

SENATE FILE NO. SF0122

Wyoming agriculture authority.

Sponsored by: Senator(s) Boner, Kinskey, Steinmetz and
Wasserburger and Representative(s) Clausen,
Eklund and Hunt

A BILL

for

1 AN ACT relating to agriculture and livestock; establishing
2 the Wyoming agriculture authority; specifying duties and
3 powers of the authority; establishing a board for the
4 authority; providing legislative findings; providing for
5 financing of authority projects as specified; providing
6 rulemaking authority; making a conforming amendment;
7 providing an appropriation; and providing for an effective
8 date.

9

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

11

12 **Section 1.** W.S. 11-52-101 through 11-52-207 are
13 created to read:

14

15

CHAPTER 52

1 WYOMING AGRICULTURE AUTHORITY

2

3 ARTICLE 1

4 IN GENERAL

5

6 **11-52-101. Definitions.**

7

8 (a) As used in this article:

9

10 (i) "Agricultural processing" means harvesting,
11 preserving, drying, processing, canning, packing, storing,
12 handling or shipping meat, crops or other agricultural
13 products and includes meat processing, crop processing and
14 other agricultural products processing;

15

16 (ii) "Agricultural processing facility" means
17 any facility where meat, crop or other agricultural product
18 processing occurs;

19

20 (iii) "Agricultural product processing project"
21 means any project related to or involving agricultural
22 processing and any project included within W.S.
23 11-52-104(a)(iv);

1

2 (iv) "Authority" means the Wyoming agriculture
3 authority;

4

5 (v) "Board" means the board of the Wyoming
6 agriculture authority;

7

8 (vi) "Bonds" means notes, warrants, bonds,
9 temporary bonds and anticipation notes issued by the
10 authority under this chapter;

11

12 (vii) "Producer" means any person who produces
13 agricultural commodities in the state or who operates an
14 agricultural product processing facility that will process,
15 sell or distribute Wyoming products.

16

17 **11-52-102. Wyoming agriculture authority created;**
18 **limitation on civil actions; report.**

19

20 (a) Except as otherwise provided, commencing July 1,
21 2022, there is created the Wyoming agriculture authority,
22 which is a body politic and corporate operating as an

1 instrumentality of the state of Wyoming, with authority to
2 adopt an official seal and to sue and be sued.

3

4 (b) The authority shall be governed by a board
5 composed of seven (7) voting members appointed by the
6 governor, with the advice and consent of the senate. The
7 board shall be appointed commencing on July 1, 2021 and
8 shall adopt rules and carry out administrative functions in
9 preparation for implementing other powers of the authority
10 but shall not exercise those powers until July 1, 2022.
11 Except as provided in this subsection, all voting members
12 shall be appointed for four (4) year terms. The governor
13 shall appoint four (4) initial voting board members to a
14 term of four (4) years and shall appoint the remaining
15 three (3) initial voting board members to a term of two (2)
16 years. The governor may remove any member as provided in
17 W.S. 9-1-202. Vacancies shall be filled by appointment by
18 the governor in accordance with W.S. 28-12-101. The members
19 shall elect from the membership a chairman, vice-chairman
20 and secretary. A majority of the persons appointed and
21 serving as members shall be qualified voters of the state
22 of Wyoming. Voting members of the board shall be engaged
23 chiefly in the agricultural industry. As used in this

1 section "agricultural industry" means work relating to the
2 science, art, business or finance of cultivating soil,
3 producing crops or raising livestock or the support of such
4 work. At least two (2) members shall be engaged chiefly in
5 beef production, at least one (1) member shall be engaged
6 chiefly in sheep production, at least two (2) members shall
7 be engaged chiefly in crop production, at least one (1)
8 member shall be engaged chiefly in agricultural processing
9 and at least one (1) member shall be engaged primarily in
10 financing agribusinesses. Members of the board may receive
11 the same per diem and travel allowance as members of the
12 legislature under W.S. 28-5-101 while in attendance at
13 meetings of the board and while performing their duties as
14 members of the board.

15

16 (c) The following members shall serve as ex officio
17 members of the board:

18

19 (i) The governor or a designee from his office;

20

21 (ii) The director of the department of
22 agriculture or his designee;

23

1 (iii) The dean of the University of Wyoming
2 college of agriculture or his designee;

3

4 (iv) The chief executive officer of the Wyoming
5 business council or his designee.

