

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; and providing for an effective date.

7

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

9

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

12

13

CHAPTER 52

14

WYOMING AGRICULTURE AUTHORITY

15

1 ARTICLE 1

2 IN GENERAL

3

4 **11-52-101. Definitions.**

5

6 (a) As used in this article:

7

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

13

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

17

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

22

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

3

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

6

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

10

11 (vii) "Meat" means any product from the edible
12 part of clean, sound cattle, swine, sheep, goat, ratite and
13 chicken slaughtered in accordance with state and federal
14 law as applicable, and with or without the accompanying and
15 overlying fat, sinew, nerve, gland and blood vessels that
16 normally accompany the muscle tissues and which are not
17 separated from it in the process of dressing. "Meat" shall
18 not include items associated with the nervous system of
19 beef cattle;

20

21 (viii) "Meat processing" means the slaughtering
22 or butchering of livestock for the preparation or
23 processing of meat or meat products for commercial sale and

1 for human consumption and shall include canning, salting,
2 stuffing, rendering, boning, cutting up or otherwise
3 manufacturing meat or meat products for commercial sale and
4 for human consumption. "Meat processing" does not include
5 the processing of wild game;

6

7 (ix) "Producer" means any person who produces
8 agricultural commodities in the state or who operates an
9 agricultural product processing facility that will process,
10 sell or distribute Wyoming products.

11

12 **11-52-102. Wyoming agriculture authority created;**
13 **limitation on civil actions; report.**

14

15 (a) Except as otherwise provided, commencing July 1,
16 2022, there is created the Wyoming agriculture authority,
17 which is a body politic and corporate operating as an
18 instrumentality of the state of Wyoming, with authority to
19 adopt an official seal and to sue and be sued.

20

21 (b) The authority shall be governed by a board
22 composed of seven (7) voting members appointed by the
23 governor, with the advice and consent of the senate. The

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

1 chiefly in crop production and at least one (1) member
2 shall be engaged primarily in financing agribusinesses.
3 Members of the board may receive the same per diem and
4 travel allowance as members of the legislature under W.S.
5 28-5-101 while in attendance at meetings of the board and
6 while performing their duties as members of the board.

7

8 (c) The following members shall serve as ex officio
9 members of the board:

10

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

12

13 (ii) The director of the department of
14 agriculture or his designee;

15

16 (iii) The dean of the University of Wyoming
17 college of agriculture or his designee;

18

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

21

22 (d) The board shall meet not less than two (2) times
23 each year to conduct its business and to consider issues

1 related to agricultural commodities and the agriculture
2 industry in Wyoming.

3

4 (e) The authority may request the assistance of any
5 agency, board, commission, department or institution of the
6 state and the governing authorities of political
7 subdivisions to make surveys, reports and investigations,
8 furnish records, information and other assistance and
9 advice upon mutually agreeable terms and conditions.

10

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

13

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

15

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

17

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

19

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

21

22 (h) The sole recourse of any party contracting with
23 the authority shall be against the authority, and there

1 shall be no cause of action against the state or any
2 county, municipality or other political subdivision of the
3 state.

4

5 (j) The authority shall annually submit a
6 comprehensive report of the programs, objectives,
7 activities and condition covering the previous fiscal
8 period to the joint agriculture, state and public lands and
9 water resources interim committee.

10

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

12

13 (a) The authority is created to:

14

15 (i) Diversify and expand the Wyoming economy and
16 its agriculture industry;

17

18 (ii) Coordinate strategies with the department
19 of agriculture to improve agricultural processing
20 facilities and capabilities, including:

21

22 (A) Assisting processors seek federal
23 grants and loans;

1

2 (B) Increasing participation in applicable
3 federal programs; and

4

5 (C) In accordance with applicable federal
6 program guidelines, implementing, administering and
7 expanding federally funded programs for agricultural
8 processing and agricultural processing facilities in
9 Wyoming.

10

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

12

13 (a) The authority may:

14

15 (i) Employ officers, agents and employees as it
16 deems necessary for the performance of its duties and
17 prescribe the powers and duties and fix the compensation of
18 the officers, agents and employees;

19

20 (ii) Contract, upon terms as it may agree upon,
21 for legal, financial, engineering and other professional
22 services necessary or expedient in the conduct of its
23 affairs;

1

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

4

5 (iv) Provide loans, grants, technical assistance
6 or expertise to assist producers to plan, finance,
7 construct, develop, acquire, own, lease, operate, maintain,
8 modernize, upgrade or dispose of agricultural processing
9 facilities and all other property, structures, equipment,
10 utilities and works of public improvement necessary or
11 useful to facilitate the processing of agricultural
12 products in the state of Wyoming and the transportation,
13 distribution and delivery of agricultural products that are
14 produced within this state including obtaining state and
15 federal inspection status;

