

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

SENATE FILE NO. [BILL NUMBER]

Wyoming energy authority.

Sponsored by: SDraft Committee

A BILL

for

1 AN ACT relating to the administration of government; creating
2 the Wyoming energy authority by merging the Wyoming pipeline
3 authority and the Wyoming infrastructure authority; repealing
4 superseded provisions; conforming provisions related to the
5 two existing authorities; providing for the transfer of funds
6 and obligations; requiring a study; providing for delayed
7 implementation; and providing for effective dates.

8

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

10

11 **Section 1.**

12

1 (a) The Wyoming pipeline authority created by W.S. 37-
2 5-101 and the Wyoming infrastructure authority created by
3 W.S. 37-5-301 shall be consolidated into the Wyoming energy
4 authority as of the effective date of this section. All
5 property, equipment, obligations and unexpended funds of the
6 Wyoming pipeline authority and the Wyoming infrastructure
7 authority are transferred to the Wyoming energy authority,
8 except as provided in this section.

9
10 (b) Nothing in this act shall be construed to impair
11 existing bonds, contracts, agreements or other obligations of
12 the Wyoming pipeline authority or the Wyoming infrastructure
13 authority executed before the effective date of this section.
14 The Wyoming energy authority shall, to the greatest extent
15 authorized by law, fulfill existing agreements, contracts and
16 other obligations of the Wyoming pipeline authority and the
17 Wyoming infrastructure authority from funds transferred under
18 this act or other funds appropriated to the Wyoming energy
19 authority for those purposes. To the extent that the Wyoming
20 pipeline authority or the Wyoming infrastructure authority
21 has outstanding contracts or other agreements that cannot be
22 assumed lawfully by the Wyoming energy authority, the
23 governor shall assign the agreements or contracts and any

1 funds necessary to fulfill the outstanding agreements or
2 contracts to a department or separate operating agency of the
3 state to fulfill the obligations. Funds transferred or
4 otherwise appropriated to the Wyoming energy authority under
5 this act shall be expended for administrative purposes of the
6 authority to fulfill the purposes specified in this act.

7
8 (c) The joint minerals, business and economic
9 development interim committee is directed to study before
10 October 1, 2019 the impacts this act will have on the
11 statutory duties and responsibilities of the Wyoming pipeline
12 authority and the Wyoming infrastructure authority. This
13 study shall include the bonding authority of the separate
14 authorities and the effect of merging them into one (1)
15 authority, including the effect merging will have on existing
16 bonds and other obligations. The Wyoming pipeline authority
17 and the Wyoming infrastructure authority shall assist the
18 committee in its study as requested. The committee shall
19 sponsor any necessary legislation to correct or improve the
20 outcome of any issue identified in its study.

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22 **Section 2.** W.S. 37-5-501 through 37-5-509 and 37-5-601
23 through 37-5-607 are created to read:

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ARTICLE 5

WYOMING ENERGY AUTHORITY

37-5-501. Definitions.

(a) As used in this article:

(i) "Authority" means the Wyoming energy authority created by W.S. 37-5-502;

(ii) "Board" means the board of the Wyoming energy authority;

(iii) "Bonds" means notes, warrants, bonds, temporary bonds and anticipation notes issued by the authority under this article;

(iv) "Natural resource associated with energy" or "associated natural resource" means any substance, element or compound, either gaseous, liquid or solid, associated with the production, development, refining, processing or transmission of energy;

1

2 (v) "Pipeline" means a pipeline and related
3 facilities, including storage facilities, and including
4 undivided ownership interests or capacity in a pipeline and
5 related facilities, constructed for the purpose of
6 transporting and treating natural resources associated with
7 energy;

8

9 (vi) "Royalty in kind" means natural resources
10 associated with energy that are received by the federal
11 government, the state or its agencies or political
12 subdivisions as royalties in kind under leases or otherwise.

13

14 **37-5-502. Wyoming energy authority.**

15

16 (a) Commencing July 1, 2020, there is created the Wyoming
17 energy authority, which is a body politic and corporate
18 operating as an instrumentality of the state of Wyoming, with
19 authority to adopt an official seal and to sue and be sued.

20

21 (b) The authority shall be governed by a board composed
22 of nine (9) members appointed by the governor, with the advice
23 and consent of the senate. All members shall be appointed for

1 four (4) year terms. The governor may remove any member as
 2 provided in W.S. 9-1-202. Vacancies shall be filled by
 3 appointment by the governor in accordance with W.S. 28-12-
 4 101. The members shall elect from the membership a chairman,
 5 vice-chairman and secretary. A majority of the persons
 6 appointed and serving as members shall be qualified voters of
 7 the state of Wyoming with special knowledge, education or
 8 experience in the field of energy or natural resource
 9 development, transmission, generation, transportation,
 10 financing or marketing, or a field related to industrial or
 11 municipal energy consumption. Members of the board may
 12 receive the same per diem, expenses and travel allowance as
 13 members of the legislature under W.S. 28-5-101 while in
 14 attendance at meetings of the board and while performing their
 15 duties as members of the board.