6

7 (d) The board shall meet not less than two (2) times
8 each year to conduct its business and to consider issues
9 related to agricultural commodities and the agriculture
10 industry in Wyoming.

11

12 (e) The authority may request the assistance of any
13 agency, board, commission, department or institution of the
14 state and the governing authorities of political
15 subdivisions to make surveys, reports and investigations,
16 furnish records, information and other assistance and
17 advice upon mutually agreeable terms and conditions.

18

19 (f) Appointments and terms under this section shall
20 be as provided in W.S. 28-12-101 through 28-12-103.

21

22 (g) The authority is subject to the requirements of:

23

1 (i) W.S. 16-3-101 through 16-3-105;

2

3 (ii) W.S. 16-4-201 through 16-4-205;

4

5 (iii) W.S. 16-4-401 through 16-4-408.

6

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

12

13 (j) The authority shall annually submit a
14 comprehensive report of the programs, objectives,
15 activities and condition covering the previous fiscal
16 period to the joint agriculture, state and public lands and
17 water resources interim committee.

18

19 **11-52-103. Purposes.**

20

21 (a) The authority is created to:

22

1 (i) Diversify and expand the Wyoming economy and
2 its agriculture industry;

3
4 (ii) Coordinate strategies with the department
5 of agriculture to improve agricultural processing
6 facilities and capabilities, including:

7
8 (A) Assisting processors seek federal
9 grants and loans;

10
11 (B) Increasing participation in applicable
12 federal programs; and

13
14 (C) In accordance with applicable federal
15 program guidelines, implementing, administering and
16 expanding federally funded programs for agricultural
17 processing and agricultural processing facilities in
18 Wyoming.

19
20 **11-52-104. Powers of the authority.**

21
22 (a) The authority may:

23

1 (i) Employ officers, agents and employees as it
2 deems necessary for the performance of its duties and
3 prescribe the powers and duties and fix the compensation of
4 the officers, agents and employees;

5

6 (ii) Contract, upon terms as it may agree upon,
7 for legal, financial, engineering and other professional
8 services necessary or expedient in the conduct of its
9 affairs;

10

11 (iii) Utilize the services of executive agencies
12 of the state upon mutually agreeable terms and conditions;

13

14 (iv) Provide loans, grants, technical assistance
15 or expertise to assist producers to plan, finance,
16 construct, develop, acquire, own, lease, operate, maintain,
17 modernize, upgrade or dispose of agricultural processing
18 facilities and all other property, structures, equipment,
19 utilities and works of public improvement necessary or
20 useful to facilitate the processing of agricultural
21 products in the state of Wyoming and the transportation,
22 distribution and delivery of agricultural products that are

1 produced within this state including obtaining state and
2 federal inspection status;

3

4 (v) Provide technical assistance and expertise
5 to assist producers with permitting, siting and other
6 regulatory requirements;

7

8 (vi) Receive by gift, grant, donation or
9 otherwise, any sum of money, aid or assistance from the
10 United States, the state of Wyoming, any political
11 subdivision or any other public or private entity to the
12 extent permitted by law;

13

14 (vii) Provide technical assistance or expertise
15 to assist producers to acquire light, water,
16 communications, security and other services for facilities
17 as the authority deems advisable;

18

19 (viii) After consultation with any relevant
20 state or federal authority, establish and collect fees,
21 rates, tariffs or other charges and prepare a schedule of
22 charges for all services rendered by the authority;

23

1 (ix) Investigate, plan and establish priorities
2 for processing facilities in Wyoming;

3

4 (x) Engage with international and domestic
5 stakeholders on potential market opportunities and
6 agricultural processing projects to identify, develop and
7 promote projects and market opportunities to increase the
8 value of Wyoming agricultural products;

9

10 (xi) Enter into partnerships with public or
11 private entities;

12

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

16

17 (xiii) Advocate for or against any agricultural
18 processing project before any regulatory body tasked with
19 the oversight of the project;

20

21 (xiv) Develop and administer programs to educate
22 producers and the public on agricultural processing and the

1 Wyoming agriculture industry including tours, academic
2 programs and communication plans;

3

4 (xv) Do any and all things necessary or proper
5 for the development, regulation and accomplishment of the
6 purposes of the authority within the limitations of
7 authority granted by this chapter.

8

9 (b) Any entity receiving assistance from the
10 authority shall comply with all applicable state and
11 federal regulations.