16

17 (v) Provide technical assistance and expertise
18 to assist producers with permitting, siting and other
19 regulatory requirements;

20

21 (vi) Receive by gift, grant, donation or
22 otherwise, any sum of money, aid or assistance from the
23 United States, the state of Wyoming, any political

1 subdivision or any other public or private entity to the
2 extent permitted by law;

3

4 (vii) Provide technical assistance or expertise
5 to assist producers to acquire light, water,
6 communications, security and other services for facilities
7 as the authority deems advisable;

8

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

13

14 (ix) Investigate, plan and establish priorities
15 for processing facilities in Wyoming;

16

17 (x) Engage with international and domestic
18 stakeholders on potential market opportunities and
19 agricultural processing projects to identify, develop and
20 promote projects and market opportunities to increase the
21 value of Wyoming agricultural products;

22

1 (xi) Enter into partnerships with public or
2 private entities;

3

4 (xii) Conduct hearings and gather and develop
5 relevant data consistent with the duties and powers of the
6 authority;

7

8 (xiii) Advocate for or against any agricultural
9 processing project before any regulatory body tasked with
10 the oversight of the project;

11

12 (xiv) Develop and administer programs to educate
13 producers and the public on agricultural processing and the
14 Wyoming agriculture industry including tours, academic
15 programs and communication plans;

16

17 (xv) Do any and all things necessary or proper
18 for the development, regulation and accomplishment of the
19 purposes of the authority within the limitations of
20 authority granted by this chapter.

21

1 (b) Any entity receiving assistance from the
2 authority shall comply with all applicable state and
3 federal regulations.

4

5 (c) The authority may borrow funds for the execution
6 of the purposes of the authority, and mortgage and pledge
7 any contracts granted, assigned or subleased by the
8 authority.

9

10 (d) Except as provided in this section, the authority
11 shall not exercise any of the rights or powers granted to
12 it in this section if private persons, firms or
13 corporations are performing the acts, constructing or have
14 constructed the facilities or are providing the services
15 contemplated by the authority, except in accordance with
16 subsection (e) of this section.

17

18 (e) Before exercising any rights or powers granted to
19 it in this section, the authority shall publish in a
20 newspaper of general circulation in Wyoming, and in a
21 newspaper in the area where the authority contemplates
22 providing financing or services, in the manner prescribed
23 by law, a notice describing the acts or services

1 contemplated by the authority. Private persons, firms or
2 corporations wishing to perform the acts, construct the
3 facilities or provide the services described in the notice
4 shall have ninety (90) days from the date of last
5 publication of the notice within which to notify the
6 authority of their intention to perform the acts or provide
7 the services described in the notice. A person or entity
8 giving notice to the authority shall include an anticipated
9 timeline for completion of the acts or services. In the
10 absence of notification by a private person, firm or
11 corporation, or if a person, firm or corporation, having
12 given notice of intention to perform the acts or provide
13 the services contemplated by the authority, fails to
14 commence the same within one hundred eighty (180) days from
15 the date of last publication, the authority may proceed to
16 perform the acts, or provide the services for which notice
17 was given. A private person, firm or corporation that has
18 made necessary applications to acquire any federal, state,
19 local or private permits, certificates or other
20 authorizations necessary to perform the acts or provide the
21 services included in the authority's notice within the time
22 required is deemed to have commenced the same. When a
23 private person, firm or corporation has given notice of

1 intent to perform or is performing the acts or providing
2 the services that the authority contemplated, the authority
3 may conduct hearings or meetings with the person, firm or
4 corporation to assess progress toward completion of the
5 intended acts to be performed or the services to be
6 provided. If it appears to the authority that progress or
7 completion of any or all of the intended acts or services
8 may be delayed for one (1) year or more, the authority may
9 proceed to perform the acts or provide the services
10 originally contemplated.

11

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

14

15 **11-52-105. Authority loan and grant program.**

16

17 (a) The authority shall establish and administer a
18 loan and grant program under this chapter and may contract
19 for necessary professional services. Loans and grants
20 authorized under the program shall not exceed fifty million
21 dollars (\$50,000,000.00) per project. Any person may submit
22 an application to the authority to participate in the

1 program on forms prescribed by and subject to rules
2 promulgated by the authority.