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19 **STAFF COMMENT**

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21 **The Committee may wish to consider (1) whether the first**
 22 **appointees should have staggered terms and (2) whether there**
 23 **should be a limit on how many terms in a row a board member**
 24 **may serve.**

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1 (c) The following persons shall serve as ex officio
2 members of the board:

3

4 (i) A member of the Wyoming enhanced oil recovery
5 commission selected by the commission;

6

7 (ii) The chairman of the Wyoming business council
8 or a designee;

9

10 (iii) The governor or a designee from his office;

11

12 (iv) The chairman of the Wyoming oil and gas
13 conservation commission or a designee;

14

15 (v) The director of the University of Wyoming
16 school of energy resources or, if there is no director, a
17 member of the school of energy resources selected by the
18 University of Wyoming energy resources council, or a
19 designee.

20

21 (d) The board shall meet not less than two (2) times
22 each year with representatives of the University of Wyoming
23 school of energy resources and the enhanced oil recovery

1 institute to conduct its business and to consider energy-
2 related issues and the state of the energy industry in
3 Wyoming.

4

5 (e) Any agency, board, commission, department or
6 institution of the state and the governing authorities of
7 political subdivisions may make surveys, reports and
8 investigations, and may furnish records and information and
9 other assistance and advice as the authority may require.

10

11 (f) Appointments and terms under this section shall be
12 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;

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

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STAFF COMMENT

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The above provisions are from existing law; they appear to currently apply to the Wyoming Infrastructure Authority and the Wyoming Pipeline Authority for financing projects or undertaking their own projects.

W.S. 16-3-101 through 16-3-105 are general provisions of the Wyoming Administrative Procedure Act, including definitions, general rulemaking requirements, adopting rules, and filing and compiling promulgated rules.

W.S. 16-4-201 through 16-4-205 are provisions for public records.

W.S. 16-4-401 through 16-4-408 are provisions for public meetings.

37-5-503. Purposes; report.

(a) The authority is created to:

(i) Diversify and expand the Wyoming economy through improvements in the state's electric and energy transmission infrastructure and facilitate Wyoming's production, development and transmission of energy and associated natural resources by planning, financing, constructing, developing, acquiring, maintaining and operating electric and energy transmission facilities, advanced technology facilities for natural resources

1 associated with energy, distribution facilities and related
2 supporting infrastructure and undivided or other interests
3 therein; and
4

5 (ii) Plan, finance, construct, develop, acquire,
6 maintain and operate a pipeline or other transportation and
7 distribution systems within or outside the state of Wyoming
8 to facilitate the production, transportation, distribution
9 and delivery of associated natural resources that are
10 produced or developed in this state, including energy and
11 associated natural resources received as royalties in kind
12 pursuant to mineral leases by the state, its agencies and
13 political subdivisions.
14

15 (b) In order to provide for the financing, construction,
16 development, maintenance and operation of energy transmission
17 facilities, pipeline and other transportation and
18 distribution systems, the authority may own, lease or rent
19 facilities, structures and properties, both incidental and
20 necessary, constructed in accordance with this article and
21 article 6 of this chapter, to facilitate the production,
22 development, transportation, distribution and delivery of
23 energy and associated natural resources.

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3 STAFF COMMENT

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5 The Committee may wish to consider deleting paragraph (a) (ii)
6 and subsection (b), as it appears that there have not been
7 any projects constructed by the Wyoming Pipeline Authority or
8 the Wyoming Infrastructure Authority under similar existing
9 statutory language.

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14 (c) Energy transmission facilities and related
15 supporting infrastructure may include all facilities,
16 structures and properties incidental and necessary or useful
17 in the production, development, transportation, transmission
18 and delivery of energy. Pipeline and other transportation or
19 distribution systems may be inclusive of pipelines, ports,
20 pumps, storage and all other facilities, structures and
21 properties incidental and necessary or useful in the
22 production, development, transportation, distribution and
23 delivery of natural resources associated with energy to
24 points of sale, consumption or to the points of distribution
25 for consumption.

26

27 (d) The authority shall establish and collect fees and
28 prepare a schedule of fees, rentals and other charges for the

1 use of the facilities of the authority, including capacity
2 that the authority procures, as the board may determine.

3

4 (e) The authority may borrow funds for the execution of
5 the purposes of the authority, and mortgage and pledge any
6 leases granted, assigned or subleased by the authority.