12

13 (c) The authority may borrow funds for the execution
14 of the purposes of the authority, and mortgage and pledge
15 any contracts granted, assigned or subleased by the
16 authority.

17

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

1 contemplated by the authority, except in accordance with
2 subsection (e) of this section.

3

4 (e) Before exercising any rights or powers granted to
5 it in this section, the authority shall publish in a
6 newspaper of general circulation in Wyoming, and in a
7 newspaper in the area where the authority contemplates
8 providing financing or services, in the manner prescribed
9 by law, a notice describing the acts or services
10 contemplated by the authority. Private persons, firms or
11 corporations wishing to perform the acts, construct the
12 facilities or provide the services described in the notice
13 shall have ninety (90) days from the date of last
14 publication of the notice within which to notify the
15 authority of their intention to perform the acts or provide
16 the services described in the notice. A person or entity
17 giving notice to the authority shall include an anticipated
18 timeline for completion of the acts or services. In the
19 absence of notification by a private person, firm or
20 corporation, or if a person, firm or corporation, having
21 given notice of intention to perform the acts or provide
22 the services contemplated by the authority, fails to
23 commence the same within one hundred eighty (180) days from

1 the date of last publication, the authority may proceed to
2 perform the acts, or provide the services for which notice
3 was given. A private person, firm or corporation that has
4 made necessary applications to acquire any federal, state,
5 local or private permits, certificates or other
6 authorizations necessary to perform the acts or provide the
7 services included in the authority's notice within the time
8 required is deemed to have commenced the same. When a
9 private person, firm or corporation has given notice of
10 intent to perform or is performing the acts or providing
11 the services that the authority contemplated, the authority
12 may conduct hearings or meetings with the person, firm or
13 corporation to assess progress toward completion of the
14 intended acts to be performed or the services to be
15 provided. If it appears to the authority that progress or
16 completion of any or all of the intended acts or services
17 may be delayed for one (1) year or more, the authority may
18 proceed to perform the acts or provide the services
19 originally contemplated.

20

21 (f) The authority shall promulgate rules to carry out
22 the provisions of this chapter.

23

1 **11-52-105. Authority loan and grant program.**

2

3 (a) The authority shall establish and administer a
4 loan and grant program under this chapter and may contract
5 for necessary professional services. Loans and grants
6 authorized under the program shall not exceed fifty million
7 dollars (\$50,000,000.00) per project. Any person may submit
8 an application to the authority to participate in the
9 program on forms prescribed by and subject to rules
10 promulgated by the authority.

11

12 (b) The authority shall establish all fees and
13 interest rates to be charged for each loan as it is
14 underwritten for this program. The interest rate for loans
15 made under this program shall not be less than one percent
16 (1%) per annum. Fees on loans under the program shall be
17 paid monthly and deposited into a program administration
18 account which is continuously appropriated to the authority
19 to be expended solely for the purpose of administering this
20 chapter and loans and grants authorized under it.

21

22 (c) Grants may be awarded by the authority to provide
23 funding to producers to create, maintain or expand

1 infrastructure for agricultural processing facilities that
2 will increase capacity for agricultural processing in the
3 state. The authority shall establish requirements for
4 grants awarded under this subsection.

5

6 **11-52-106. Confidential information.**

7

8 All information obtained by the authority in connection
9 with any hearing or investigation under this article that
10 contains or that might reveal proprietary data shall be
11 considered as confidential for the purposes of this
12 article. The authority shall not disclose confidential
13 information to any person, governmental entity or agency
14 without prior written consent from the owner of the
15 confidential information. Any board or staff member who
16 discloses or causes to be disclosed any confidential
17 information is guilty of a misdemeanor punishable by
18 imprisonment for not more than one (1) year, a fine of not
19 more than one thousand dollars (\$1,000.00), or both.

20

21

ARTICLE 2

22

PROJECT FINANCING ASSISTANCE

23

1 **11-52-201. Legislative findings; applicability.**

2

3 (a) The legislature finds that:

4

5 (i) Beginning when Wyoming was only a territory,
6 the livestock industry has been an integral part of
7 Wyoming's economy and agricultural heritage;

8

9 (ii) Because of market conditions, both in
10 Wyoming and across the nation, producers are facing
11 challenges getting livestock to agricultural processing
12 facilities in a timely, efficient and cost effective
13 manner;

14

15 (iii) Timely development of agricultural
16 processing facilities in Wyoming will help increase revenue
17 to the state;

18

19 (iv) New infrastructure for agricultural
20 processing will increase development of Wyoming's livestock
21 industry;

22

1 (v) It is in the public interest of the citizens
2 of this state to promote the economic welfare of the state
3 and its residents by increasing employment, stimulating
4 economic activity, augmenting sources of tax revenue,
5 fostering economic stability, improving the balance of the
6 state's economy and enhancing the food supply chain to
7 ensure adequate quantities of wholesome foods are
8 available;

9

10 (vi) This chapter constitutes a valid public
11 purpose of primary benefit to all citizens of this state.