3

4 (b) The authority shall establish all fees and
5 interest rates to be charged for each loan as it is
6 underwritten for this program. The interest rate for loans
7 made under this program shall not be less than one percent
8 (1%) per annum. Fees on loans under the program shall be
9 paid monthly and deposited into a program administration
10 account which is continuously appropriated to the authority
11 to be expended solely for the purpose of administering this
12 chapter and loans and grants authorized under it.

13

14 (c) Grants may be awarded by the authority to provide
15 funding to producers to create, maintain or expand
16 infrastructure for agricultural processing facilities that
17 will increase capacity for agricultural processing in the
18 state. The authority shall establish requirements for
19 grants awarded under this subsection.

20

21 **11-52-106. Confidential information.**

22

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

13

14

ARTICLE 2

15

PROJECT FINANCING ASSISTANCE

16

17

11-52-201. Legislative findings; applicability.

18

19

(a) The legislature finds that:

20

21

22

23

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

1

2 (ii) Because of market conditions, both in
3 Wyoming and across the nation, producers are facing
4 challenges getting livestock to agricultural processing
5 facilities in a timely, efficient and cost effective
6 manner;

7

8 (iii) Timely development of agricultural
9 processing facilities in Wyoming will help increase revenue
10 to the state;

11

12 (iv) New infrastructure for agricultural
13 processing will increase development of Wyoming's livestock
14 industry;

15

16 (v) It is in the public interest of the citizens
17 of this state to promote the economic welfare of the state
18 and its residents by increasing employment, stimulating
19 economic activity, augmenting sources of tax revenue,
20 fostering economic stability, improving the balance of the
21 state's economy and enhancing the food supply chain to
22 ensure adequate quantities of wholesome foods are
23 available;

1

2

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

4

5

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

6

7

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

14

15

(b) The principal amount of any bonds that 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.

20

21

(c) Subject to subsection (a) of this section, the authority may issue bonds in principal amounts the authority determines necessary to provide sufficient funds

23

1 for achieving its purposes under this article, including
2 the reduction of principal, the payment of interest, the
3 establishment of reserves, the costs of administration and
4 for the purpose of defraying all other associated costs.
5 All bonds issued under this article are negotiable
6 instruments under the laws of this state unless expressly
7 provided to the contrary on the face of the bonds. The
8 authority may enter into contracts to insure the payment of
9 principal and interest, for interest rate exchange
10 contracts and for financial guarantees to lower the cost of
11 its borrowing.

12

13 (d) All bonds issued by the authority are payable
14 solely out of special funds consisting of all or part of
15 its revenues, receipts, monies and assets, as designated in
16 the proceedings under which the bonds are authorized. All
17 bonds shall bear interest at fixed or variable rates, be
18 executed and delivered at times and in denominations, be of
19 terms and maturities, be in registered form as to principal
20 and interest or principal alone and bear manual or
21 facsimile signatures and seals as the authority determines.
22 Bonds issued by the authority are not general obligations
23 of this state nor of any political subdivision of this

1 state. The bonds shall solely be the obligation of the
2 authority and shall recite on their face that they do not
3 constitute obligations of the state or any political
4 subdivision of the state.

5

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

10

11 (f) Any bonds that the authority issues may contain
12 an option to redeem all or any part as may be specified.
13 The price of redemption, the terms and conditions and the
14 procedure of notice shall be set forth by the authority and
15 may appear on the face of the bonds.

16

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

23

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

9

10 **11-52-203. Authority revenue bonds; security;**
11 **payments after retirement.**

12

13 (a) The principal and interest on any bonds that the
14 authority issues shall be secured by a pledge of revenues
15 from the operation of the agricultural processing facility
16 or agricultural processing project financed, by a first
17 mortgage on the facilities, by guarantees and pledges of
18 the entity owning the project or facility, or of the parent
19 corporation owning said entity or by any combination
20 thereof or other security as the authority may determine to
21 be reasonable and prudent. The guarantees and pledges shall
22 be no less favorable to the authority than those granted
23 other lenders of the same class.

1

2 (b) The authority may require additional payments, as
3 negotiated, to bondholders to be made either in a lump sum
4 at the time of retirement of the bonds or annually from the
5 time of retirement of the bonds until use of the
6 agricultural processing facility or agricultural processing
7 project is terminated or may require additional incentives
8 from the owner of the project or facility to prospective
9 bondholders so long as the incentives are not contrary to
10 the Wyoming constitution.

11

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

14

15 (d) Each pledge, agreement, mortgage or other
16 instrument made for the benefit or security of any bonds of
17 the authority is valid and binding from the time when made.
18 The revenues, receipts, monies and assets pledged are
19 immediately subject to the lien of the pledge without
20 delivery or further act. The lien is valid and binding
21 against persons having claims of any kind against the
22 authority whether or not the persons have actual notice of
23 the lien. The resolution or the indenture or other

1 instrument by which a pledge is created need not be
2 recorded or filed.