7

8 (f) Except as provided in this section, the authority
9 shall not exercise any of the rights or powers granted to it
10 in this section if private persons, firms or corporations are
11 performing the acts, constructing or have constructed the
12 facilities or are providing the services contemplated by the
13 authority.

14

15 (g) Prior to exercising any rights or powers granted to
16 it in this section, the authority shall publish in a newspaper
17 of general circulation in Wyoming, and in a newspaper in the
18 area where the authority contemplates providing facilities or
19 services, in the manner prescribed by law, a notice describing
20 the acts, facilities or services contemplated by the
21 authority. Private persons, firms or corporations wishing to
22 perform the acts, construct the facilities or provide the
23 services described in the notice shall have ninety (90) days

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

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

10 *****
 11 *****
 12 **STAFF COMMENT**
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14 **The above subsection will apply to most projects under the**
 15 **Wyoming Energy Authority. For financing of non-Wyoming**
 16 **Pipeline Authority pipelines, this provision is not**
 17 **applicable under current law. See W.S. 37-5-203(a). The same**
 18 **exemption from this provision is not found in the Wyoming**
 19 **Infrastructure Authority statutes. In this draft, this**
 20 **subsection would not apply to pipeline capacity agreements**
 21 **that the Wyoming Energy Authority enters, see W.S. 37-5-**
 22 **503(f), and to all non-Wyoming Energy Authority projects that**
 23 **the Wyoming Energy Authority may finance, see W.S. 37-5-**
 24 **606(m), *infra*.**

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28
 29 (h) The authority may acquire, purchase, hold, use,
 30 lease, license, sell, transfer and dispose of an undivided or
 31 other interest in or the right to capacity in any pipeline
 32 system within or outside the state of Wyoming in order to

1 facilitate the production, transportation, distribution or
2 delivery of associated natural resources that are produced or
3 developed in this state. The provisions of subsection (g) of
4 this section shall not apply to the authority in exercising
5 any power pursuant to this subsection.

6

7 (j) Before any appropriation is made to the authority,
8 the authority shall submit its budget for review as provided
9 by W.S. 9-2-1010 through 9-2-1014. Any appropriation to the
10 authority shall be expended only for administrative purposes,
11 which shall include planning and research.

12

13 **37-5-504. Powers of the authority.**

14

15 (a) The authority may:

16

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

21

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

4

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

7

8 (iv) Plan, finance, construct, develop, acquire,
9 own, maintain and operate within and outside the state of
10 Wyoming, energy transmission infrastructure and pipeline and
11 other transportation or distribution systems including pumps,
12 storage and other attendant facilities, any necessary
13 equipment for energy transmission infrastructure and pipeline
14 and other transportation or distribution systems and for all
15 other property, structures, equipment, facilities and works
16 of public improvement necessary or useful for accomplishing
17 the purposes for which the authority was created, including
18 obtaining permits and acquiring rights of way;

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21 *****

22 STAFF COMMENT

23

24 The Committee may wish to consider deleting paragraph
25 (a) (iv), as it appears that there have not been any projects
26 constructed by the Wyoming Pipeline Authority or the Wyoming

1 **Infrastructure Authority under similar existing statutory**
2 **language.**

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7 (v) Acquire by condemnation any properties
8 necessary or useful for its purposes, provided the authority
9 shall not have the right to condemn mineral leases, gas
10 supplies, gas reserves, oil supplies, oil reserves, oil
11 refineries, existing energy transmission, distribution and
12 generation facilities, minerals, water rights, other mineral
13 rights or pipelines or other distribution systems used in
14 connection therewith;

15

16 (vi) Receive by gift, grant, donation or otherwise,
17 any sum of money, aid or assistance from the United States,
18 the state of Wyoming, any political subdivision or any other
19 public or private entity;

20

21 (vii) Provide light, water, communications,
22 security and other services for its facilities as it deems
23 advisable;

24

1 (viii) After consultation with the public service
2 commission and any other relevant state or federal authority,
3 establish and charge reasonable fees, rates, tariffs or other
4 charges for the use of all facilities administered by the
5 authority and for all services rendered by it;

6

7 (ix) In whole or in part, operate, lease, rent and
8 dispose of facilities, structures and properties constructed
9 under this article. The authority shall review at least every
10 three (3) years the feasibility of disposing of facilities it
11 holds;

12

13 (x) Investigate, plan, prioritize and establish
14 corridors for the transmission of energy and natural
15 resources associated with energy;

16

17 (xi) Enter into partnerships with public or private
18 entities;

19

20 (xii) Conduct hearings and gather and develop
21 relevant data consistent with the duties and powers of the
22 authority;

23

1 (xiii) Work in consultation and coordination with
2 entities including the Wyoming business council to develop,
3 promote and identify markets for natural resources associated
4 with energy and facilitate supply for those markets;

5
6 (xiv) Advocate new pipeline capacity before the
7 Federal Energy Regulatory Commission;

8
9 (xv) Do any and all things necessary or proper for
10 the development, regulation and accomplishment of the
11 purposes of the authority within the limitations of authority
12 granted by this article.