12

13 **11-52-202. Authority revenue bonds; issuance; amount.**

14

15 (a) The authority may issue and have outstanding
16 bonds to finance agricultural processing facilities and
17 agricultural processing projects consistent with the
18 purposes of W.S. 11-52-103(a), in an amount not to exceed
19 two hundred fifty million dollars (\$250,000,000.00). The
20 authority shall have contracts sufficient to justify the
21 issuance of bonds.

22

1 (b) The principal amount of any bonds that have been
2 retired, redeemed, defeased or refunded by the authority
3 need not be taken into account in computing compliance with
4 the maximum amounts of bonds authorized to be issued under
5 subsection (a) of this section.

6

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

21

22 (d) All bonds issued by the authority are payable
23 solely out of special funds consisting of all or part of

1 its revenues, receipts, monies and assets, as designated in
2 the proceedings under which the bonds are authorized. All
3 bonds shall bear interest at fixed or variable rates, be
4 executed and delivered at times and in denominations, be of
5 terms and maturities, be in registered form as to principal
6 and interest or principal alone and bear manual or
7 facsimile signatures and seals as the authority determines.
8 Bonds issued by the authority are not general obligations
9 of this state nor of any political subdivision of this
10 state. The bonds shall solely be the obligation of the
11 authority and shall recite on their face that they do not
12 constitute obligations of the state or any political
13 subdivision of the state.

14

15 (e) Bonds may be payable in installments and may bear
16 maturities not exceeding forty (40) years from the date
17 issued as the authority determines. Bonds may contain other
18 provisions not inconsistent with this article.

19

20 (f) Any bonds that the authority issues may contain
21 an option to redeem all or any part as may be specified.
22 The price of redemption, the terms and conditions and the

1 procedure of notice shall be set forth by the authority and
2 may appear on the face of the bonds.

3

4 (g) Any bonds of the authority may be sold at, above
5 or below par value, at public or private sale, in a manner
6 and from time to time as determined by the authority. The
7 authority may pay legal fees, expenses, premiums and
8 commissions that it finds necessary or advantageous to this
9 state in connection with the issuance and sale.

10

11 (h) The authority may provide for the issuance of
12 bonds to refund any bonds of the authority then
13 outstanding, including for the payment of any redemption
14 premium and any interest or premium accrued or to accrue
15 to, the earliest or subsequent date of redemption, purchase
16 or maturity of the bonds. Refunding shall be accomplished
17 in the manner prescribed by W.S. 16-5-101 through 16-5-119
18 to the extent it is not inconsistent with this article.

19

20 **11-52-203. Authority revenue bonds; security;**
21 **payments after retirement.**

22

1 (a) The principal and interest on any bonds that the
2 authority issues shall be secured by a pledge of revenues
3 from the operation of the agricultural processing facility
4 or agricultural processing project financed, by a first
5 mortgage on the facilities, by guarantees and pledges of
6 the entity owning the project or facility, or of the parent
7 corporation owning said entity or by any combination
8 thereof or other security as the authority may determine to
9 be reasonable and prudent. The guarantees and pledges shall
10 be no less favorable to the authority than those granted
11 other lenders of the same class.

12

13 (b) The authority may require additional payments, as
14 negotiated, to bondholders to be made either in a lump sum
15 at the time of retirement of the bonds or annually from the
16 time of retirement of the bonds until use of the
17 agricultural processing facility or agricultural processing
18 project is terminated or may require additional incentives
19 from the owner of the project or facility to prospective
20 bondholders so long as the incentives are not contrary to
21 the Wyoming constitution.

22

1 (c) The authority may require such other security for
2 repayment of the bonds as it deems necessary.

3

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

15

16 **11-52-204. Exemptions from taxation.**

17

18 The exercise of the powers granted by this article
19 constitutes the performance of an essential governmental
20 function. Any bonds issued under this article and the
21 income therefrom shall be free from taxation of every kind
22 by the state, municipalities and political subdivisions of
23 the state.

