of principal and</u> <u>interest</u>, for interest rate exchange contracts and for

ENROLLED ACT NO. 55, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING 2003 GENERAL SESSION

# financial guarantees or facilities to lower the cost of its borrowing.

(d) All bonds issued by the authority are payable solely out of special funds consisting of all or part of its revenues, receipts, monies and assets, as designated in the proceedings under which the bonds are authorized. The bonds shall bear interest at the fixed or variable rates, be executed and delivered at times and in denominations, be of terms and maturities, be in bearer form or in registered form as to principal and interest or principal alone, and bear manual or facsimile signatures and seals as determined by the authority. Bonds issued by the authority are not general obligations of this state nor of any political subdivision of the authority and shall recite on their face that they do not constitute obligations of the state or any political subdivisions of the state.

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

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

(n) The authority may acquire, purchase, hold, use, lease, license, sell, transfer and dispose of the right to capacity in any pipeline system or systems within or without the state of Wyoming in order to facilitate the production, transportation, distribution or delivery of

ENROLLED ACT NO. 55, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING 2003 GENERAL SESSION

natural gas and associated natural resources produced in this state. The provisions of W.S. 37-5-102(d) shall not apply to the authority in exercising any power pursuant to this subsection.

# 37-5-204. Authority revenue bonds; security; payments after retirement.

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

(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.

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

ENROLLED ACT NO. 55, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING 2003 GENERAL SESSION

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

### 37-5-208. Powers; duties; limitations.

(a) The authority has the powers granted by W.S. 37-5-101 through <u>37-5-106</u> <u>37-5-109</u> as necessary to carry out the purposes of this act including the power to hire technical consultants, financial advisors and legal advisors and specifically including the powers granted by W.S. 37-5-103(a)(ii). In addition to the powers otherwise granted to the authority, in order to accomplish its purposes, the authority shall have the power:

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

(ii) Make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of its powers and functions, including contracts, with any

#### ENROLLED ACT NO. 55, SENATE

# FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING 2003 GENERAL SESSION

# individual, firm, corporation, governmental agency or other entity.

(g) The sole recourse of any party contracting with the authority shall be against the authority and there shall be no cause of action against the state, or any county, municipality or other political subdivision of the state.

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

Section 4. The state treasurer is authorized to loan from the general fund to the Wyoming natural gas pipeline authority, two hundred seventy-nine thousand five hundred dollars (\$279,500.00) for operating expenses of the authority, including expenses for staff hired by the authority. Monies loaned to the authority under this section shall be repaid, with interest at an annual rate set by the state loan and investment board of not more than four percent (4%), to the general fund at such time and manner as the authority determines it has sufficient revenues to repay the monies after operating expenses are met, but the funds shall be repaid in any event not later than June 30, 2008. A loan agreement shall be prepared and approved by the attorney general before distribution of loan proceeds.

Section 5. W.S. 37-5-101 through 37-5-208 shall be liberally construed so as to effectuate their specified purposes. The provisions shall be severable and if any phrase, clause or sentence thereof is declared to be contrary to the constitution of this state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of those provisions and the

ENROLLED ACT NO. 55, SENATE

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING 2003 GENERAL SESSION

applicability the remaining provisions to any government, agency, person or circumstance shall not be affected thereby.

**Section 6.** 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)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

Chief Clerk