13
14 (b) The sole recourse of any party contracting with the
15 authority shall be against the authority, and there shall be
16 no cause of action against the state or any county,
17 municipality or other political subdivision of the state.

18
19 **37-5-505. Bonds.**

20
21 (a) In addition to the powers otherwise granted to the
22 authority and in order to accomplish its purposes, the
23 authority shall have the power to borrow money and evidence

1 the borrowing in the issuance and sale of bonds or other
2 obligations of the authority, the principal and interest of
3 which shall be payable solely out of revenues authorized to
4 be dedicated and pledged for the payment.

5

6 (b) Bonds issued under this section shall be solely the
7 obligation of the authority and shall recite on their face
8 that they do not constitute obligations of the state of
9 Wyoming or any county, municipality or other political
10 subdivision of the state. The bonds or other obligations shall
11 be authorized and issued by resolution of the authority. The
12 bonds shall be executed in the form and manner provided by
13 the resolution authorizing their issuance. The resolution
14 shall include:

15

16 (i) The series of the bond or obligation;

17

18 (ii) The date of issuance of the bond or obligation;

19

20 (iii) The date of maturity of the bond or
21 obligation;

22

1 (iv) That the bond or obligation shall bear
2 interest, and the interest rate;

3
4 (v) The form that the bond or obligation shall be
5 in;

6
7 (vi) The registration and exchangeability
8 privileges of the bond or obligation;

9
10 (vii) The medium of payment and the place of payment
11 of the bond or obligation;

12
13 (viii) The terms of redemption and that the bond or
14 obligation shall be subject to those terms;

15
16 (ix) That the bond or obligation shall be entitled
17 only to a priority on the revenues of the authority as the
18 authority's resolution provides, subject to subsection (d) of
19 this section.

20
21 (c) The bonds or other obligations issued under this
22 section may be sold by the authority at, above or below par

1 value, at public or private sale, in a manner and from time
2 to time as the authority determines.

3

4 (d) Except as provided by subsection (k) of this section,
5 any bonds issued under this section shall be payable from and
6 be secured by the pledge of the revenues derived from the
7 operation of the pipeline or other transportation or
8 distribution system or energy transmission facility as
9 constructed, acquired, extended or improved with the proceeds
10 of the bonds, subject only to prior payment of the reasonable
11 and necessary expenses of operating and maintaining the
12 system or facility. Any holder of the bonds may by appropriate
13 legal action compel performance of all duties required of the
14 authority in order to enforce payment of the bonds when due.
15 If any bond issued under this section is permitted to go into
16 default as to principal or interest, any court of competent
17 jurisdiction may, pursuant to the application of the holder
18 of the bonds, appoint a receiver for the system or facility,
19 who shall operate the same and collect and distribute the
20 revenues thereof pursuant to the provisions and requirements
21 of the resolution authorizing the bonds.

22

1 (e) If more than one (1) series of bonds is issued
2 payable from the revenues of the facility or bond proceeds,
3 priority of lien on the revenues shall be as provided by the
4 resolution authorizing the bonds.

5

6 (f) All bonds issued under the provisions of this section
7 shall constitute negotiable instruments within the meaning of
8 the Uniform Commercial Code. The bonds and income from them
9 shall be exempt from all taxation within the state of Wyoming.

10

11 (g) No board or commission other than the authority shall
12 fix or supervise the making of fees and charges stated in
13 this subsection, which shall be in amounts reasonably
14 necessary for the purposes stated in this article. When the
15 authority has issued bonds and pledged the revenues of the
16 pipeline or other transportation or distribution system or
17 facility or the energy transmission facility for the payment
18 of the bonds as provided in this article, the authority shall
19 operate and maintain the system or facility and shall impose
20 and collect fees and charges for the services furnished by
21 the system or facility, including those furnished to the
22 authority itself, in the amounts and at rates as shall be
23 fully sufficient at all times to:

1

2 (i) Pay the expenses of operating and maintaining
3 the system or facility;

4

5 (ii) Provide a sinking fund sufficient to assure
6 the prompt payment of principal and interest on the bonds as
7 each falls due;

8

9 (iii) Provide a reasonable fund for contingencies
10 as may be required by any bond underwriting or by the
11 resolution authorizing the bonds; and

12

13 (iv) Provide an adequate depreciation fund for
14 repairs, extensions and improvements to the system or
15 facility necessary to assure adequate and efficient service
16 to the public.