1

2 **11-52-205. Bonds as legal investments.**

3

4 The bonds of the authority are legal investments that may
5 be used as collateral for public funds of the state,
6 insurance companies, banks, savings and loan associations,
7 investment companies, trustees and other fiduciaries that
8 may properly and legally invest funds in their control or
9 belonging to them in bonds of the authority. With the
10 written approval of the state loan and investment board and
11 the attorney general, the state treasurer may invest monies
12 from the permanent Wyoming mineral trust fund in bonds of
13 the authority in an amount specified by the state loan and
14 investment board and the attorney general but not to exceed
15 the amount specified in W.S. 11-52-202(a). The interest
16 payable on the bonds shall be not less than two percent
17 (2%), and revenue under W.S. 11-52-202(a) shall be credited
18 as received to the general fund. The limitation on specific
19 public purpose investments under W.S. 9-4-715(n) shall not
20 apply to investments made under this section.

21

22 **11-52-206. State pledge not to impair bondholder's**
23 **rights and remedies.**

1

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

13

14 **11-52-207. Powers; duties; limitations.**

15

16 (a) The authority has the powers granted by W.S.
17 11-52-101 through 11-52-106 as necessary to carry out the
18 purposes of this article, including the power to hire
19 technical consultants, financial advisors and legal
20 advisors and specifically the powers granted by W.S.
21 11-52-104(a)(ii). In addition to the powers otherwise
22 granted to the authority, the authority shall have the
23 power to:

1

2 (i) Enter into loans or other agreements with
3 respect to one (1) or more agricultural processing projects
4 or projects for agricultural processing facilities, upon
5 terms and conditions the authority considers advisable;

6

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

12

13 (b) The authority may assess and collect fees that
14 are nonrefundable from applicants seeking to obtain
15 authority financing of an agricultural processing facility
16 or agricultural processing project in total amounts not to
17 exceed five hundred thousand dollars (\$500,000.00), which
18 shall be credited to the authority.

19

20 (c) The authority shall maintain such records and
21 accounts of revenues and expenditures as required by the
22 director of the state department of audit. The director of
23 the state department of audit or his designee shall conduct

1 an annual financial and legal compliance audit of the
2 accounts of the authority and file copies of the audit with
3 the governor and the legislature.

4

5 (d) The authority shall require that any project
6 owner receiving a loan under this chapter shall maintain
7 records and accounts relating to the receipt and
8 disbursements of loan proceeds, costs associated with the
9 agricultural processing facility or agricultural processing
10 project and sales and deliveries associated therewith and
11 make the records available to the state auditor for
12 inspection.

13

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

19

20 **Section 2.** W.S. 9-4-715(n)(intro) is amended to read:

21

22 **9-4-715. Permissible investments.**

23

1 (n) The state treasurer shall not invest state funds
2 for a specific public purpose authorized or directed by the
3 legislature in excess of a total of one billion dollars
4 (\$1,000,000,000.00), excluding investments made pursuant to
5 W.S. 11-52-205, 37-5-406 or 37-5-605. By November 1 of
6 each calendar year, the state treasurer, in consultation
7 with the board, the Wyoming water development office, the
8 Wyoming business council and the office of state lands and
9 investments, shall provide a report to the select committee
10 on capital financing and investments and the investment
11 funds committee on all state funds invested for a specific
12 public purpose authorized or directed by the legislature.
13 The report shall include:

14

15 **Section 3.** The board of the Wyoming agricultural
16 authority shall be appointed and shall meet not fewer than
17 two (2) times between July 1, 2021 and July 1, 2022. The
18 board shall take all actions necessary to implement the
19 powers of the authority from July 1, 2021 to July 1, 2022.
20 The Wyoming department of agriculture shall provide
21 administrative support for the board.

22

1 **Section 4.** There is appropriated twenty thousand
2 dollars (\$20,000.00) from the general fund to the Wyoming
3 department of agriculture for administrative expenses
4 incurred by the authority in implementing this act. This
5 appropriation shall be for the period beginning with the
6 effective date of this act and ending June 30, 2022. This
7 appropriation shall not be transferred or expended for any
8 other purpose and any unexpended, unobligated funds
9 remaining from this appropriation shall revert as provided
10 by law on June 30, 2022.

11

12 **Section 5.** This act is effective July 1, 2021.

13

14

(END)