3

4 **11-52-204. Exemptions from taxation.**

5

6 The exercise of the powers granted by this article
7 constitutes the performance of an essential governmental
8 function. Any bonds issued under this article and the
9 income therefrom shall be free from taxation of every kind
10 by the state, municipalities and political subdivisions of
11 the state.

12

13 **11-52-205. Bonds as legal investments.**

14

15 The bonds of the authority are legal investments that 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 that
19 may properly and legally invest funds in their control or
20 belonging to them in bonds of the authority. With the
21 written approval of the state loan and investment board and
22 the attorney general, the state treasurer may invest monies
23 from the permanent Wyoming mineral trust fund in bonds of

1 the authority in an amount specified by the state loan and
2 investment board and the attorney general but not to exceed
3 the amount specified in W.S. 11-52-202(a). The interest
4 payable on the bonds shall be not less than two percent
5 (2%), and revenue under W.S. 11-52-202(a) shall be credited
6 as received to the general fund. The limitation on specific
7 public purpose investments under W.S. 9-4-715(n) shall not
8 apply to investments made under this section.

9

10 **11-52-206. State pledge not to impair bondholder's**
11 **rights and remedies.**

12

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

1

2 **11-52-207. Powers; duties; limitations.**

3

4 (a) The authority has the powers granted by W.S.
5 11-52-101 through 11-52-106 as necessary to carry out the
6 purposes of this article, including the power to hire
7 technical consultants, financial advisors and legal
8 advisors and specifically the powers granted by W.S.
9 11-52-104(a)(ii). In addition to the powers otherwise
10 granted to the authority, the authority shall have the
11 power to:

12

13 (i) Enter into loans or other agreements with
14 respect to one (1) or more agricultural processing projects
15 or projects for agricultural processing facilities, upon
16 terms and conditions the authority considers advisable;

17

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

23

1 (b) The authority may assess and collect fees that
2 are nonrefundable from applicants seeking to obtain
3 authority financing of an agricultural processing facility
4 or agricultural processing project in total amounts not to
5 exceed five hundred thousand dollars (\$500,000.00), which
6 shall be credited to the authority.

7

8 (c) The authority shall maintain such records and
9 accounts of revenues and expenditures as required by the
10 director of the state department of audit. The director of
11 the state department of audit or his designee shall conduct
12 an annual financial and legal compliance audit of the
13 accounts of the authority and file copies of the audit with
14 the governor and the legislature.

15

16 (d) The authority shall require that any project
17 owner receiving a loan under this chapter shall maintain
18 records and accounts relating to the receipt and
19 disbursements of loan proceeds, costs associated with the
20 agricultural processing facility or agricultural processing
21 project and sales and deliveries associated therewith and
22 make the records available to the state auditor for
23 inspection.

1

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

7

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

9

10 **9-4-715. Permissible investments.**

11

12 (n) The state treasurer shall not invest state funds
13 for a specific public purpose authorized or directed by the
14 legislature in excess of a total of one billion dollars
15 (\$1,000,000,000.00), excluding investments made pursuant to
16 W.S. 11-52-205, 37-5-406 or 37-5-605. By November 1 of
17 each calendar year, the state treasurer, in consultation
18 with the board, the Wyoming water development office, the
19 Wyoming business council and the office of state lands and
20 investments, shall provide a report to the select committee
21 on capital financing and investments and the investment
22 funds committee on all state funds invested for a specific

1 public purpose authorized or directed by the legislature.

2 The report shall include:

3

4 **Section 3.** The board of the Wyoming agricultural
5 authority shall be appointed and shall meet not fewer than
6 two (2) times between July 1, 2021 and July 1, 2022. The
7 board shall take all actions necessary to implement the
8 powers of the authority from July 1, 2021 to July 1, 2022.
9 The Wyoming department of agriculture shall provide
10 administrative support for the board.

11

12 **Section 4.** There is appropriated ten thousand dollars
13 (\$10,000.00) from the general fund to the Wyoming
14 agriculture authority for administrative expenses incurred
15 by the authority in implementing this act. This
16 appropriation shall be for the period beginning with the
17 effective date of this act and ending June 30, 2022. This
18 appropriation shall not be transferred or expended for any
19 other purpose and any unexpended, unobligated funds
20 remaining from this appropriation shall revert as provided
21 by law on June 30, 2022.

22

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

2

3

(END)