17

18 (h) Any resolution of the authority authorizing the
19 issuance of bonds shall be published once in a newspaper of
20 general circulation published in Wyoming, and in a newspaper
21 in the area where the facility or services are contemplated.
22 For a period of thirty (30) days from the date of the
23 publication any person in interest may contest the legality

1 of the resolution and of the bonds to be issued under the
2 resolution and the provisions securing the bonds, including
3 the validity of any lease or other contract pledged to the
4 payment thereof. After the expiration of thirty (30) days
5 from the date of the publication no one shall have any right
6 of action to contest the validity of the bonds, the validity
7 of the security pledged to the payment thereof or the
8 provisions of the resolution under which the bonds were
9 issued, and all the bonds and all related proceedings shall
10 be conclusively presumed to be legal.

11

12 (j) The authority may authorize the issuance of bonds
13 for the purpose of refunding, extending and unifying the whole
14 or any part of the principal, interest and redemption premiums
15 on any outstanding bonds issued under this article, as well
16 as bonds issued by the Wyoming pipeline authority under W.S.
17 37-5-101 through 37-5-109 and by the Wyoming infrastructure
18 authority under W.S. 37-5-301 through 37-5-307, before July
19 1, 2020. The refunding bonds may either be sold and the
20 proceeds applied to or deposited in escrow for the retirement
21 of the outstanding bonds, or may be delivered in exchange for
22 the outstanding bonds. The refunding bonds shall be
23 authorized in all respects as original bonds are herein

1 required or were required at the time of their issuance to be
2 authorized. The authority, in authorizing the refunding
3 bonds, shall provide for the security of the bonds, the
4 sources from which the bonds are to be paid and for the rights
5 of the holders thereof in all respects as herein provided for
6 other bonds issued under this article. The board may also
7 provide that the refunding bonds shall have the same or
8 different priority of lien on the revenues pledged for their
9 payment as was enjoyed by the bonds refunded.

10

11 (k) The authority may authorize the issuance of bonds
12 for the purpose of purchasing pipeline capacity as authorized
13 by W.S. 37-5-503(h). Any bonds issued under this subsection
14 shall be payable solely from and be secured solely by the
15 pledge of the revenues derived from the subsequent sale, lease
16 or other disposal of the capacity purchased or from bond
17 proceeds. Bonds issued under this subsection shall be
18 authorized in all respects as other bonds of the authority
19 are required to be authorized. The authority, in authorizing
20 the bonds, shall provide for the security of the bonds, the
21 sources from which the bonds are to be paid and for the rights
22 of the holders thereof.

23

1 **37-5-506. Use of net revenues.**

2

3 (a) The authority, acting alone or in cooperation with
4 any agency of the state of Wyoming, may use and employ any
5 net revenues derived from a system or facility authorized in
6 this article and from any other source, after providing for
7 all costs of maintenance and operation of the system or
8 facility and after making the required principal and interest
9 payments on any revenue bonds issued hereunder and any other
10 payments provided in any resolution authorizing the issuance
11 and sale of revenue bonds and obligations, to extend and
12 improve the system or facility as the authority may determine
13 to be warranted by any need for additional intrastate
14 transportation or energy transmission facilities.

15

16 (b) Revenues derived from the issuance of bonds for the
17 purpose of purchasing pipeline capacity as authorized under
18 W.S. 37-5-505(k) shall be used for such purchases and to make
19 principal and interest payments on such bonds as provided by
20 the authority in the resolution authorizing the issuance of
21 the revenue bonds.

22

1 (c) If the authority determines that no need for
2 additional intrastate transportation or energy transmission
3 facilities exists, net revenues derived under this article
4 shall be paid to the state treasurer for credit to the state
5 general fund.

6

7 **37-5-507. Authority not subject to the public service**
8 **commission.**

9

10 Notwithstanding any other provision of law, the authority and
11 the authority's fees, rates, rental and other charges shall
12 not be subject to the supervision, regulation, control or
13 jurisdiction of the public service commission.

14

15 **37-5-508. Subpoena.**

16

17 (a) For the purpose of any investigation or proceeding
18 under this article, the authority or any officer it designates
19 may administer oaths and affirmations, subpoena witnesses,
20 compel their attendance, take evidence and require the
21 production of any books, papers, correspondence, memoranda,
22 agreements or other documents or records that the authority
23 deems relevant or material to the inquiry.

1

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

11

12 (c) In considering a request by the authority under
13 subsection (b) of this section, the district court shall
14 review the request in camera to protect the confidentiality
15 of the information sought. The court may also restrict
16 disclosure of any confidential information in any other
17 proceeding, administrative or judicial, and may order that
18 the information be sealed.

19

20 **37-5-509. Confidential information.**

21

22 All information obtained by the authority in connection with
23 any hearing or investigation under this article that contains

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

11

12 ARTICLE 6

13 FINANCING OF OTHER PROJECTS

14

15 **37-5-601. Legislative findings; applicability.**

16

17 (a) The legislature finds that:

18

19 (i) There are in Wyoming extensive reserves of
20 energy and natural resources associated with energy but
21 insufficient pipeline and other transportation and
22 distribution facilities to allow for the efficient marketing
23 of or to warrant the development of those reserves. Additional

1 pipelines, facilities and services are necessary to maximize
2 the price received for associated natural resources that are
3 produced or developed in Wyoming;

4

5 (ii) Unless these energy and associated natural
6 resource reserves are developed and marketed, employment
7 opportunities and revenue benefits accruing to the state will
8 suffer, and important natural resources will not be used;

9

10 (iii) The private sector has not developed
11 sufficient pipeline or other transportation, distribution and
12 transmission capacity for these energy resources and
13 associated natural resources;

14

15 (iv) Timely development of Wyoming energy and
16 associated natural resources will stabilize and increase
17 revenue to the state;

18

19 (v) New infrastructure will increase development of
20 Wyoming energy and use of associated natural resources;

21

22 (vi) It is in the public interest of the citizens
23 of this state to promote the economic welfare of the state

1 and its residents by increasing employment, stimulating
2 economic activity, augmenting sources of tax revenue,
3 fostering economic stability and improving the balance of the
4 state's economy;

5

6 (vii) This article serves a valid public purpose of
7 primary benefit to all citizens of this state.

8

9 *****
10 *****
11 STAFF COMMENT

12
13 The findings included in this bill draft are currently in the
14 articles addressing the Wyoming Pipeline Authority's and the
15 Wyoming Infrastructure Authority's financing of other
16 projects. Similarly, those findings are placed within the
17 article for the Wyoming Energy Authority's financing of other
18 projects. The Committee may wish to consider making these
19 findings applicable to both articles in this draft. Leaving
20 the findings here, however, could serve as an assurance that
21 this successor agency does not somehow have expanded
22 functions compared to its predecessors.

23
24 *****
25 *****
26

27 (b) The definitions in W.S. 37-5-501 shall apply to this
28 article.

29

30 37-5-602. Authority revenue bonds; issuance; amount.

31

1 (a) The authority may issue and have outstanding bonds
2 to finance energy transmission facilities and related
3 infrastructure consistent with the purposes of W.S. 37-5-
4 503(a), in an amount not to exceed one billion dollars
5 (\$1,000,000,000.00). The authority shall have contracts
6 sufficient to justify the issuance of bonds.

7
8 (b) The authority may issue and have outstanding bonds
9 to finance pipeline and other transportation and distribution
10 projects, which may be located within or without the state of
11 Wyoming, in an amount not to exceed three billion dollars
12 (\$3,000,000,000.00). The financing of a pipeline or other
13 transportation and distribution projects under this article
14 may include or consist solely of the purchase of capacity by
15 the authority as authorized by subsection (m) of this section.

16
17 (c) The principal amount of any bonds that have been
18 retired, redeemed, defeased or refunded by the authority need
19 not be taken into account in computing compliance with the
20 maximum amounts of bonds authorized to be issued under
21 subsections (a) and (b) of this section.

22

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

14

15 (e) All bonds issued by the authority are payable solely
16 out of special funds consisting of all or part of its
17 revenues, receipts, monies and assets, as designated in the
18 proceedings under which the bonds are authorized. All bonds
19 shall bear interest at fixed or variable rates, be executed
20 and delivered at times and in denominations, be of terms and
21 maturities, be in registered form as to principal and interest
22 or principal alone, and bear manual or facsimile signatures
23 and seals as the authority determines. Bonds issued by the

1 authority are not general obligations of this state nor of
2 any political subdivision of this state. The bonds shall
3 solely be the obligation of the authority and shall recite on
4 their face that they do not constitute obligations of the
5 state or any political subdivisions of the state.

6

7 (f) Bonds may be payable in installments and may bear
8 maturities not exceeding forty (40) years from the date issued
9 as the authority determines.

10

11 (g) Bonds and interest may be payable at a time or place
12 whether within or outside the state, as the authority
13 determines. Bonds may contain other provisions not
14 inconsistent with this article.

15

16 (h) Any bonds that the authority issues may contain an
17 option to redeem all or any part as may be specified. The
18 price of redemption, the terms and conditions and the
19 procedure of notice shall be set forth by the authority and
20 may appear on the face of the bonds.

21

22 (j) Any bonds of the authority may be sold at, above or
23 below par value, at public or private sale, in a manner and

1 from time to time as determined by the authority. The
2 authority may pay legal fees, expenses, premiums and
3 commissions that it finds necessary or advantageous to this
4 state in connection with the issuance and sale.

5

6 (k) The authority may provide for the issuance of bonds
7 to refund any bonds of the authority then outstanding,
8 including for the payment of any redemption premium and any
9 interest or premium accrued or to accrue to, the earliest or
10 subsequent date of redemption, purchase or maturity of the
11 bonds. The authority may also refund bonds issued by the
12 Wyoming pipeline authority under W.S. 37-5-201 through 37-5-
13 208 and the Wyoming infrastructure authority under W.S. 37-
14 5-401 through 37-5-408 before July 1, 2020. Refunding shall
15 be accomplished in the manner prescribed by W.S. 16-5-101
16 through 16-5-119 to the extent it is not inconsistent with
17 this article.

18

19 (m) The authority may acquire, purchase, make
20 prepayments for, finance, hold, use, lease, license, sell,
21 transfer and dispose of an undivided or other interest in or
22 the right to capacity in any pipeline or other transportation
23 or distribution system within or without the state of Wyoming.

1 The authority may acquire, purchase, make prepayments for
2 proven developed reserves, hold, use, lease, license, sell,
3 transfer and dispose of an undivided or other interest in
4 natural resources associated with energy, including royalties
5 taken in kind. The powers specified in this subsection may be
6 exercised in order to facilitate the production,
7 transportation, distribution or delivery of associated
8 natural resources produced or developed in this state. The
9 authority is exempt from the provisions of W.S. 37-5-503(g)
10 when exercising the powers granted by this article.

11

12 **37-5-603. Authority revenue bonds; security; payments**
13 **after retirement.**

14

15 (a) The principal and interest on any bonds that the
16 authority issues shall be secured by a pledge of revenues
17 from the operation of the pipeline or other transportation or
18 distribution system or energy transmission project financed,
19 by a first mortgage on the facilities, by guarantees and
20 pledges of the entity owning the project, pipeline or system,
21 or of the parent corporation owning said entity or by any
22 combination thereof or other security as the authority may
23 determine to be reasonable and prudent. The guarantees and

1 pledges shall be no less favorable to the authority than those
2 granted other lenders of the same class.

3

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

12

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

15

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

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

3

4 **37-5-604. Exemptions from taxation.**

5

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

11

12 **37-5-605. Bonds as legal investments.**

13

14 The bonds of the authority are legal investments that may be
15 used as collateral for public funds of the state, insurance
16 companies, banks, savings and loan associations, investment
17 companies, trustees and other fiduciaries that may properly
18 and legally invest funds in their control or belonging to
19 them in bonds of the authority. With the written approval of
20 the state loan and investment board and the attorney general,
21 the state treasurer may invest monies from the permanent
22 Wyoming mineral trust fund in bonds of the authority in an
23 amount specified by the state loan and investment board and

1 the attorney general but not to exceed the amount specified
2 in W.S. 37-5-602(a) and (b). The interest payable on the bonds
3 shall be not less than four percent (4%), and revenue under
4 W.S. 37-5-602(b) shall be credited as received to the general
5 fund. The limitation on specific public purpose investments
6 under W.S. 9-4-715(n) shall not apply to investments made
7 under this section.

8

9 **37-5-606. State pledge not to impair bondholder's rights**
10 **and remedies.**

11

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

23

1 **37-5-607. Powers; duties; limitations.**

2

3 (a) The authority has the powers granted by W.S. 37-5-
4 501 through 37-5-509 as necessary to carry out the purposes
5 of this article, including the power to hire technical
6 consultants, financial advisors and legal advisors and
7 specifically including the powers granted by W.S. 37-5-
8 504(a)(ii). In addition to the powers otherwise granted to
9 the authority, the authority shall have the power to:

10

11 (i) Enter into loan or other agreements with
12 respect to one (1) or more projects, pipelines or systems
13 upon terms and conditions the authority considers advisable;

14

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

20

21 (b) The authority may assess and collect fees that are
22 nonrefundable from applicants seeking to obtain authority
23 financing of a pipeline, system or other project in total

1 amounts not to exceed five hundred thousand dollars
2 (\$500,000.00), which shall be credited to the state general
3 fund.

4

5 *****

6 *****

7 **STAFF COMMENT**

8

9 **The Committee may wish to consider amending subsection (b) to**
10 **clarify whether the Wyoming Energy Authority can assess and**
11 **collect fees not to exceed \$500,000 per applicant or in the**
12 **aggregate.**

13

14 *****

15 *****

16

17 (c) The authority shall maintain such records and
18 accounts of revenues and expenditures as required by the
19 director of the state department of audit. The director of
20 the state department of audit or his designee shall conduct
21 an annual financial and legal compliance audit of the accounts
22 of the authority and file copies of the audit with the
23 governor and the legislature.

24

25 (d) The authority shall require that any project owner
26 receiving a loan under this article shall maintain records
27 and accounts relating to the receipt and disbursements of
28 loan proceeds, transportation costs and information on energy

1 and associated natural resource sales and deliveries and make
2 the records available to the state auditor for inspection.

3

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

8

9 **Section 3.** W.S. 1-26-801(c) (intro), 9-1-224(b) (xi), 9-
10 4-715(n) (intro) and 9-4-831(a) (xi) are amended to read:

11

12 **1-26-801. Authority of state, counties and municipal**
13 **corporations to acquire by condemnation proceedings; uranium**
14 **mill tailings; public purpose.**

15

16 (c) As used in and for purposes of this section only,
17 "public purpose" means the possession, occupation and
18 enjoyment of the land by a public entity. "Public purpose"
19 shall not include the taking of private property by a public
20 entity for the purpose of transferring the property to another
21 private individual or private entity except in the case of
22 condemnation for the purpose of protecting the public health
23 and safety, in which event the public entity may transfer the

1 condemned property for value to a private individual or
2 entity. However, nothing in this section shall restrict or
3 impair the right or authority of the Wyoming ~~pipeline~~energy
4 authority ~~or the Wyoming infrastructure authority~~ to transfer
5 property condemned by the authority to another public or
6 private entity insofar as the transfer is consistent with the
7 statutory purposes or duties of ~~÷~~ the authority.

8
9 **9-1-224. Collection of data; creation of a repository;
10 dissemination of data.**

11
12 (b) The governor shall assign the collection of data
13 under subsection (a) of this section to the appropriate state
14 agency or political entity of the state, including, but not
15 limited to, the following:

16
17 (xi) The ~~pipeline~~Wyoming energy authority;

18
19 **9-4-715. Permissible investments.**

20
21 (n) The state treasurer shall not invest state funds
22 for a specific public purpose authorized or directed by the
23 legislature in excess of a total of one billion dollars

1 (\$1,000,000,000.00), excluding investments made pursuant to
2 W.S. 37-5-406 or 37-5-605. By November 1 of each calendar
3 year, the state treasurer, in consultation with the board,
4 the Wyoming water development office, the Wyoming business
5 council and the office of state lands and investments, shall
6 provide a report to the select committee on capital financing
7 and investments on all state funds invested for a specific
8 public purpose authorized or directed by the legislature.
9 The report shall include:

10
11 **9-4-831. Investment of public funds.**

12
13 (a) The state treasurer, or treasurer of any political
14 subdivision, municipality or special district of this state,
15 and the various boards of trustees and boards of directors of
16 county hospitals, airports, fairs and other duly constituted
17 county boards and commissions, may invest in:

18
19 (xi) As authorized by W.S. ~~37-5-206 and 37-5-406~~
20 37-5-605, bonds of the Wyoming ~~pipeline energy~~ authority; ~~and~~
21 ~~the Wyoming infrastructure authority;~~

22

1 **Section 4.** W.S. 1-26-801(c)(i) and (ii), 9-1-
2 224(b)(xii), 37-5-101 through 37-5-109, 37-5-201 through 37-
3 5-208, 37-5-301 through 37-5-307 and 37-5-401 through 37-5-
4 408 are repealed.

5

6 *****
7 *****
8 **STAFF COMMENT**

9
10 **The provisions that will be repealed in W.S. 1-26-801 and 9-**
11 **1-224 are references to both the Wyoming Pipeline Authority**
12 **and the Wyoming Infrastructure Authority.**

13

14 **In addition, this act would repeal all existing statutes of**
15 **the Wyoming Pipeline Authority and its bonding authority and**
16 **requirements, W.S. 37-5-101 through 37-5-109 and 37-5-201**
17 **through 37-5-208, and all existing statutes of the Wyoming**
18 **Infrastructure Authority and the financing of other projects,**
19 **W.S. 37-5-301 through 37-5-307 and 37-5-401 through 37-5-408.**

20

21 *****
22 *****
23

24 **Section 5.** The governor shall submit appointments to the
25 Wyoming energy authority by the date specified in W.S. 28-
26 12-101(a)(ii) during the 2020 budget session.

27

28 **Section 6.**

29

30 (a) Except as provided in subsection (b) of this section,
31 this act is effective July 1, 2020.

1

2 (b) Sections 1(c) and 5 of this act are effective
3 immediately upon completion of all acts necessary for a bill
4 to become law as provided by Article 4, Section 8 of the
5 Wyoming Constitution.

6

7

(END)